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TOWN OF KIAWAH ISLAND
Board of Zoning Appeals

RE:

CASE # BZA24-000010
39 BURROUGHS HALL, KIAWAH ISLAND, SC
TMS# 264-02-00-059

CASE # BZA24-000011
16 RHETTS BLUFF, KIAWAH ISLAND, SC
TMS# 209-11-00-014

DATE: JULY 15, 2024

TIME: 1:00 P.M.

LOCATION: KIAWAH ISLAND MUNICIPAL CENTER
KIAWAH ISLAND, SC

REPORTED BY: RUTH MOTT, RPR, CRR
CLARK BOLEN, INC.
P.O. BOX 12189
CHARLESTON, SC 29422
843-762-6294
WWW.CLARKBOLEN.COM

1 A P P E A R A N C E S

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BOARD MEMBERS PRESENT:

3

FRANK CASSIDY - CHAIR
4 JAY LEWIS - VICE CHAIR
MORRIS HANAN
5 LARRY ROSENFELD
LIN O'LEARY
6 PHILLIP ADAMS (BY ZOOM)

7 STAFF MEMBERS PRESENT:

8 DANIEL VINCENT, PLANNER I
PATREA ST. JOHN, PLANNING
9 BOONE AIKEN, TOWN ATTORNEY

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1 MR. CASSIDY: Good afternoon
2 everyone. I'd like to call to order the July
3 15th, 2024 meeting of the Town of Kiawah Island
4 Board of Zoning Appeals. I'm Frank Cassidy. I'm
5 the chairman of the board. In addition to
6 myself, the board members who will hear your
7 cases today are Larry Rosenfeld, Lin O'Leary, Jay
8 Lewis, Morris Hanan, and attending virtually is
9 Phil Adams. Staff members present here today are
10 Patrea St. John and Dan Vincent from our planning
11 staff and Boone Aiken who is our legal counsel.

12 Our case rulings from this and any BZA
13 meeting are available for public review and
14 inspection during normal business hours at the
15 town hall. Since this meeting is being conducted
16 virtually on YouTube, please be reminded that in
17 order to obtain a clean and clear record for
18 persons listening live and for the benefit of our
19 court reporter it's important that all
20 participants not speak over one another. If
21 you'd like to speak, please do so by raising your
22 hand and I will recognize you and you can proceed
23 to the podium.

24 I'd like to briefly describe the
25 workings of the BZA. It's a quasi-judicial body

1 established to interpret and grant relief from
2 the zoning ordinance. The board of zoning
3 appeals has jurisdiction over three types of
4 cases: Appeals, variances and special
5 exceptions. Appeals are heard regarding
6 administrative actions or decisions by the zoning
7 administrator or staff.

8 Variances may be granted when strict
9 application of a zoning ordinance would cause an
10 unnecessary hardship. This board's actions must
11 be based on specific standards as contained in
12 the SC Local Government Planning Enabling Act of
13 1994 and the Town of Kiawah Island Zoning
14 Ordinance. Special exceptions allow the board to
15 permit uses if certain conditions as contained in
16 the zoning ordinance are met. A simple majority
17 vote of the quorum present is required to grant a
18 variance or to overturn a decision of the zoning
19 administrator in an appeal or to grant a special
20 exception.

21 Because today's hearing is a public
22 factfinding meeting, we are in compliance with
23 the Freedom of Information Act and SC Code
24 6-29-70. 15 days prior to this hearing an
25 announcement was printed in the Post & Courier.

1 A sign was posted on or near the designated
2 properties, and a notice was mailed to applicants
3 or representatives, to residents within 500 feet
4 of the applications, and to parties of interest.
5 Persons, organizations and news media that have
6 requested a declaration of our meeting have also
7 been notified. The Freedom of Information Act
8 does not require notification of anyone other
9 than the applicant and the parties of interest.

10 Our purpose today is for interested
11 persons to be heard in order to assist the board
12 in gathering evidence pertinent to each case. If
13 the members of the BZA feel the need for further
14 information to clarify a case, the board has the
15 authority to subpoena witnesses. In addition to
16 your testimony our board has been presented with
17 written information submitted to the staff by the
18 applicant or their agent for each case. This
19 information is now considered to be evidence and
20 is entered into the permanent record of this
21 body. It's assumed that it is complete, true and
22 accurate. Also we've been presented data
23 assembled by the staff for the purpose of
24 clarifying a location and the effects on
25 surrounding properties.

1 Our board is empowered to approve,
2 approve with conditions, or deny your requests.
3 In granting a variance the Board of Zoning
4 Appeals may attach to it such conditions
5 regarding the location, character or other
6 features of the proposed building structure or
7 use as the board may consider advisable to
8 protect established property values in the
9 surrounding area or to promote the public health,
10 safety or general welfare. We are also
11 authorized to defer a case should there be a need
12 to obtain additional information.

13 If an applicant's request is approved
14 for a special exception or variance or an appeal
15 of a decision by the zoning administrator, they
16 go to the Town of Kiawah Island to apply for
17 permits. Variances and special exceptions
18 granted by the BZA are valid for 12 months after
19 this meeting. However, if an applicant's request
20 is disapproved and they wish to appeal the
21 decision of this board concerning their case,
22 appeals must be addressed to the Circuit Court.
23 SC Code 6-29-823 states that the appeal must be
24 filed by the applicant within 30 days after the
25 decision of the board is mailed to them. Failure

1 to file an appeal within the time limit deprives
2 the court of jurisdiction to hear the matter.

3 Because this is a quasi-judicial body,
4 everything said in this meeting must be complete,
5 true and accurate. All of the information
6 provided to the BZA is considered evidence, and
7 this board may certify contempt of Circuit Court
8 if false statements are made, either in writing
9 or orally. For each case following presentations
10 by staff and the applicant we'll call individuals
11 one by one to approach the podium to share public
12 comments. Remember to speak into the microphone
13 so that the record is clear and accurate. Also
14 be reminded that all persons who wish to speak
15 shall direct their comments to the board, not the
16 applicant, other speakers, or parties of
17 interest.

18 So we will now swear in everyone who
19 will or may be speaking today, staff, applicant's
20 and members of the public for both cases, so I'd
21 ask anyone who may wish to speak today to stand,
22 and Mr. Aiken will administer the oath.

23 MR. AIKEN: Thank you,
24 Mr. Chairman. Good afternoon everyone. We can
25 do this all at one time if that works, if you-all

1 wouldn't mind raising your right hand for me,
2 please.

3 (Mr. Aiken places all witnesses
4 standing under oath.)

5 MR. AIKEN: Thank you, Mr.
6 Chairman. I'll turn it back over to you.

7 MR. CASSIDY: Thank you, Boone. I
8 shall now call case BZA24-000010 at 39 Burroughs
9 Hall. Staff will present the facts pertinent to
10 the case. I shall then call the applicant to
11 address the case. The applicant should stand at
12 the podium, state their name and business address
13 for the record before presenting testimony. I'll
14 then call on any members of the public who wish
15 to speak, and they shall follow the same
16 procedure for identifying themselves including
17 their name and address. These comments will be
18 limited to three minutes each. The applicant
19 will also have the opportunity for rebuttal after
20 public comments are made.

21 So, Dan, the floor is yours.

22 MR. VINCENT: Thank you, Mr. Chair.
23 Members of the BZA and audience members, my name
24 is Daniel Vincent. I'm a planner 1 for the Town
25 of Kiawah, and I will be presenting these two

1 cases today. Our first case being heard is Case
2 No. BZA24-000010. The applicant, Alex Libengood,
3 representing the property owners Gregory and
4 Elaine Droba.

5 MR. LEWIS: Our screens are not --
6 we don't have the presentation.

7 (Brief pause.)

8 MR. VINCENT: All right. So
9 continuing, Alex Libengood, representing the
10 property owners, Gregory and Elaine Droba, are
11 requesting a variance for the reduction of the
12 required 25 foot front setback for approximately
13 27 square feet, reduction of the 15-foot side
14 setback for approximately 102 square feet, and
15 the reduction of the 30 foot OCRM encroachment
16 setback for approximately 60 square feet for a
17 total encroachment of 189 square feet.

18 This property is located at 39 Burroughs
19 Hall. TMS number is 264-02-00-059. This is
20 located in the R-1 zoning district. Adjacent
21 properties to the east, west and to the south are
22 also located in the R-1 zoning district.

23 The subject property is currently
24 undeveloped and sits adjacent to a critical area
25 to the marsh on the south. The subject property

1 is approximately 8,273 square feet in total size.
2 Of that 7,737 square feet are highlands and about
3 536 square feet are marshlands.

4 The Town of Kiawah Island Land Use
5 Planning and Zoning Ordinance pursuant to Section
6 12-65, R-1 residential district requires a 25
7 foot front setback, a 15 foot side setback and a
8 30 foot rear setback on the OCRM critical line.
9 The subject property has a maximum allowed lot
10 coverage of 40 percent.

11 Here is a zoning map of the subject
12 property, an aerial view from Charleston County
13 GIS, and a high resolution zoomed in aerial view
14 (indicating).

15 A site visit was conducted on June 28th,
16 2024 at which staff took a few pictures of the
17 site. Here's the front of the property, adjacent
18 property across the street, adjacent properties
19 to the left and the right, the rear of the
20 property (indicating).

21 So the applicant's proposed plans
22 include a new single family residence. The
23 applicant's include -- in their plans they
24 include a staircase and a porch that encroaches
25 25 feet into the front setback by approximately 6

1 feet, 8 inches. There is a 5 foot administrative
2 relief of 5 feet in our Town of Kiawah Island
3 Land Use Planning and Zoning Ordinance in Section
4 12-64 stating, uncovered decks or stair landings
5 to building entrances may extend up to 5 feet
6 into any required setback. The staircase
7 encroaches approximately 11 square feet.

8 The applicant's plans also include a
9 covered porch which extends into the required
10 front setback by approximately 1 foot, 6 inches
11 and that total square foot encroachment's
12 approximately 16 square feet.

13 On the side of the property the
14 applicant's plans include a 3 foot encroachment
15 into the required 15 foot side setback to the
16 east. It also includes a 4 foot encroachment for
17 the HVAC stand, and that total square footage
18 encroachment for both of those is 102 square
19 feet.

20 At the rear of the property the
21 applicant's plans include an uncovered deck which
22 encroaches into the 30 foot rear OCRM critical
23 line setback by approximately 9 feet, 8 inches.
24 Town of Kiawah Island Land Use Planning and
25 Zoning Ordinance pursuant to Section 12-64 in

1 regards to setbacks states, "uncovered decks may
2 extend up to 5 feet into any required setback --
3 sorry, into any required rear yard setback." The
4 proposed deck extends approximately 4 feet, 8
5 inches beyond the 5 foot administrative relief
6 setback.

7 Additionally, the applicant's proposed
8 plans include three separate cantilevered
9 structures extending a maximum of 4 feet, 8
10 inches into that required 30 foot rear OCRM
11 critical line setback. The footprint of the
12 proposed rear deck sits approximately 20 feet
13 from the OCRM critical line at its nearest point.

14 The applicant has submitted to the
15 Kiawah Island Architectural Review Board. The
16 proposed project received approval for
17 encroachment into the rear and the front setback
18 on April 4th, 2024, stating, quote, given the
19 loss of highland area to critical line movement,
20 the front and rear setback requests are approved.

21 The proposed project also received
22 approval for the encroachment into the side
23 setback on May 15th, 2024 stating, the board
24 approves the additional variance to the ARB
25 setback on the right side of the property.

1 I'll move on to the variance approval
2 criteria. So Criteria A: There are
3 extraordinary and exceptional conditions
4 pertaining to the particular piece of property.
5 There may be extraordinary and exceptional
6 conditions pertaining to the particular piece of
7 property due to the existing OCRM critical line
8 at the rear of the lot. Per the applicant's
9 letter of intent, "this lot is 43 percent smaller
10 than the average lot in the vicinity out of 178
11 lots. It is also one of only two lots in the
12 area that is small and has an acute angle at the
13 rear. The OCRM line makes this even more acute,
14 making the buildable area a difficult shape to
15 develop.

16 Criteria B: These conditions do not
17 generally apply to other properties in the
18 vicinity. These conditions may be unique to the
19 subject property and may not generally apply to
20 other properties in the vicinity. The subject
21 property is in the R-1 zoning district. Adjacent
22 properties along Burroughs Hall are also located
23 in the R-1 zoning district. Existing structures
24 in the vicinity may or may not have similar
25 encroachments.

1 Criteria C: Because of these
2 conditions, the application of this ordinance to
3 the particular piece of property would
4 effectively prohibit or unreasonably restrict the
5 utilization of the property. The application of
6 this ordinance to the property may not prohibit
7 or unreasonably restrict the utilization of the
8 subject property as the subject property is
9 currently undeveloped. Per the applicant's
10 letter of intent, quote, these conditions would
11 not prohibit but they do unreasonably restrict
12 the utilization of the property due to the small
13 size and unusual shape.

14 Criteria D: The authorization of a
15 variance will not be of substantial detriment to
16 the subject property or the public good and the
17 character of the zoning district will not be
18 harmed by the granting of this variance. The
19 authorization of this variance may not be of
20 substantial detriment to the adjacent properties
21 or the public good. The proposed additions
22 encroach minimally into the required setbacks and
23 may or may not be visible to neighbors. Per the
24 applicant's letter of intent, "this would not be
25 of any detriment to the adjacent property or the

1 public good and the character of the district
2 will not be harmed by the granting of this
3 variance. The letter of approval from the ARB
4 indicates this agreement."

5 Criteria E: The BZA shall not grant a
6 variance the effect of which would be to allow
7 the establishment of a use not otherwise
8 permitted in the zoning district, to extend
9 physically a nonconforming use of land, or to
10 change the zoning district boundaries shown on
11 the official zoning map. Granting of this
12 variance would not allow the establishment of a
13 use not otherwise permitted in this zoning
14 district, extend physically a nonconforming use
15 of land or change the zoning district boundaries.
16 Per the applicant's letter of intent, "this would
17 not allow the establishment of a use not
18 otherwise permitted or extend an existing
19 nonconforming use or change the boundaries on the
20 zoning map."

21 Criteria F: The fact that the property
22 may be used more profitably should a variance be
23 granted may not be considered grounds for a
24 variance. The BZA may not consider profitability
25 when considering this variance request. Per the

1 applicant's letter of intent, "profitability is
2 not the reason for this variance application."

3 Criteria G: The need for this variance
4 shall not be the result of the applicant's own
5 actions. The need for this variance may not be
6 the result of the applicant's own actions. Per
7 Charleston County records, the property was
8 acquired by Gregory and Elaine Droba in 2002.
9 Per the applicant's letter of intent, "the
10 applicant has not acted in a way to cause the
11 need for this variance."

12 Criteria H: Granting of this variance
13 will not be contrary to the public or
14 neighborhood interest, nor will not adversely
15 affect the other properties in the vicinity, nor
16 interfere with the harmony, spirit, intent and
17 purposes of these regulations. Granting of this
18 variance may not be contrary to the public or
19 neighborhood interest, may not adversely affect
20 other properties in the vicinity, nor interfere
21 with the harmony, spirit, intent or purposes of
22 these regulations. Per the applicant's letter of
23 intent, "this would not be contrary to the public
24 or neighborhood interest and would not interfere
25 with the purposes of this regulation. The letter

1 of approval from the ARB indicates they're in
2 agreement."

3 And last, Criteria I: Granting of this
4 variance does not substantially conflict with the
5 comprehensive plan or the purposes of this
6 ordinance. Granting of this variance may not
7 substantially conflict with the comprehensive
8 plan or the purposes of this ordinance. Per the
9 applicant's letter of intent, "this would not
10 conflict with the comprehensive plan and the
11 mitigations made to the encroachments show good
12 faith to meet the purposes of this ordinance."

13 Should the Board of Zoning Appeals
14 consider approval of this variance request,
15 planning staff requests the following conditions
16 of approval, which is the applicant shall provide
17 an as-built survey post construction to ensure
18 the encroachments match the proposed plans. This
19 concludes staff's review.

20 MR. CASSIDY: Dan, I'll ask the
21 applicant about this also, but in the applicant's
22 letter the paragraph on the right side issues,
23 they talk about a covenant setback and the town's
24 zoning setback. This is the first time I've
25 encountered a covenant setback. I don't

1 understand what that is.

2 MR. VINCENT: I'm not aware of the
3 covenant, what the covenant setback would be. I
4 know different neighborhoods in places on Kiawah
5 do require lots to be certain sizes, and they may
6 require different setbacks.

7 MR. CASSIDY: I'll ask Mr.
8 Libengood when he comes up.

9 Other questions for Dan?

10 MR. LEWIS: Dan, on the OCRM, what
11 was the most recent -- what year are we looking
12 at? And the second part of that is what was it
13 in 2002 if you have any comparison.

14 MR. VINCENT: We may be able to
15 look at the recorded plat, but it will not tell
16 you what it was in 2002 exactly.

17 MR. LEWIS: Okay.

18 MR. ROSENFELD: I think that
19 question needs further development. The question
20 is when they bought the house in 2002, and now
21 we're looking at 22 years later, the encroachment
22 from the OCRM line is obviously marching
23 continually because this is happening pretty much
24 everywhere on Kiawah. How much has it moved in
25 the last two years, how much has it moved in the

1 last five years, how much has it moved in the
2 last 10 years. And what is the situation,
3 assuming that it's going to continue to move,
4 where the architect stated that there will be no
5 ground facilities constructed over the existing
6 OCRM line, they'll just cantilever everything;
7 but what happens if the line moves further past
8 where they've already built? So I'd like to know
9 the speed -- before we do anything, I'd like to
10 know the speed at which it's encroaching and have
11 some general idea. Perhaps Mr. Libengood has
12 more information to that effect.

13 (Court reporter request.)

14 MR. VINCENT: So on your screen now
15 we can see the recorded plat for this plot which
16 was recorded in November 6th of 1979. In this
17 plat it looks like they delineate the marsh from
18 the highlands. 39 Burroughs is right here
19 (indicating). In terms of what it was in 2002, I
20 don't have access to those records. Maybe the
21 applicant may, but all staff is able to figure
22 out is what it was in 1979.

23 MR. HANAN: And you said that's the
24 most recent OCRM?

25 MR. VINCENT: Not this one. This

1 was the original plat.

2 MR. HANAN: When was the most
3 recent one done?

4 MR. VINCENT: I don't have a date
5 on it in my files, if the applicant would be
6 happy to come up here and talk about it.

7 MR. CASSIDY: It has to be within a
8 certain time when --

9 MS. O'LEARY: It's built.

10 MR. CASSIDY: Yes. We'll ask the
11 applicant to address that.

12 Other questions for Dan?

13 Okay. Thank you, Dan.

14 Mr. Libengood, you're up.

15 MR. LIBENGOOD: Hello, my name is
16 Alex Libengood, and I am the architect for this
17 project representing Greg Droba and Elaine
18 Markowski. I work for Dolphin Architects and
19 builders, and like I said, I'm the architect.
20 Happy to address your questions. One of them was
21 the date of the most recent survey. It was fall
22 2023. For Kiawah Island development all surveys
23 have to be within one year of activity from the
24 time that the application is put in.

25 MS. O'LEARY: By chance do you have

1 an overlay of what it was like when they
2 purchased the lot and then overlay that latest
3 survey?

4 MR. LIBENGOOD: To our knowledge
5 there was not a survey done in that time range.
6 We don't have any record of that documentation.

7 MS. O'LEARY: So when you're saying
8 that you've lost X amount of space, you don't
9 really have anything to document that, or you're
10 just looking at it from where it was in 1977?

11 MR. LIBENGOOD: All we have is the
12 original plat versus where we are today, so
13 that's the advancement that we're considering.

14 MR. CASSIDY: As a matter of our
15 regulations, the only thing we can deal with,
16 however -- directing this to Boone -- is the
17 current OCRM line; is that correct?

18 MR. AIKEN: Correct.

19 MR. ROSENFELD: When you designed
20 the house, why didn't you design it so it
21 wouldn't go over the line.

22 MR. LIBENGOOD: We actually put a
23 lot of leg work into addressing that and the --
24 basically, we tried to fit a four-bedroom home.
25 The Markowskis, like we've heard, have owned this

1 lot for 22 years. This would be their primary
2 residence. They'll be moving into this home
3 full-time. They'd like to ensure they can have
4 their kids there and have a guest, so it really
5 came down to just fitting the program of the
6 house within the smallest footprint that we
7 possibly could. We've actually eliminated a lot
8 of outdoor space. Like you see, the back deck is
9 quite small, can only fit a four-person table,
10 and that's mostly because of the size of the lot
11 and the setbacks that we have.

12 With that in mind, we are very sensitive
13 to the marsh line, we as a company and the
14 Markowskis in particular. They're moving here
15 because of the natural environment, and we are
16 looking to limit the amount of impact we have on
17 the natural environment as much as possible as
18 well as preserve the natural beauty of the
19 neighborhood. So with that in mind we have
20 designed the structure, even though it's going to
21 cost more, with those cantilevered elements to
22 preserve the ground plane where it is and not
23 encroach, and so we've taken extra steps to try
24 to mitigate that encroachment.

25 MR. ROSENFELD: You're still

1 encroaching in two sections. Did you consider
2 eliminating one of the decks?

3 MR. LIBENGOOD: We have considered
4 eliminating one of the decks.

5 MR. ROSENFELD: Are you open to
6 eliminating one of the decks?

7 MR. LIBENGOOD: Not necessarily the
8 deck, but considering pulling back, if we can't
9 get approval, is considering the sun room
10 removal, which would mean that the only place
11 they'd have to eat would be the dining room.

12 MR. ROSENFELD: The one on the left
13 side of the photograph, I don't realize which one
14 that one is, the one that's deeper, I notice
15 there's a bay prior to it going out onto a deck,
16 would be like a bay window type thing before it
17 goes to the deck, the top left.

18 MR. LIBENGOOD: That's correct,
19 yes.

20 MR. ROSENFELD: If you remove that
21 deck and pull, that outcropping, and then pull
22 the deck closer, you could possibly eliminate any
23 further encroachment.

24 MR. LIBENGOOD: Yes. That would be
25 eliminating that sun room.

1 MR. ROSENFELD: Are they amenable
2 to that?

3 MR. LIBENGOOD: That is a last
4 resort to them, but yes, as an option.

5 MR. ROSENFELD: Last resort or next
6 to last resort?

7 MR. LIBENGOOD: Actually we had
8 this conversation last week, and I could see
9 their hearts fall whenever I brought it up.

10 MR. ROSENFELD: This is obviously a
11 give and take as to what we will allow.

12 MR. LIBENGOOD: Yes.

13 MR. ROSENFELD: I just want to know
14 if they're amenable to change.

15 MR. LIBENGOOD: Yes.

16 MR. CASSIDY: The cantilevered
17 design is an elegant solution in this case, seems
18 to make sense.

19 Can you address that right side issue,
20 what this covenant thing is.

21 MR. LIBENGOOD: Yes. Yes, and so
22 that right side setback, we initially did not
23 plan on doing an encroachment on the side
24 setback, but we've been through three reviews
25 with the ARB so far, and from feedback with the

1 ARB, they felt the building was kind of
2 compressed and needed a little more breathing
3 room because the lot is narrow. And so in kind
4 of our negotiations with the ARB, they wanted to
5 eliminate our front stairs. We took out the
6 front stair and pulled that guest room volume
7 over that setback in order to get the ARB
8 approval so they would feel comfortable with the
9 way the house presents itself from the street to
10 the rest of the neighborhood. And part of that
11 discussion is in the Town of Kiawah Island zoning
12 ordinance for R-1 there's only a 10 foot setback
13 for R-1; however, since Kiawah Island was
14 established under a covenant with KICA and the
15 developer, the town calls back to the covenant
16 setback, which is a 15 foot setback that the ARB
17 still holds to. And so what we are asking is the
18 ARB is willing to let go of that covenant setback
19 of 15 foot in order just to respect the 10 foot
20 setback that is purely in the base ordinance for
21 this district.

22 MR. CASSIDY: And if it were the 10
23 foot setback, there wouldn't be any issue on the
24 right-hand side.

25 MR. LIBENGOOD: That's correct.

1 MR. LEWIS: On the right-hand side,
2 I understand the HVAC, but is the other one just
3 the size of that room?

4 MR. LIBENGOOD: Yes, it's just to
5 fit pretty much a 10-by-10 bedroom in that area
6 with a bathroom.

7 MR. ROSENFELD: The neighbor on the
8 right side is not complaining in any way, shape
9 or form about the HVAC units being there?

10 MR. LIBENGOOD: They have not. In
11 fact, we've had two other neighbors submit
12 comments last week in objection to this, and we
13 had communication with both of them, and they
14 both withdrew their objections after they had the
15 opportunity to see the drawings and mitigation
16 strategies that we've had with the setback, so
17 there's no current objections.

18 MR. ROSENFELD: Do you have any
19 documentation of that.

20 MR. LIBENGOOD: We do.

21 MR. LEWIS: Dan, I thought there
22 was an objection in the packet.

23 MR. VINCENT: There was.

24 MR. ADAMS: There was an objection
25 in the packet. If there's a withdrawal of that,

1 that obviously needs to be put into the packet as
2 well, right?

3 MR. VINCENT: Yes. So I'll get
4 with John on the details of that, but per the
5 request of the neighbor who submitted the
6 objection, they wanted to recuse themselves.

7 MR. LEWIS: That was at 38
8 Burroughs?

9 MR. VINCENT: I believe it was 38.

10 MR. LIBENGOOD: Yes. That's the
11 property to the left.

12 MR. HANAN: Do you have a written
13 withdrawal of the objection?

14 MR. VINCENT: We do. We have an
15 email sent to us that asks to remove their
16 comments.

17 MR. LEWIS: We do not have that.

18 MS. O'LEARY: We don't have that in
19 our packet.

20 MR. ROSENFELD: No. They were the
21 neighbors on the left side, not the encroachment
22 side.

23 MR. LIBENGOOD: Correct.

24 MR. ROSENFELD: Neighbors on the
25 encroachment side have been mute.

1 MR. LIBENGOOD: That's correct.

2 MR. CASSIDY: Any other questions
3 for the applicant?

4 MR. ADAMS: Yes, Frank.

5 MR. CASSIDY: Yes, Phil.

6 MR. ADAMS: Yes, I am, frankly, not
7 as concerned about the issues on the rear, given
8 that it's a cantilevered overhang. I am
9 sensitive to, you know, the encroachment on the
10 right side only because, when the ARB looks at
11 it, right, they're just looking at the aesthetics
12 of this property and not thinking about what
13 happens when somebody comes to build a house on
14 the property next door. Or is there a house
15 already there?

16 MR. LIBENGOOD: That site is
17 undeveloped.

18 MS. O'LEARY: It's undeveloped.

19 MR. ADAMS: That's what I thought.
20 So somebody comes to build a house next door and
21 there is an HVAC stand with a couple of
22 compressors on it across the setback line, is
23 there any way to mitigate the encroachment of the
24 HVAC platform?

25 MR. LIBENGOOD: I can answer that

1 question. We've investigated a few options:
2 One, putting the HVAC under the house. We
3 seriously investigated this. Unfortunately it
4 was not possible because not only are we in a
5 flood zone, but we're in a moderate wave action
6 zone, so everything down there has to be break
7 away, therefore we can't put equipment down
8 there. The other option was to try and fit the
9 HVAC stand in the back left corner of the house
10 where there's a little bit of coverage left
11 within the buildable area; unfortunately, we were
12 unable to get the footprint of the actual
13 equipment with required clearances into that
14 area. And the client has actually foregone a
15 generator from the stand altogether just to try
16 to fit it on the lot.

17 MS. O'LEARY: Can I just ask a
18 quick question about the HVAC stand? Have they
19 already figured out the sizes of the compressors?
20 And I only asked this because we replaced ours
21 three years ago and they're half the size they
22 were originally. So the question is that maybe
23 that HVAC stand can actually be smaller with the
24 size of the new compressors and the new
25 efficiency of these units. Has that been looked

1 into at all?

2 MR. LIBENGOOD: We have sized that
3 based off the standard compressor size that we
4 are building today, and so that's typically a 24
5 by 24 or 30 by 30 compressor with the one to two
6 foot clearance around it based on whether it's on
7 the front or the sides, so the HVAC stand has
8 been drawn to minimum size with those clearances
9 based on current compressors. The only thing
10 that we haven't looked at is, instead of building
11 it on stilts, actually hanging it off the
12 building with the cantilever, so that could be an
13 option as well if that's a concern.

14 MS. O'LEARY: I was just curious
15 because those compressors, they've just changed
16 so much that I didn't know if they looked into
17 that. Thank you, sir.

18 MR. ADAMS: If you did do the
19 cantilevering, would that change the extent to
20 which the physical compressor stand encroaches
21 into the setback?

22 MR. LIBENGOOD: It could change it
23 because we're doing a little less structure
24 underneath, so if we're relying on the building
25 itself, we might be able to gain 6 inches

1 perhaps. Another thing we can look at is
2 aligning the outside wall of it so that rather
3 than -- yes, so we probably could gain a little
4 bit of square footage, but we'd have to --

5 MS. O'LEARY: They'd have to be
6 able to access it though.

7 MR. LIBENGOOD: To service it, yes.
8 And it also has certain terms required for air
9 inflow and exhaust.

10 MR. ROSENFELD: When you broach the
11 topic of it being a flood zone, what are you
12 doing to the cantilevered section in the back to
13 include the foundation that you're hanging the
14 cantilever off from being damaged by flood; is
15 there any sort of seawall type construction
16 that's going to be used there?

17 MR. LIBENGOOD: We are not planning
18 any integral landscaping structures such as a
19 seawall because we're trying to limit the amount
20 of impact we're having on the natural grade, but
21 we are designing the foundations to be breakaway
22 for LiMWA standards so that if we do receive a
23 moderate wave action event or storm, it would
24 allow the walls and the slab to break away and
25 not push the house or other houses adjacent to it

1 off their foundations due to that action.

2 MR. ROSENFELD: In other words, the
3 deck would simply break off.

4 MR. LIBENGOOD: It would. Well,
5 the deck itself would not break off, but the deck
6 would be built on piers, and then the walls in
7 between the screen, that would be a breakaway.

8 MR. ROSENFELD: No piers will be
9 over the line.

10 MR. LIBENGOOD: That's correct, no
11 piers are actually over the encroachment.

12 MS. O'LEARY: Thank you.

13 MR. LIBENGOOD: And everything at
14 the foundation is also built to be water
15 resistant so we don't have rot or anything going
16 on even if the marsh were to advance.

17 MS. O'LEARY: Can I just ask
18 another question? Can you go back and explain to
19 me what the ARB asked you to do for size? I was
20 a little bit taken aback by that.

21 MR. LIBENGOOD: Sure. Yes, so
22 initially when we submitted this design to the
23 ARB, the guest room volume on the bottom right of
24 your screen was tucked in so it was completely
25 within the setback, and what that did was that

1 cramped the front porch and the stairs and the
2 stair tower on the massing of the building.

3 MS. O'LEARY: So that's when the
4 ARB asked you to push it more towards the setback
5 line?

6 MR. LIBENGOOD: Yes. They were
7 communicating to us that the massing was feeling
8 too busy, too cramped, and so they were asking
9 for more breathing room, so in order to do that
10 we -- we used to have a dual stair on this
11 project. We went from a dual stair to a single
12 stair and then pulled that volume out to give the
13 house visual breathing room so that they were
14 more comfortable with the way it presented itself
15 from the street.

16 MR. LEWIS: So the ARB encouraged
17 you to go into the setback?

18 MR. LIBENGOOD: Yes, that was part
19 of our conversation.

20 MS. O'LEARY: That's what I was
21 confused with. When he said it the first time, I
22 thought, clearly I didn't hear that correctly.

23 MR. LIBENGOOD: Yes. Going into
24 the setback was our idea as a design in order to
25 appease the ARB, and when we presented it to the

1 ARB, they felt it was the -- they approved the
2 idea.

3 MR. LEWIS: So you had three
4 iterations. Was that the first, second -- I know
5 we have the current.

6 MR. LIBENGOOD: Yes. Is there a
7 slide that shows the elevation on this building?

8 So if you look at your screen here, this
9 volume down here, sorry, is the volume that is
10 moved into the setback, this volume here and --

11 MS. O'LEARY: Oops, you went away.

12 MR. LIBENGOOD: Oh, boy. Okay.
13 And so the first iteration we had had a larger
14 stair tower. The stair tower itself had
15 cantilevers over it. And then there was the --
16 we had the single stair that you see here. There
17 was an additional stair on the left and the
18 stairs were more narrow. And then what they
19 asked us to do was they felt that this middle
20 center massing was too cramped, didn't have any
21 breathing room because this eave was way over
22 here; and so in order to help them feel more
23 comfortable with the way the house presented from
24 the street, this volume was pulled out to the
25 right to allow this stair to be an appropriate

1 size. We eliminated a stair, and it got more
2 distance between these eaves, so the house felt
3 less busy from the street.

4 MR. ROSENFELD: The room in the
5 front with the two windows on the right, what is
6 the width of that?

7 MR. LIBENGOOD: The total width?

8 MR. ROSENFELD: Yes.

9 MS. O'LEARY: Is that that 10-by-10
10 bedroom you were talking about?

11 MR. LIBENGOOD: It's a 10-by-10
12 bedroom with a 5 foot bathroom on the side of it,
13 so it should be 15 feet, approximately 15 feet.

14 MR. HANAN: What's the total square
15 footage of the house?

16 MR. LIBENGOOD: The total square
17 footage of the house is 3,300 square feet,
18 approximately 3,300 square feet.

19 MR. CASSIDY: Other questions?

20 Just let me make sure I understand this:
21 If we were -- on the right-hand side if we were
22 using the Town of Kiawah Island's today setback
23 rules, there would be no encroachment.

24 MR. LIBENGOOD: That is correct.

25 MR. CASSIDY: The fact is, though,

1 that a 30-year-old covenant takes precedence.

2 MR. LIBENGOOD: That's correct.

3 MR. CASSIDY: Okay. That to me is
4 significant.

5 If there are no further questions, any
6 members of the public want to speak on this case?

7 Yes, ma'am.

8 MS. PERUGINI: Do I need to go up
9 to the podium? Is this public comment?

10 MR. CASSIDY: Yes. You're going to
11 need to be sworn in also because you weren't here
12 at the beginning of the meeting.

13 MS. PERUGINI: I'm sorry.

14 (Witness placed under oath.)

15 MS. PERUGINI: So my name is
16 Mariellen Perugini. I live at 24 Rhetts Bluff,
17 so I'm on the same side of the road --

18 MR. VINCENT: This is for 39
19 Burroughs Hall.

20 MS. O'LEARY: This is Burroughs.

21 MS. PERUGINI: Oh, I'm sorry. Then
22 I'm sworn in at least, but I will hold my
23 comment.

24 (Overlapping dialogue.)

25 MR. CASSIDY: Okay. Anybody else

1 like to speak on this case?

2 All right. I'd entertain any motions
3 anyone would like to make.

4 MR. ROSENFELD: I know it goes
5 against my nature, but I'll go with a motion that
6 we approve with changes. I would approve the
7 front and the right side, but I would not approve
8 the back, especially the two back overhangs.

9 MS. O'LEARY: So which of the two
10 do you not like?

11 MR. ROSENFELD: I would remove the
12 one that is on the left side with the outcropping
13 and make the change that we discussed prior to
14 this with Mr. Libengood.

15 MS. O'LEARY: Sorry, so is it --

16 MR. ROSENFELD: The one in the top
17 left-hand corner.

18 MS. O'LEARY: This one.

19 MR. ROSENFELD: Right. I would
20 remove the outcropping in front of the wall and
21 therefore bring the porch -- if you remove this
22 section here --

23 MS. O'LEARY: And bring the porch
24 in.

25 MR. ROSENFELD: -- bring the porch

1 in, that would decrease the encroachment by
2 about, on that particular one, about 70 percent
3 and overall probably about 40 percent on the
4 whole thing, at least that's the way my math came
5 up.

6 MR. CASSIDY: Is there a second for
7 that motion?

8 Hearing none, let me just ask you,
9 Larry, what do you have against those
10 cantilevers? Seems to me that that's an elegant
11 solution to this problem and it's within the
12 spirit if not the letter of our regulation.

13 MR. ROSENFELD: I do understand
14 that, but I kind of have this thing about the
15 OCRM. I know it's encroaching, and five years
16 from now or ten years from now there are going to
17 be problems. And I know we went through this
18 last month when you approved something against my
19 objection again because this is my area of being
20 thickheaded, but I just think at that time that
21 you're setting yourself up for a problem. They
22 knew -- this house is not built. This is an
23 empty lot. And they could design this so it
24 would not go over any of the lines, front, side
25 or back. I'm willing to compromise on the front,

1 which I don't think will cause any problem. The
2 back, the HVAC system, I don't think that will
3 cause a problem if he's cantilevering it, but the
4 rear just really does a job on me. I think it's
5 an abuse of a request. They have not constructed
6 one board foot of this house, and to come in here
7 and say we worked for six months or two years or
8 whatever trying to encroach it and then the ARB
9 has the nerve to say, just ignore the rules,
10 we'll just, you know, tell you to go over the
11 lines, this just really ticks me off, and that's
12 my feeling.

13 MR. CASSIDY: I just think it's a
14 good solution because it's in the air.

15 MR. ROSENFELD: I'm a party of one
16 here, perhaps, but do what you've got to do.

17 MR. CASSIDY: We don't have any
18 motions on the floor yet.

19 MS. O'LEARY: He did have a motion.

20 MR. CASSIDY: It was not seconded,
21 so it's dead.

22 Any other motions anyone would care to
23 make?

24 MR. ADAMS: I move to approve it.

25 MR. CASSIDY: And I will second

1 that. Any further discussion?

2 MR. LEWIS: Just a clarification.
3 Because of the covenant, I mean, that was new to
4 me as well, it doesn't -- that's a rule that we
5 don't normally come across but would be within
6 our existing setbacks.

7 MR. CASSIDY: Correct, and then
8 everything else is an add on.

9 MR. LEWIS: Boone, you're shaking
10 your head yes.

11 MR. AIKEN: Yes.

12 MR. LEWIS: I just want to get a
13 verbal.

14 MR. AIKEN: Yes, absolutely.

15 MR. ROSENFELD: And we have the
16 right to override the covenant? Legal question.

17 MR. AIKEN: It would have to still
18 be approved as in a variance. You know, you
19 could override, or a variance effectively goes
20 around the zoning law. It would be the same sort
21 of concept.

22 MR. ROSENFELD: So variances can
23 override not only the laws but also the
24 covenants? Interesting question.

25 MR. AIKEN: Interesting question.

1 MS. O'LEARY: It just seems
2 interesting also that it's just something that
3 we've never come upon before that's so different
4 for this one property.

5 MR. CASSIDY: That's because it was
6 not built on for so long after it was purchased.

7 MS. O'LEARY: Right. But I also
8 wish, just as a side note that, I mean, we've
9 only owned our property for 12 years and we've
10 had three surveys done, so I just wish that there
11 was more history that would have given us an
12 opportunity to see where -- you know, where some
13 of this erosion and OC -- I could sit here and
14 say my OCR line went in 43 percent too, but
15 without anything to prove that it was 43 percent
16 reduced, it just raises that question.

17 MR. CASSIDY: Phil, is it okay if
18 we modify your motion to include the staff's
19 recommended condition that an as-built survey be
20 provided?

21 MR. ADAMS: Yes.

22 MR. LEWIS: Do you still second it?

23 MR. CASSIDY: Yes, I still second
24 it.

25 MS. O'LEARY: Can I just add to

1 that? Not only would we like to see an as-built
2 but actually have it be within the lines that are
3 noted on this because we've had several come back
4 that we've done something to and then they come
5 back and they're outside of the lines that were
6 approved.

7 MR. CASSIDY: I think that's the
8 point, when you do the survey.

9 MS. O'LEARY: You would think.

10 MR. CASSIDY: Yes. Any further
11 discussion?

12 All right. the motion is to approve.
13 I'll call the roll. Morris?

14 MR. HANAN: Approve.

15 MR. CASSIDY: Jay?

16 MR. LEWIS: Approve.

17 MR. CASSIDY: Frank, yes.

18 MS. O'LEARY: Lin, yes.

19 MR. CASSIDY: Lin, yes. Larry?

20 MR. ROSENFELD: No.

21 MR. CASSIDY: And Phil?

22 MR. ADAMS: Yes.

23 MR. CASSIDY: Okay. The motion is
24 approved, 5 to 1, and thank you everyone.

25 MS. O'LEARY: Thank you, sir.

1 MR. LIBENGOOD: Thank you.

2 MR. CASSIDY: Okay. I shall now
3 call case BZA24-000011 at 16 Rhetts Bluff Road.
4 Now, my house is at 31 Rhetts Bluff Road, which
5 is located directly across the street from this
6 property. Further, four of my neighbors have
7 submitted written comments on this case and I see
8 a number of my neighbors out here today, and I
9 believe some of them will be making comments
10 here. Based on these facts and to avoid any
11 appearance of a conflict of interest, I'm
12 recusing myself from this case and turning the
13 chair over to our vice chair, Jay Lewis. I'll be
14 staying here to listen, but I will not
15 participate in the deliberations in any way.

16 Jay, it's all yours.

17 MR. LEWIS: We'll start with the
18 staff report. Dan.

19 MR. VINCENT: Sure. Thank you,
20 Mr. Vice Chair, members of the BZA, our last --
21 final and last case today is Case No.
22 BZA24-000011. The applicant, Kenneth Wiland,
23 represented by Clifton Hunt, is requesting a
24 variance for the reduction of the required rear
25 OCRM critical line setback for approximately 110

1 square feet for a proposed single family
2 residence located at 16 Rhett's Bluff, TMS number
3 is 209-11-00-014. The property's located in the
4 R-1 zoning district. Adjacent properties to the
5 east, west and to the north across Rhett's Bluff
6 are also located in the R-1 zoning district.

7 The subject property is approximately
8 15,676 square feet in size, approximately 11,962
9 square feet of it is high ground, and the
10 remaining 3,714 square feet is marshlands. The
11 subject property is currently undeveloped and
12 sits adjacent to the critical area to the south.

13 Per the Town of Kiawah Island Land Use
14 Planning and Zoning Ordinance, pursuant to
15 Section 12-65 residential district, R-1
16 residential district, this property is subject to
17 a 20 foot front yard setback, a 15 foot side yard
18 setback and a 30 foot rear OCRM critical line
19 yard setback with an allowed maximum lot coverage
20 of 40 percent. Per Charleston County records the
21 property was acquired by Clifton Hunt in January
22 13th of 2023.

23 Here is a zoning overlay of the subject
24 property, an aerial from Charleston County GIS, a
25 high resolution aerial. A site visit was

1 conducted on June 28th, 2024.

2 MS. O'LEARY: You have Burroughs
3 Hall up if you can put up Rhetts Bluff, please.

4 MR. VINCENT: My apologies. That
5 should say 16 Rhetts.

6 MS. O'LEARY: Thank you. It still
7 says Burroughs Hall.

8 MR. VINCENT: The picture itself,
9 if you can see, it says 16.

10 MR. LEWIS: The pictures are
11 correct.

12 MR. VINCENT: Yes, picture's good;
13 it's just the text on top. I apologize.

14 The picture on the right is the 40 inch
15 oak, live oak, located on the front of the
16 property, adjacent properties across the street,
17 subject property, that image to the left is the
18 drain that's -- you can see in the as-built
19 survey owned by KICA, subject property, rear,
20 (indicating).

21 So the applicant's proposed plans
22 include a pool and raised planters located in the
23 rear of the property. The raised planters
24 encroach into the required rear setback by
25 approximately 2 feet, 2 inches and is raised

1 about 8 feet, 6 inches from the slab. The raised
2 pool located between the two raised planters
3 encroaches into the rear setback by approximately
4 3 feet, 2 inches and is approximately 10 feet
5 above slab grade. Again, the total encroachment
6 for both the pool and the raised planters is 110
7 square feet.

8 Moving on to the variance approval
9 criteria, Criteria A: There are extraordinary
10 and exceptional conditions pertaining to the
11 particular piece of property. There may be
12 extraordinary and exceptional conditions
13 pertaining to the property due to the existing
14 trees on the subject property including the 40
15 inch live oak located along the front setback
16 line. Per the applicant's letter of intent,
17 quote, there is a 40 inch grand live oak tree
18 located on the front setback line with a
19 significant canopy that extends into the
20 buildable area. Furthermore, the lot size,
21 11,962 square feet or .275 acres, and buildable
22 area, 5,612 square feet or .139 acres, are small
23 comparatively speaking and offer little
24 alternatives in terms of house placement and/or
25 design.

1 Criteria B: These conditions do not
2 generally apply to other properties in the
3 vicinity. These conditions may be unique to the
4 subject property and may not generally apply to
5 other properties in the vicinity. The property
6 is located in the R-1 residential zoning
7 district. Existing structures in the vicinity
8 may or may not have similar encroachments based
9 on current setback standards. Properties in the
10 vicinity are developed, whereas this property is
11 undeveloped. Per the applicant's letter of
12 intent, "the degree of canopy encroachment of the
13 40 inch grand live oak tree into the buildable
14 area of the property is not a condition that
15 generally applies to other properties in the
16 area."

17 Criteria C: Because of these conditions
18 the application of this ordinance to the
19 particular piece of property would effectively
20 prohibit or unreasonably restrict the utilization
21 of the property. The application of this
22 ordinance to the property may not prohibit or
23 unreasonably restrict the utilization of the
24 property as the subject property is undeveloped.
25 Per the applicant's letter of intent, quote,

1 given the size of the property and the buildable
2 area, the degree of canopy encroachment into the
3 buildable area made it unreasonably restrictive
4 to design a four bedroom home with a rear deck,
5 screened porch and pool on the property without
6 some type of variance request. The degree of the
7 setback variance being requested, limited to 110
8 square feet and an encroachment no greater than 3
9 feet, 3 inches, was my best effort to design a
10 home that preserves the 40 inch grand live oak
11 while minimizing the amount of setback
12 encroachment needed.

13 Criteria D: The authorization of a
14 variance will not be of substantial detriment to
15 the adjacent property or the public good and the
16 character of the zoning district will not be
17 harmed by the granting of this variance. The
18 authorization of this variance may not be a
19 substantial detriment to the adjacent properties
20 or the public good. The proposed additions
21 encroach minimally into the required setbacks.
22 The applicant is also saving a large grand oak
23 tree by pushing the home further back into the
24 lot. Per the applicant's letter of intent,
25 "there will not be a substantial detriment to any

1 adjacent properties or the public good and the
2 character of the zoning district will not be
3 harmed should the BZA grant this variance.

4 Efforts were made to minimize the degree of
5 setback encroachment and limit it to the center
6 rear of the property. A valid argument can be
7 made that the preservation of the 40 inch grand
8 live oak at the front of the property which a
9 rear setback variance will allow would actually
10 be of substantial benefit to the public good and
11 character of the neighborhood."

12 Criteria E, the Board of Zoning Appeals
13 shall not grant a variance the effect of which
14 would be to allow the establishment of a use not
15 otherwise permitted in a zoning district, to
16 extend physically a nonconforming use of land, or
17 to change the zoning district boundaries shown in
18 the official zoning map. Granting of this
19 variance would not allow the establishment of a
20 use not otherwise permitted in the zoning
21 district, extend a physically nonconforming use
22 of land or change the zoning district boundaries.

23 Criteria F: The fact that the property
24 may be utilized more profitably should a variance
25 be granted may not be considered grounds for a

1 variance. The BZA may not consider profitability
2 when considering this variance request. Per the
3 applicant's letter of intent, the owners are not
4 requesting this variance as a means for profit.
5 They purchased the lot hoping to build a home
6 they and their family can enjoy. The screened
7 porch, elevated deck and elevated pool off the
8 rear of the home are important elements of design
9 to the owners given the property's proximity to
10 the salt marsh behind the lot.

11 Criteria G: The need for this variance
12 shall not be the result of the applicant's own
13 actions. The need for this variance may not be
14 the result of the applicant's own actions. Per
15 the applicant's letter of intent, quote, the
16 owner didn't create the specific site conditions
17 driving the need for the setback variance. To
18 the contrary, their willingness to build a home
19 in which the design responds to the specific site
20 conditions is worth noting.

21 Criteria H: Granting of the variance
22 will not be contrary to the public or
23 neighborhood interest or will not adversely
24 affect the other properties in the vicinity, nor
25 interfere with the harmony, spirit, intent and

1 purposes of these regulations. Granting of the
2 variance may not be contrary to the public or
3 neighborhood interest, may not adversely affect
4 other properties in the vicinity nor interfere
5 with the harmony, spirit, intent and purposes of
6 these regulations.

7 Criteria I: Granting of this variance
8 does not substantially conflict with the
9 comprehensive plan or the purposes of this
10 ordinance. Granting of the variance may not
11 substantially conflict with the comprehensive
12 plan or the purposes of this ordinance. Even
13 though single family resident developments are
14 not subject to landscape and tree preservation
15 ordinance, the proposed plans to preserve the
16 significant live oak tree on the front of the
17 setback is consistent with the purposes of this
18 ordinance.

19 In the event the board considers
20 approval of this variance request planning staff
21 requested the following condition of approval
22 which is the applicant shall obtain an as built
23 survey post construction to verify all
24 encroachments match the proposed plans. And that
25 concludes staff's review.

1 MR. LEWIS: Okay. Questions for
2 staff? Lin.

3 MS. O'LEARY: If I go to response
4 B, I think it's B, it talks about -- it was the
5 one that talked about how there aren't many of
6 these similar properties like this one at 16
7 Rhetts Bluff. I believe that's B. I guess I'm
8 going to beg to differ on that one. I think
9 Rhetts Bluff is one of the most exquisite,
10 beautiful areas on Kiawah Island, and you can
11 drive through there, and almost every home has a
12 grand oak, and somehow it's worked. So I just
13 beg to differ that that property has something
14 different that nobody else in Rhetts Bluff has
15 because if you drive through there, you'll all
16 see that just about every home has a live oak,
17 huge live oak. Sorry.

18 MR. LEWIS: No. Any other
19 questions?

20 Phil, any questions?

21 MR. ADAMS: Yes, I have one, and
22 I'm not sure if it's more appropriately directed
23 to staff or council, but probably worth raising
24 it at this point: There have been a number of
25 comments submitted to the board in the last 72

1 hours, some of which in the last 24 hours. I'm
2 not sure at this point the extent to which what
3 the applicant is asking for here is -- the extent
4 to which those comments are relevant to the
5 specifics of what the applicant is asking for
6 here, may very well be, I just don't know. I
7 also don't know when the applicant received
8 copies of these comments as well and I just want
9 to be sure that the applicant feels or doesn't
10 feel, as the case may be, that they are prepared
11 to respond at this point to those comments, given
12 how late in the process they were submitted. So
13 maybe the question really is for council or the
14 applicant, do they -- are they prepared to
15 respond to those comments now or do they have any
16 alternative.

17 MR. LEWIS: I think we'll ask the
18 applicant that. But clarification, it's up to
19 each member's discretion, I'm looking at you,
20 Boone, is it five days prior to the meeting?

21 MR. AIKEN: That is my
22 understanding, yes, sir.

23 MS. O'LEARY: If we get in one
24 later, it's up to us as a board whether or not we
25 want to take it.

1 MR. AIKEN: That's correct, board's
2 discretion.

3 MR. ROSENFELD: My question also is
4 Criteria H, may not be contrary to the public or
5 neighborhood interest. I think that's
6 ridiculous, considering the information we've
7 received in the last couple of days in the way of
8 the neighborhood. There have been many people in
9 the neighborhood who have objected, so I don't
10 think Criteria H is clear at all.

11 MS. O'LEARY: In addition to that,
12 if I can add, this might be something that
13 Mr. Wiland will talk to us about when he comes
14 up, is that one of the major concerns is flooding
15 in this lot, that's my understanding. I didn't
16 get all the way back because I didn't bring my
17 snake rake with me this morning, but if they're
18 going to come up and talk about it, can they also
19 very firmly discuss what drainage plans they have
20 because I think that's imperative for all the
21 neighbors to know what the plans are, not just
22 assume that it's going to cause massive problems.

23 MR. HANAN: And I'd also agree with
24 Larry's comment about the Criteria H in terms of
25 meeting the neighborhood concerns and interests.

1 MR. ROSENFELD: I have converts on
2 this group.

3 MR. LEWIS: Dan, I had a question
4 about the lot coverage. I read it was -- your
5 presentation was 33 percent, but I thought I saw
6 somewhere where it was 40.65 percent.

7 MR. VINCENT: So there was a typo
8 in the beginning where it said the maximum lot
9 coverage was 33 percent for the subject property.
10 That was a typo. The allowed maximum lot
11 coverage is actually 40 percent.

12 MR. LEWIS: So with the 110 -- I
13 didn't do the math, but that 110 square feet, or
14 40.65, taking that out, does that take them back
15 under 40?

16 MR. VINCENT: So I accidentally
17 skipped by the lot coverage part, but I can go
18 ahead and read through it if you-all are okay
19 with it. So this property is subject to a 40
20 percent maximum allowable lot coverage, but the
21 Town of Kiawah Island Land Use Planning and
22 Zoning Ordinance, pursuant to Section 12-63,
23 description of zoning districts and regulations
24 grants an allowable lot coverage of 15 percent of
25 the 40 percent maximum allowed lot coverage. The

1 applicant's plans include 4,770 square feet,
2 which is 39.87 percent of impervious lot
3 coverage.

4 MS. O'LEARY: So they're over?

5 MR. VINCENT: So that is the
6 impervious lot coverage amount. In our zoning
7 code it says you're allowed to go 15 percent over
8 that 40 percent if it's -- if it's pervious
9 material. So the applicant's plans include 93
10 square feet of pervious material, which is .77
11 percent, which gets that percentage over to
12 40.65.

13 MR. LEWIS: Does that help you,
14 Lin?

15 MS. O'LEARY: Yes, thank you.

16 MR. ADAMS: So cutting through all
17 of that, is the proposal within or not within the
18 permitted lot coverage?

19 MR. VINCENT: The proposal is
20 within the permitted allowable increase of lot
21 coverage.

22 MR. LEWIS: Because of the 15
23 percent.

24 MR. VINCENT: Because of the 15
25 percent.

1 MS. O'LEARY: I thought originally
2 you said it was 15 percent less. Did you hear
3 that? I thought it was the 40 percent and then
4 it was 15 percent less but it's 15 percent over
5 the 40 percent; is that correct?

6 MR. LEWIS: You're allowed up to 15
7 percent but it's not, it's only .65 percent.

8 MR. ROSENFELD: 15 percent must be
9 pervious.

10 MR. VINCENT: So it's 15 percent of
11 the 40 percent, so the 40 percent times 15
12 percent, which would be --

13 MR. LEWIS: 6.

14 MR. VINCENT: -- 6. So their
15 actual allowable maximum is 46 percent, only
16 which 6 percent of that can be pervious.

17 MR. ROSENFELD: Can be or must be?

18 MR. VINCENT: Can be -- sorry, it
19 must be, sorry.

20 MR. LEWIS: Okay. Any other
21 questions for staff?

22 At this time I would like to call up --
23 raise your hand, come up, and state your name and
24 address.

25 MR. VINCENT: Do you want to do the

1 applicant?

2 MR. LEWIS: Oh, I'm sorry,
3 applicant.

4 MR. WILAND: Hello everybody, I'm
5 Kenneth Wiland. I'm working for Cliff and Louise
6 Hunt who own this lot. They are from Memphis,
7 Tennessee. They really wished they could be here
8 today. They had a health thing come up Friday
9 and they can't make it, but they really want
10 everyone to know that they wish they were here.

11 I also want to address the lot coverage
12 before we get into this because I think this was
13 miscommunication between Daniel and myself. He
14 took that lot coverage from a document I had
15 submitted to the ARB. The ARB has different
16 rules for lot coverage than the town does. There
17 are certain things that the ARB puts in the lot
18 coverage that the town doesn't and vice versa, so
19 you can't compare apples to apples. I'm almost
20 certain -- I don't have the zoning ordinance in
21 full with me right now, but I'm almost certain
22 that rear pervious at grade deck does not count
23 towards lot coverage with the town.

24 MR. VINCENT: It does but it will
25 count towards that overage.

1 MR. WILAND: Okay. This is not a
2 lot coverage request variance.

3 MS. O'LEARY: Correct.

4 MR. WILAND: I just want to make
5 sure.

6 MS. O'LEARY: I understand that. I
7 was just asking the question about lot coverage
8 when it was discussed, that's all.

9 MR. WILAND: Okay. All right. I
10 was not aware of how much opposition this would
11 cause. I've been before this board twice before,
12 and I've not had any opposition, so I received
13 all the documents I believe last Wednesday. It
14 was middle of the week last week.

15 MS. O'LEARY: And then we
16 received -- I'm sorry.

17 MR. WILAND: And I got one
18 opposition letter at that point, and then I got a
19 few more this morning, so I understand the rules
20 and the fact that you-all can make these
21 decisions, but it does seem a bit unfair that
22 there is a rule in there that I'm supposed to
23 have five days to look at this. You know, it's
24 tough to come into a meeting with this much
25 opposition. I told the owner in my two previous

1 experiences that I didn't have any opposition. I
2 believe if he knew his neighbors were here in
3 opposition he would want to be here, so I don't
4 know how this is going to work out; but if this
5 gets voted down, I would feel terrible for what I
6 told him, not being aware of how much opposition
7 was here. I think he would have loved to have
8 been here if he knew.

9 MR. LEWIS: Would you like a
10 continuance?

11 MR. WILAND: Well, the problem is I
12 don't know because I don't know what you-all are
13 going to vote.

14 MR. LEWIS: We need to hear
15 everything, and then a vote will be taken, but
16 you can -- again, correct me -- ask for a
17 continuance now, talk to the owners, and bring it
18 back next month.

19 MR. WILAND: Why don't we just go
20 through it and see how it goes.

21 MR. ADAMS: That's the reason I
22 raised the question I did a little while ago. I
23 agree that -- so fundamental fairness would
24 dictate that you have the opportunity, you and
25 your client had the opportunity to take into

1 account in your presentation the concerns that
2 the neighbors have, and I just wanted to know
3 whether or not, same question, would you prefer
4 to continue it to a subsequent meeting.

5 MR. WILAND: What I told the owner
6 was -- and, like I said, this is only my third
7 time in front of this board, so I don't know
8 what's going to happen, but what I told him was
9 I'm going to put forth my case as best I can and,
10 you know, I think we're just going to let the
11 chips fall where they may. I don't think his
12 presence here would change -- it shouldn't change
13 opinions.

14 MS. O'LEARY: Did you receive his
15 heartfelt message that he sent to all of us
16 yesterday as well?

17 MR. WILAND: So that's another
18 question I had is that came in last night. I did
19 not know that was coming. I wasn't even aware of
20 the situation in full.

21 MS. O'LEARY: So that came in
22 yesterday around 3:00.

23 MR. WILAND: Do I need to give the
24 board members that letter? Do you-all have that
25 letter?

1 MR. LEWIS: We have it.

2 MR. WILAND: Do the neighbors in
3 opposition have that letter? Is that something I
4 could pass out?

5 MR. LEWIS: It doesn't concern us
6 as far as -- if you want to share information,
7 that's up to you. We're not mandating it or
8 offering. But it again goes back to what we've
9 all be talking about, the five days, making sure
10 everyone has all the information available.

11 MR. WILAND: I'll just relay it in
12 my talk. I'll try to be brief. Given the sort
13 of unexpected opposition, I want to make sure I
14 make as good a case as I can so I'd just ask you
15 to bear with me real quick while I run through
16 all of this.

17 Okay. So I started work for this new
18 home in the spring of last year. It was over a
19 year ago. It's been an extremely challenging lot
20 in many ways, but the most difficult part of the
21 design relates to the fact that the buildable
22 area is first of all quite small, relatively
23 speaking. I agree that Rhetts Bluff is beautiful
24 and has a lot of large trees, but it is a very
25 small lot. It gets us to the 40 percent lot

1 coverage, and there's a tree on the buildable lot
2 line that encroaches a significant portion into a
3 buildable area that is already quite small. I've
4 been working on Kiawah for 11 years, and I have
5 not encountered something this difficult.

6 The lot is also quite wide but it is not
7 deep, so the distance between the existing 40
8 inch live oak tree with the healthy canopy that
9 extends into the buildable area which I must set
10 the house back from -- so the distance from that
11 tree to the rear lot line established by the OCRM
12 is roughly 25 feet, which is very tight. I don't
13 have comparison, but I've never come anywhere
14 close to that on other properties on Kiawah. I
15 just want to show everybody -- I don't know if
16 everyone has seen this tree. It's a huge tree,
17 big canopy (indicating).

18 MS. O'LEARY: Can I just ask, when
19 did they purchase this lot?

20 MR. WILAND: I believe it was early
21 last year.

22 MS. O'LEARY: So that tree was
23 there when they bought the lot.

24 MR. WILAND: And I was not involved
25 when it was purchased.

1 MS. O'LEARY: That's okay. I just
2 wanted to bring that to our attention.

3 MR. ADAMS: That tree was probably
4 there when the Vanderhorsts bought the property.

5 MS. O'LEARY: Absolutely, Phil.

6 MR. WILAND: The current design we
7 proposed along with the rear setback variance
8 being requested is a result of over a year's work
9 between myself, the owner, the ARB and Sammy
10 Milleman, who is an arborist with Arbor Care,
11 with the preservation of the existing tree as the
12 primary design driver. Myself and the owners and
13 the ARB believe we've landed on a design that
14 does a pretty good job at meeting all the
15 building and zoning requirements, other than this
16 variance request, for the property and does so in
17 a way that respects what makes Kiawah so special
18 in that we're trying to take care of trees.

19 I don't know of anyone who knows who
20 Mark Permar is, but he's one of the land
21 developers for Kiawah, maybe one of the most
22 influential people for the development of turning
23 Kiawah into what it is today from a design and
24 land development perspective, and he said that --
25 he said during one of my ARB design meetings --

1 he doesn't talk much, and he certainly doesn't
2 give compliments all that much -- he said that
3 when we were writing the Designing with Nature
4 design guidelines, this design epitomizes what
5 him and those writers had in mind when they were
6 hoping for architects to, "design with nature".

7 The design of the house is two two-story
8 wings on either side and a single one-story wing
9 in the middle, and the whole reason for that was
10 because that tree swoops over the middle of the
11 property, and I had to keep the middle of the lot
12 at one story.

13 So regarding the specific variance
14 request, I believe all nine criteria are met.
15 Obviously maybe not everyone agrees with me on
16 that, but I really do believe -- I thought this
17 was going to be a slam dunk. In fact, if there
18 was ever a reason to grant a setback variance due
19 to atypical conditions, this would be the case.

20 I think -- I agree that there are trees
21 on these properties and it's the architect's job
22 to design around trees and it's a challenge.
23 This lot was such a challenge because the
24 buildable area is so small and there's just
25 nowhere else to go, and also the depth of the lot

1 was such that the house had to be wide and not
2 deep. The living room is 18 feet. The path
3 between the pool and the living room is 4 feet,
4 and the pool is 14 feet by 14 feet, and the entry
5 stair is going left to right. That's a
6 requirement of the ARB, and it's the minimum
7 depth that the ARB will allow. So I tried -- I
8 basically did everything possible to make this
9 work. So in other words, we could make the
10 living room 14 feet wide. I don't think that's
11 something that I would endorse or draw for
12 someone investing this much money in a house. I
13 don't think it's fair to expect that, if that
14 makes sense.

15 There's also the issue of the owner's
16 granddaughter, and I believe that that's an
17 atypical situation. The owner has -- his first
18 granddaughter is 13 years old. I knew she had
19 health issues. I knew she was in a wheelchair.
20 We designed the house for wheelchair
21 accessibility. I did not know until last night
22 that she -- she has a lot more serious problems
23 than I was aware of. I talked to him yesterday
24 afternoon. He was very concerned about bringing
25 this up. He didn't want to use this as the

1 reason for the variance, but he basically told
2 me -- and he hadn't told me this before, but he
3 said, we need the pool size to be big enough to
4 have a sun shelf so that she can sit in that.
5 And I remember having this discussion with him a
6 month or two ago about a sun shelf saying, that
7 would be great, but that's not necessarily
8 justification for a variance; you know, it's just
9 sort of a bell and whistle. And he didn't tell
10 me at that time why he was asking for it, but
11 last night he told me, we've got to have a sun
12 shelf, and there's no point in building a pool if
13 the adults can't use it and have a sun shelf. So
14 we could make the pool smaller, and that was one
15 of my suggestions to him was go to a 14 by 10
16 pool; but when he brought this up to me last
17 night, I started to understand that that would
18 not work given his situation. And I would argue
19 that his personal situation is atypical, and I
20 believe that the spirit of variance -- granting
21 the variance is for atypical conditions.

22 So I think we have a property situation
23 that, arguably, not everyone deals with or not
24 every architect deals with and we have a person
25 atypical condition. So I think if there was ever

1 a reason to grant a setback variance due to
2 atypical conditions, this would be one. So I
3 appreciate that variances should not be expected
4 and that zoning guidelines should be adhered to
5 by architects and owners, but I also appreciate
6 that variances in boards such as yours exist to
7 review atypical situations which I feel this case
8 has.

9 I think it would also be hard to argue
10 myself or any other architect could design a
11 four-bedroom home on this lot while also
12 preserving the live oak tree at the front of the
13 property and giving the owners what they want in
14 terms of the pool for the granddaughter and four
15 bedrooms. They have three children and eight
16 grandchildren, so I originally looked at a
17 three-bedroom house for them and they said, we've
18 got three children, they're all having
19 grandchildren. That's not enough. We're not
20 going to do it if we can't do four bedrooms.

21 I also have a rebuttal to neighbors, but
22 I don't know if I should read that now. I'm
23 expecting some push back.

24 MR. LEWIS: Let's hold that. The
25 way it works is you will address the board, not

1 the neighbors directly.

2 MR. WILAND: Do I have a chance to
3 talk again if there's a lot of opposition?

4 MR. LEWIS: Yes. I can bring you
5 back up.

6 MR. WILAND: Okay.

7 MR. LEWIS: First we may have
8 questions for you.

9 MR. WILAND: Okay. That's all I
10 have, other than potential rebuttal.

11 MR. LEWIS: Questions. Lin?

12 MS. O'LEARY: Can you address the
13 drainage, how you're going to handle all the
14 drainage on this lot, considering it's in a flood
15 zone?

16 MR. WILAND: Yes. So the ARB
17 reviews drainage at the third round. We've gone
18 through two rounds. I had to get them to approve
19 the variance to come here, so I have not finished
20 the ARB process. I can't finish the ARB process
21 without knowing whether or not this will get
22 approved. So, you know, the ARB looks at
23 drainage, and they look at the drainage plan to
24 make sure drainage -- water is not moving to
25 neighboring properties. There's a drain on the

1 left side, which I guess is the east. I'm sure
2 the owner and the landscape architect would have
3 no problem running a perforated drain along the
4 left side setback to that drain. And I also
5 believe that they would be fully willing to do
6 the same thing on the right side. The lot slopes
7 from the street to the OCRM line, so there's no
8 real natural drainage left and right.

9 MS. O'LEARY: Are you planning on
10 raising -- how much dirt are you planning on
11 bringing in?

12 MR. WILAND: The slab I have set at
13 seven, six.

14 MS. O'LEARY: And where is it
15 currently?

16 MR. WILAND: The grades for the
17 lot -- let me make sure I give you the right
18 information. Hold on.

19 MS. O'LEARY: Thank you, sir.

20 MR. WILAND: So the street
21 elevation's six and a half, and it slopes down.
22 The middle of the lot is five to five and a half,
23 and then the OCRM line is three to four.

24 MR. ROSENFELD: So you're going to
25 raise it all up to seven, six?

1 MR. WILAND: The top of slab is
2 currently proposed at seven, six. And that --
3 that is -- there's no standard slab height, but
4 in working with the ARB, that's what they're
5 telling me I should set all houses at. That's
6 the highest they're allowing it. I guess three
7 years ago, I don't know if you remember when we
8 had two hurricanes and then that big storm. Lots
9 that had slabs between six and a half and seven I
10 guess got flooded, so the ARB started allowing
11 seven, six. And so, you know, if there was a
12 requirement to lower the slab 6 inches, I could
13 talk to the owner about that; but I think it's
14 very important for owners to have a slab a little
15 bit higher so that when we get these storms they
16 don't get three inches of flood water. And it
17 really wouldn't affect the drainage on the side
18 what the slab height is.

19 MS. O'LEARY: If the water comes in
20 and the Cliftons' [sic] lot is seven, six and it
21 comes in and hits it at seven, six but the
22 neighbors are at six, you don't think that
23 water's going to bounce off of theirs and go into
24 the neighboring lots and cause flooding there?

25 MR. WILAND: If it was at six, six,

1 it would do the same thing because grade is a bit
2 lower than that. I haven't gotten to that third
3 step of the ARB process, but putting drains down
4 either side of the property line I think would
5 be -- the owners would definitely be willing to
6 do and might even be required by the ARB.

7 MS. O'LEARY: Okay. Thank you,
8 sir.

9 MR. ADAMS: I have two sort of
10 follow-up questions to that. The first was for
11 council. Is it within the purview of the Board
12 of Zoning Appeals to approve or disapprove the
13 height of the slab?

14 MR. LEWIS: Can you repeat your
15 question, Phil?

16 MR. ADAMS: Yes. Is it within the
17 purview of this board to approve or disapprove
18 the height at which the slab was set?

19 I would have expected the answer to be a
20 pretty clear no, but your hesitation makes me
21 want to rethink that.

22 MR. AIKEN: No, it is a clear no.
23 So this board's whole job is to grant a variance
24 based on what is in the zoning code itself, so as
25 long as that language, which is not in there I

1 don't believe, then it is not within this board's
2 purview to specifically address that question.

3 MR. ADAMS: Okay. Then my next
4 question then is for the applicant, is there
5 anything about the construction specifically
6 associated with the requested variance that is
7 going to make a difference in the drainage plan
8 or the drainage on the lot?

9 MR. WILAND: So I should also bring
10 this up because this conversation started last
11 spring with the ARB. When I told them, I said, I
12 don't think I can fit a house, the stair and a
13 pool between that tree in the rear setback based
14 on what -- the buffer you're asking me to put the
15 house on from the tree. And also in studies and
16 talks with Sammy Milleman about how some of the
17 limbs grow up and over the house, where that
18 stair is is as close to the tree as I can put it
19 so the ARB -- and I don't want to say who -- but
20 recommended, they said, we would support a pool
21 or deck encroachment over the rear setback if
22 it's in the middle of the rear of the lot so as
23 to not -- you know, it would be as far away from
24 either side neighbor as possible. So that is one
25 factor here is I did try to minimize the

1 encroachment to the middle of the lot as far away
2 from either side neighbor as possible.

3 But to be more specific about your
4 question, if the owners' grandchild did not have
5 this health issue, they would be probably okay
6 with scrapping the raised planters. I thought
7 that was a positive impact to the height of the
8 foundation, but if that went away, the owners
9 would be fine losing that, and they'd probably be
10 okay with a smaller pool and we wouldn't be here
11 today, but I don't think that would change the
12 drainage one bit because the water is right there
13 and it slopes from that point directly to the
14 water. I don't think that that would lead water
15 to any neighbor.

16 MS. O'LEARY: The reason I was
17 asking that question was because some of the
18 comments that we've gotten from the neighbors
19 have all been about drainage, so I wasn't trying
20 to bring something in that we don't normally have
21 as our scope but seeing how, you know, as one of
22 the --

23 MR. ADAMS: And I understand that,
24 and so the reason for my follow-up question was
25 just that point, we're focused on the requested

1 variance and whether or not granting or not
2 granting that request is going to have a -- make
3 a difference in terms of the way the lot drains
4 vis-a-vis the neighbors with or without the
5 change, with or without the variance.

6 MR. LEWIS: Correct, the only
7 reason that we're having this today is because of
8 the encroachment, the 110 square feet.

9 MR. WILAND: I would say that that
10 encroachment, I'm not a flood expert, but I can't
11 imagine that flooding to neighboring properties
12 would change if we took that off. And I also --
13 I dealt with this with another homeowner who was
14 threatening to get sued by his neighbor for
15 drainage issues, and I'm not an attorney, but
16 South Carolina water law follows what's known as
17 common enemy doctrine. I don't know if anyone's
18 ever heard of this. It goes back to Britain in
19 the 1600s. You can't hold one person responsible
20 for flooding to neighbors that is a, quote,
21 common enemy to all.

22 MR. LEWIS: Okay. Question about
23 your arborist: She's not here?

24 MR. WILAND: It's Sammy Milleman,
25 and he's not here.

1 MR. LEWIS: What is the, is it
2 damage to the root structure --

3 MR. WILAND: No, it's very healthy
4 tree.

5 MR. LEWIS: Right, but what you're
6 proposing to do, will there be damage to the root
7 structure, have they offered an opinion on that?
8 I noticed there are a lot of limbs being taken
9 out.

10 MR. WILAND: So is the question
11 whether the new structure will damage the roots?

12 MR. LEWIS: Of the 40 inch --

13 MR. WILAND: So if you read his
14 letter that he put forth, he has a three-step
15 proposal for limbing the tree to allow it to
16 survive construction and I guess in his opinion
17 stay healthy and keep growing after construction,
18 so whether or not -- I would guess if there are
19 existing roots under the footprint of the tree,
20 because generally what he's told me in the past
21 is the root system follows the canopy, but I
22 would imagine that the roots that are underneath
23 the footprint of the proposed house, you know,
24 are related to the limbs that he's proposing to
25 remove, if that makes sense.

1 MR. LEWIS: Okay.

2 MR. WILAND: There was a lot of
3 thought put into this in terms of how to put the
4 house there with the limbs and the sequencing of
5 the delimiting of the tree.

6 MR. LEWIS: Any other questions for
7 the applicant?

8 MR. ROSENFELD: Yes. Number one, I
9 take umbrage when you say, as smugly as you did,
10 anyone spending this amount of money can't live
11 with a 14-foot living room, number one.

12 Number two, I have a handicapped
13 daughter. She's missing a leg. I've done a lot
14 of studies of the ADA laws and things like that.
15 14 by 10 foot pool versus 14 by 14 foot pool,
16 wheelchair is 32 inches wide, the extra wide ones
17 are 35 and a half inches wide for oval sized
18 people. If that can't fit into 10 feet as
19 opposed to 14 feet, I think I'm being lied to;
20 nothing personal.

21 MR. WILAND: I wasn't trying to be
22 smug. I'm sorry.

23 MR. ROSENFELD: You said reducing
24 the pool to 10 feet would not be functional.
25 That's not true. Even a waterborne wheelchair,

1 which we have, is 34 and a half inches wide, so
2 10 feet versus 34 and a half inches, which is
3 less than three feet, so I think this is all
4 bushwa. I think you could design the house
5 slightly shorter, slightly less deep, I mean, and
6 that would solve the whole problem; we wouldn't
7 be here.

8 As for the flooding situation, raising
9 the property, I think, despite English common
10 law, will cause problems for your neighbors, but
11 it appears that they spent a lot of money on the
12 lot, as you said, and they spent a lot of money
13 on building this house, so they probably don't
14 care. That's just my feelings on this matter.

15 MR. LEWIS: Thank you. Any
16 additional questions?

17 At this point I'll ask -- thanks, you
18 can sit down, sir.

19 Please raise your hand, come up, state
20 your name and your address. You are limited to
21 three minutes, but it's my discretion to extend
22 that.

23 MS. RODDEY: I'm Gail Roddey, and I
24 have lived on Rhett's Bluff, No. 17, for 28 years.
25 And I want to thank the chairman, the vice

1 chairman and members of the board for letting me
2 share our concerns. And I am going to try and
3 stay on course because after the conversations
4 that I have heard, I have so many questions, but
5 I'm going to present what I think the neighbors
6 and I at Rhetts Bluff are concerned with.

7 We are concerned over the request for
8 the variance of 3 and a half feet on the creek
9 side. And all of our concerns have been voiced
10 in the letters that you've received, and I am the
11 guilty one for getting the letters to you so
12 late; but it has been July the 4th, and we've all
13 had lots of company and people have been away.

14 Our goal is to protect our valuable
15 ecosystem that we have on Rhetts Bluff, and the
16 variance of lot No. 16 is interfering with that.
17 The state has set a critical line on the marsh
18 side to prohibit building beyond that, and this
19 committee is made up of a very educated group of
20 people that have studied the ebb and flow of the
21 tide, the health of the marsh, and we have a
22 marsh committee here on Kiawah that mitigates the
23 waters there, and it also studies the flooding
24 area. So I think that having them set the
25 critical line is very valuable, that we should

1 not go beyond that line towards the marsh.

2 And I hope that all of you have gone
3 over and looked at this lot because it's very
4 low, it's very shallow, and it's very challenging
5 to build on because of the placement of the trees
6 and just the complete setup of the lot. We all
7 thought that the lot was unbuildable, but anyway
8 the architect and the clients are going forward.

9 I also wondered if it would be a
10 possibility to move the house back three and a
11 half feet towards the road and not interfere with
12 the shoreline of the marsh. Now, that would
13 interfere with the grand oak that is there, but
14 in my estimation it would be less expensive to
15 move the house back and plant a tree than it
16 would be to disturb nature on the shoreline of
17 the marsh.

18 And it's not a hardship not to have a
19 pool. Everybody doesn't have a pool, and the
20 hardship would not be to do away with the pool
21 and the planter boxes. And it has been suggested
22 that the board should be very hesitant to grant
23 any variance which involves incremental
24 encroachment on wetlands and detrimental --
25 detrimental to adjoining properties.

1 MR. LEWIS: You're at 4 minutes.
2 Are you close to wrapping up?

3 MS. RODDEY: I'm sorry?

4 MR. LEWIS: You're at 4 minutes.

5 MS. RODDEY: Okay. Good. Can I
6 have one more?

7 MR. LEWIS: Sure.

8 MS. RODDEY: We've been concerned
9 about the arborist's recommendation to remove the
10 two cedars on the marsh side because those two
11 trees hold -- their root system holds the dirt
12 there, and it will lessen erosion if those trees
13 stay there. I know they want the view going
14 through the big oak, but I've had consequences
15 with the ARB on the other side of my house. So
16 anyway, we do not want to have further erosion,
17 and it also should be noted that the -- that
18 there is a natural buffer of wax myrtle on every
19 other lot on Rhett's Bluff on the creek side, but
20 there is no wax myrtle growing in front of No. 16
21 for some reason, but there is very much marsh
22 grass that has extended into the -- almost
23 three-fourths of the way of the lot.

24 MR. LEWIS: Okay.

25 MS. RODDEY: Okay. And I also

1 would like to say that this is nothing personal.
2 We do not know our future neighbors and we wish
3 them the very best and empathize with their
4 family's situation, but I don't think that is
5 what we're here to discuss.

6 MR. LEWIS: Okay. Thank you.

7 MS. RODDEY: Thank you. And I have
8 some pictures that I'd like to present to you of
9 Rhett's Bluff. This is what happens.

10 MR. LEWIS: Give them to staff, and
11 they can incorporate it into the record. Feel
12 free to share.

13 Who would like to be next, raise your
14 hand, come forward.

15 MS. MEZZANOTTE: Diana Mezzanotte,
16 99 Rhett's Bluff. I am not really very close to
17 this.

18 MR. LEWIS: I'm sorry, can you
19 repeat that?

20 MS. MEZZANOTTE: Diana Mezzanotte,
21 99 Rhett's Bluff. I'm not real close to where
22 this is happening, but I'm going to speak in
23 general terms about it. The ARB -- regarding the
24 ARB and town planning department recommendation,
25 my understanding -- and I spoke with ARB -- is

1 they're mainly concerned with aesthetics, which
2 includes landscaping and thus tree retention.
3 They do not address normally rising waters and
4 marsh conditions. And the town's planning
5 department needs to follow the legal ordinances
6 in place today when making their recommendations.

7 Lot 16 was platted in July 1991, and the
8 last time the developer's master sheet was
9 updated was 2007. Based on the master sheet,
10 this lot's setbacks are approximately 10 feet
11 from the critical line on the left and 20 feet on
12 the right. That's different than what you saw at
13 Burroughs Hall, which was 30 feet. This is 10
14 and 20. And I doubt in today's world that would
15 be acceptable.

16 Our knowledge concerning the marsh and
17 its important to the protection of Kiawah Island
18 has evolved over the years. From the town's
19 marsh management plan, which was adopted on
20 2/7/23, about 55 percent of Kiawah Island is
21 marshland. It serves an important protective
22 barrier for the island as it relates to
23 significant storms, flooding, etc. Stewarding
24 our island's marshes today can further assist the
25 flooding and erosion impacts on the island in the

1 future.

2 Partly why I'm here is I want the owner,
3 especially after what I've heard, to understand,
4 we want them to have their house; and if they
5 want a pool, we want them to have their pool.
6 But protecting the marsh benefits the entire
7 island, even this homeowner. A healthy marsh
8 will help protect their property too. And I urge
9 them to find another way to build their dream
10 home on this property, and I hope the ARB and
11 town will assist them in doing that.

12 I wonder if it would not be better to
13 sacrifice the 40-inch tree, of which up to 40
14 percent of it's going to be cut down anyhow -- so
15 it's only really 60 percent of the tree that's
16 going to remain -- in the front lot, to cut that
17 down and plant a healthy tree, a healthy live
18 oak, in its place. You could move the house
19 forward then, probably the three and a half feet
20 that they're asking for right now. I don't know
21 that exactly, but I would think that they could
22 move it forward. And I understand we have a tree
23 ordinance. I understand the importance of trees.
24 I love our grand oaks there. But considering 40
25 percent of this tree's going to be eliminated

1 anyhow, it's not going to be the grand oak that
2 you're seeing in the picture. It's going to be
3 35 to 40 percent less than that so --

4 And Millemans are wonderful people and
5 they're wonderful arborists, but they can't
6 guarantee the tree will live because, like the
7 architect said, the roots of that tree will be
8 underneath that -- you know, extend underneath
9 the house and even underneath the road. We had
10 that. Ours is a spec home, but they had to treat
11 our trees for probably about five years after the
12 house was built, and I don't even think 40
13 percent of our -- of the trees that they were
14 working on were even close to being cut back 40
15 percent, our trees weren't.

16 So to me it would be a better solution
17 if the ARB and the town would consider letting
18 them cut down that one oak tree and moving the
19 house forward so that they can get what they want
20 and the house they want, versus doing damage to
21 the marsh, which every time we intrude into it we
22 do some damage to it and it does cause
23 irreversible damage that is going to be hard to
24 address or if we can even address it at all;
25 whereas, we can address the tree.

1 MR. LEWIS: Thank you. You're
2 right at four minutes. Thank you.

3 MS. O'LEARY: Can I ask Boone a
4 question in regards to the tree? So we had
5 looked at a lot once in Cassique, and there was a
6 huge tree in the middle, and we had asked if we
7 would be allowed to move that tree, and they said
8 it's a county decision. Have you heard that?

9 UNIDENTIFIED SPEAKER: I think
10 that's because Cassique is not in the town.

11 MS. O'LEARY: Okay. All right.
12 That makes perfect sense. Sorry.

13 (Overlapping dialogue.)

14 MR. LEWIS: Who would like to be
15 next? Please state your name and your address,
16 and you have been sworn in, correct?

17 MS. PERUGINI: I have. Yes. It's
18 Mariellen Perugini, 24 Rhetts Bluff Road. First
19 of all, I don't want to use up a lot of my time,
20 but I wasn't informed of this meeting, so I feel
21 like the 500 foot, which is the public
22 notification currently in the town ordinances
23 could be revisited when it starts to affect water
24 flow, which absolutely -- I'm about six lots
25 down, and I will say that when we bought our lot

1 about seven years ago, the marsh and the erosion
2 that we saw happening was a major concern. There
3 was development nearby to us that did some
4 disruption that we were not too happy to see, and
5 there's no question that it affected our erosion.
6 There's no question. So water has a way of twice
7 a day, you know, going in, going out, going in
8 going, out; and so it might be something worth
9 considering because I found out about this a
10 little late. I don't have a dog, so I don't walk
11 by that sign.

12 But I wanted to address whether or not
13 this is extraordinary, and I don't know if you
14 are with the town -- are you with the staff? So
15 I was really somewhat shocked by a lot of things
16 you said in your report. So we live, like I
17 said, just several lots down. We have a 41-inch
18 live oak. I just looked up -- my tree and topo
19 was done about ten years ago and it was measured
20 41, so it's certainly bigger today. They grow
21 slowly but they grow. Everything about our house
22 build -- and I'm happy to say that live oak is
23 alive and well and happy and we've taken
24 extraordinary good care of it. Everything about
25 our house build was informed by that live oak,

1 okay.

2 The other thing that I want to tell you
3 is that lot size-wise -- I looked it up as well
4 on our plans. The highlands for this particular
5 lot that we're talking about is just under 12,000
6 square feet. Ours is just under 13,000 square
7 feet. It used to be that the town allowed 40
8 percent lot coverage for something that would
9 have been our lot size. They changed that at
10 some point before we bought the lot. Obviously
11 whenever people buy the lot, they need to know
12 what they've got and we live with what we've got.
13 But we are at 33 percent when we informed our
14 build, and when I just did the math, that gives
15 us about 500 square feet less workable area than
16 this lot six houses down from us. So I don't
17 consider this by any means an extraordinary
18 situation in terms of somebody buying this lot.

19 I will say too that walking in the
20 neighborhood, the width of it and the very
21 apparent lack of depth of it is not unheard of on
22 Kiawah, and there's a house off of -- I want to
23 say it's called Oyster something road off of Blue
24 Heron when you first go in.

25 MS. O'LEARY: Oyster Shell.

1 MS. PERUGINI: Oyster Shell. First
2 house on the left after you've passed this little
3 cul-de-sac. Very narrow lot. Very long lot.
4 They built on it just shortly after we finished
5 our house build, and we would bike by and say,
6 wow, they really did accommodate architect to
7 have this house fit this lot.

8 So then the only other thing I want to
9 say is on the marsh we've talked a lot about
10 flooding. It's an absolute concern in the
11 neighborhood. KICA's made a lot of investments
12 to try to help it. I have video of the December
13 big event where I was wearing waders up to here,
14 and despite those waders I was completely soaked.
15 So we're dealing a lot already in the
16 neighborhood, but on the marsh itself, Diana
17 referred to that marsh study, and I remember when
18 I saw that first, I saw that our marsh right
19 behind our house and this house is one of the
20 unhealthy ones on that plan. So we need to be
21 doing the opposite, please, for it is we need to
22 be thinking of increasing the setbacks in the
23 OCRM and not decreasing them.

24 MR. LEWIS: Okay. Thank you.

25 MS. PERUGINI: Just one other

1 thing, I don't know if I have time, but on the
2 pool I would just say, I imagine all of us on
3 Kiawah have seen what a pool foundation looks
4 like. It is super more disruptive than a house
5 foundation. The amount of CMU block and cement
6 is just, you know, multiple fold; so putting
7 something like that closer than what the current
8 setbacks are I just feel is going to do all this
9 damage to the lot that we've already been living
10 with.

11 MR. LEWIS: Thank you.

12 MS. PERUGINI: Thanks.

13 MR. LEWIS: Sir, please state your
14 name and your address.

15 MR. COWART: Randy Cowart, 33
16 Rhett's Bluff Road. I just want to talk about the
17 drainage. The architect that was up here, he
18 talked about building some pervious drain like
19 thing. The street drains from the street into
20 the marsh. It has a piping system. It runs to
21 that drain that was shown that Dan had shown, and
22 actually we had the -- Ryan Ellmers out with
23 KICA, great -- real smart civil engineer, and at
24 the end of the pipe which is on that drain it has
25 a valve, a water valve, a check valve type -- I

1 call it a check valve. I'm in the valve
2 business. So but from there it's supposed to
3 drain into the marsh. Today it's blocked up. It
4 has to be maintained. The valve doesn't work all
5 the time. It gets choked up with pine straw or
6 whatever during certain situations, but it drains
7 from the road to the marsh.

8 On the other side of Gail's house
9 there's another drain and so forth and so on is
10 the way it works there, so my only comment is you
11 need to -- the civil engineer for KICA, you-all
12 should get some information from him. He
13 actually commented too that the house does not
14 leave enough of an easement. There's an easement
15 and there's a setback. He has to come in with
16 equipment to do maintenance on those drains.

17 MS. O'LEARY: So you're saying that
18 there's an easement on the lot that's not shown
19 on the map for them to access that drain, sir, am
20 I understanding?

21 MR. COWART: I think I actually saw
22 that.

23 MR. LEWIS: Why don't we save that
24 question for staff, ask staff that question.

25 MR. COWART: But there is --

1 according to him there is a rule or a setback
2 from the easement line so that the house or the
3 structure has to be -- I just ask you folks to
4 take a look at that, make sure that we're within
5 that. You wouldn't want to later on do
6 something, but it does drain. That lot is wet.

7 My other comment, talking about the
8 elevation of the lot, the water comes in from the
9 east and goes west. That's the way the tide
10 comes in. When the tides are accelerated today
11 water floods into that lot and floods across her
12 house (indicating). It comes in, and the way
13 it's leaned, it comes in and it runs over her
14 house. It goes out to the street. Is goes into
15 my yard across the street. It goes into lot 34.
16 It goes on down, and finally eventually it goes
17 all the way down Shoolbred.

18 So if that house is built, and I'm --
19 like Roddey and Diane said, this is nothing
20 personal. We'd love to have nice new neighbors
21 from Memphis, Tennessee. That would be great.
22 But that house built, and if it's elevated, built
23 up, number one, that house is going to be like --
24 when the water comes in, it's going to be like a
25 barge going down river. Water's going to go left

1 and water's going to go right. Carol Lou's going
2 to have more water, as stated earlier, and I just
3 ask that you make consideration of that. I don't
4 want -- I'm not saying stop everything, but I'm
5 saying I don't think enough due diligence has
6 been done in my opinion. Thank you very much.

7 MR. LEWIS: Thank you, sir. Anyone
8 else?

9 MS. HEALEY: I'm Lori Healey at 21
10 Rhett's Bluff. We have lived on Kiawah for 24
11 years, happily. And I want to say when we first
12 moved in, my husband put a pole in our marsh, a
13 six-foot pole, and we watched the tides. And I
14 think a big concern is we all know that the
15 oceans are getting deeper and coming -- the tides
16 are getting higher, and Rhett's Bluff totally
17 floods over in back of us. I mean, it's a
18 gorgeous view. We have the best view on the
19 island. However, you have to think about
20 increasing tides. And the setback was made for a
21 reason, and to violate that now is crazy, I
22 think, because of the increasing water, and we'll
23 be sorry in a couple years, and that's all I have
24 to say.

25 MR. LEWIS: Thank you. Please come

1 forward state your name and your address.

2 MR. SPENCER: I've not been sworn,
3 by the way.

4 (Witness placed under oath.)

5 MR. SPENCER: My name's Lance
6 Spencer. I live at 40 Sunlet Bend, Inlet Cove.
7 It's the other side of the Island from Rhetts
8 Bluff, but we bike through there two, three
9 times, four times a week, and we have the same
10 kinds of issues with applicant's and things going
11 on in our neighborhood, so I'm member of the
12 community, so I'd like to speak as well. And we
13 biked through Rhetts Bluff last week and we saw
14 the notice of the hearing. Actually, I didn't
15 come intending to speak, but after hearing
16 everything and thinking about it, our first
17 reaction was, you're kidding me. I don't have to
18 live there and worry about being a neighbor, but
19 either buy a lot that accommodates the house or
20 build to the lot. And there's reasons, like many
21 have said, about the reasons for the setbacks and
22 the standards particular to our ecosystem,
23 particular to our community, to protect adjacent
24 lots, and we all need to adhere to that.

25 So I also think that there is a trend

1 I'm seeing as I talk around the community, I
2 bought the lot, let me build my house, you know,
3 the guilt card. Buyer beware, but the buyer has
4 every opportunity to know what buildability is on
5 the lot.

6 And I heard what you said about the
7 tree. Don't tear the tree down. Those grand old
8 oaks that they said have been here since the
9 Vanderhorsts, they probably have. So don't,
10 because somebody's bought the lot, allow them to
11 tear down the tree just to make the house that
12 they want to build. Buy a lot area that will
13 accommodate the house.

14 MR. LEWIS: Thank you. Would
15 anyone else like to speak?

16 Seeing none, staff, would you come back
17 up? We have a question about the -- it was the
18 easement for the drainage.

19 MS. O'LEARY: The easement for the
20 drainage, I mean, is that on -- it's so small. I
21 can't see it. I need a magnifying glass.

22 MR. WILAND: It's on the survey.

23 MR. VINCENT: I'll pull up the
24 survey.

25 (Overlapping dialogue.)

1 MR. VINCENT: This is looking
2 north, so if you're looking to that right side,
3 which is east.

4 MS. O'LEARY: Oh, there's the
5 drain.

6 MR. VINCENT: That is the drain.

7 MS. O'LEARY: So it looks like if
8 they were to come in to work on that, they would
9 be going to the house to the left and coming
10 across her and then coming in; is that correct?
11 Because this is the front here. So if you're
12 standing there looking at it, they're going to
13 come in through --

14 MR. ROSENFELD: As you're facing
15 the house, on the left.

16 MS. O'LEARY: As you're facing the
17 house, on the left, they're going to come in --

18 MR. COWART: You can have this
19 (indicating).

20 MS. O'LEARY: I do. That's what
21 I'm looking at.

22 MR. COWART: Do you have this one
23 (indicating)?

24 MS. O'LEARY: Yes.

25 MR. LEWIS: Give that to Dan so he

1 can put that slide up, please.

2 MS. O'LEARY: Here it is. Okay.
3 So here's the dock area easement. How much is
4 that intruding into the other one? I'm sorry.

5 So, Dan, is it the same? How much is
6 coming into it and is there an additional
7 easement on the left-hand side of this lot.

8 MR. VINCENT: So it looks like
9 we're looking at two different easements. There
10 is what looks to be a -- it's either a 16 or an
11 18 foot drainage easement which is on both sides
12 which means on 16 it's 8 feet from that property
13 line past is the drainage easement.

14 MR. SPENCER: 16 inches the pipes
15 are.

16 MR. VINCENT: It's a 16 foot.

17 MR. SPENCER: 16 inch pipe, the
18 diameter of the --

19 MR. LEWIS: It's buried, though,
20 right.

21 MR. VINCENT: I believe this reads
22 16 feet, which is easement to easement.

23 MR. SPENCER: Oh, okay. I just
24 want to make sure.

25 MR. VINCENT: From what staff is

1 implying, it looks like a 16 foot easement on
2 both sides which is 8 foot on 15 and eight foot
3 on 16.

4 MR. ROSENFELD: Dan, one more
5 question: If Rhetts Bluff has such a penchant
6 for flooding, that obviously means that even if
7 you put down pervious decking or driveway or
8 whatever, there's not going to be any place to
9 absorb because the land is basically saturated to
10 begin with; am I not correct? I mean, you can
11 put pervious on top of a bog and there's no place
12 for water to go. It can go through but only if
13 there's room at the bottom that's drier and the
14 water goes through by osmosis; but if the
15 underground is so saturated because every time
16 the tide comes in high, which is fairly regularly
17 nowadays, there's not going to be any place for
18 it to go. So counting pervious land in an
19 additional 15 percent of the 40 percent for 6
20 percent total is actually useless because you're
21 not creating anything that's drainable. You
22 could just leave it as grass and it would be
23 equally drainable or not.

24 MR. VINCENT: We don't have any
25 stormwater ordinances right now. We're working

1 on that apparently with planning commission and
2 workshops, so I can't answer your question.

3 MR. ROSENFELD: Is that why John
4 hid from this meeting?

5 MR. VINCENT: So I won't be able to
6 answer that, but it is impervious area; whereas
7 now it's pervious, so the water does have to go
8 somewhere.

9 MR. LEWIS: Any other questions for
10 staff?

11 MS. O'LEARY: Am I allowed to make
12 a motion?

13 MR. LEWIS: Not yet.

14 Okay. Thank you. At this time I'll
15 close it to the public comment. I will let the
16 board discuss.

17 MS. O'LEARY: There's somebody
18 else.

19 MR. WILAND: Can I just make one
20 last response? I won't do a rebuttal.

21 MR. LEWIS: You need to come up
22 here.

23 MR. WILAND: I will not do a
24 rebuttal but I would ask, if the variance is
25 denied, whether there would be any consideration

1 for allowing the encroachment only at the pool
2 and not the two raised planters. Thank you.

3 MR. LEWIS: Okay. At this time I
4 will close it to the public comment. Anyone just
5 want to discuss it, or are you ready for a
6 motion?

7 MR. HANAN: I'd like to make a
8 motion.

9 MR. LEWIS: Phil, do you have
10 anything to add, or are you ready for a motion?

11 MR. ADAMS: Actually, I would like
12 once again to put the question to the applicant
13 as to whether they would like the board to
14 continue the consideration of the case to give
15 them an opportunity to take into account things
16 that have been raised relatively late in the
17 process.

18 MR. LEWIS: Okay. At this time I
19 think we're ready to make a motion, and then the
20 applicant can react and take action based on what
21 we decide.

22 So, Lin, did you have a motion?

23 MS. O'LEARY: I'd like to make a
24 motion that we table this until next month and
25 they reapply and they come in with the capability

1 to answer some of the questions about the
2 planters and possibly the side easement and we'll
3 just be more informed. Does that make sense?

4 MR. LEWIS: Do we have a second to
5 that?

6 You basically are asking to continue it
7 for one month.

8 MS. O'LEARY: Continue it for one
9 more.

10 MR. LEWIS: Or until they're ready.

11 MS. O'LEARY: Until when they're
12 are ready.

13 MR. LEWIS: And I believe they have
14 90 days.

15 Does anyone want to second Lin's motion?

16 Seeing none --

17 MR. ADAMS: Second.

18 MR. LEWIS: Were you seconding
19 that, Phil?

20 MR. ADAMS: Yes.

21 MR. LEWIS: Okay. We'll take a
22 vote.

23 MR. HANAN: No.

24 MR. LEWIS: No.

25 MR. ROSENFELD: No.

1 MS. O'LEARY: Well, I lost.

2 MR. LEWIS: The math's not there
3 yet; but, yes, so it would be 2 to 3, it fails.

4 Would anyone like to entertain any other
5 motions?

6 MR. HANAN: I'd like to make a
7 motion that the variance be denied based on the
8 fact it doesn't meet our criteria for approval,
9 and it's contrary to neighborhood interest.

10 MR. ROSENFELD: Second.

11 MR. LEWIS: Got a second. We'll
12 take a vote.

13 MR. HANAN: Yes.

14 MR. LEWIS: Yes.

15 MS. O'LEARY: Yes.

16 MR. ROSENFELD: Yes.

17 MR. ADAMS: Yes.

18 MR. LEWIS: So the variance is
19 denied by a vote of 5 to 0.

20 And please work with staff. They'll
21 tell you the next steps. Basically it was denied
22 because of the encroachment into the OCRM, so
23 thank you.

24 Do we have any other business, staff?
25 Dan?

1 MR. CASSIDY: Dan, do you know if
2 we have a meeting next month?

3 MR. LEWIS: I turn it back over to
4 Frank.

5 MR. VINCENT: So we do have two
6 cases for next month. We will send you-all the
7 details at least two weeks prior, hopefully that
8 Friday, not this coming Friday but the Friday
9 after, as we get the case information, details.
10 We do plan on Boone and Mac inviting -- we're
11 having a little kind of seminar for going over
12 the criteria for variance approval and denial, so
13 at some point in the meeting, possibly before,
14 around 12:00, we'll have Boone and Mac speak to
15 the board members about --

16 MS. O'LEARY: I'm sorry is this
17 going to be after the meeting next month?

18 MR. VINCENT: This will be before
19 the meeting next month.

20 MS. O'LEARY: Oh, before the
21 meeting. Okay.

22 MR. LEWIS: Thanks. Do we have a
23 motion to adjourn?

24 MS. O'LEARY: Motion to adjourn.

25 MR. ADAMS: The date of that

1 meeting would be the 19th; is that right?

2 MR. VINCENT: That's correct.

3 MR. LEWIS: Okay. We're adjourned.

4 Thank you, everyone, for your input.

5 (Hearing concluded at 3:08 p.m.)

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CERTIFICATE OF REPORTER

I, Ruth Mott, Registered Professional Reporter, Certified Realtime Reporter, and Notary Public for the State of South Carolina, do hereby certify that the witnesses in the foregoing hearing were duly sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said matter was taken at the time and location therein stated; that the testimony of the witnesses and all objections made at the time of the hearing were recorded stenographically by me and were thereafter transcribed by computer-aided transcription, and that the foregoing is a full, complete and true record of the testimony of the witnesses and of all objections made at the time of the hearing.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on July 30, 2024 at Moncks Corner, Berkeley County, South Carolina.

Ruth Mott,
Registered Professional Reporter
Certified Realtime Reporter
My Commission expires
February 23, 2025

WORD INDEX

< 0 >

0 102:19

< 1 >

1 8:24 11:10 42:24**1:00** 1:12**10** 19:2 25:12, 19,

22 46:4 67:15

77:15, 18, 24 78:2

83:10, 13

102 9:14 11:18**10-by-10** 26:5 35:9,
11**11** 11:7 63:4**11,962** 44:8 46:21**110** 43:25 46:6

48:7 55:12, 13 75:8

12 6:18 41:9**12,000** 88:5**12:00** 103:14**12189** 1:16**12-63** 55:22**12-64** 11:4, 25**12-65** 10:6 44:15**13** 66:18**13,000** 88:6**139** 46:22**13th** 44:22**14** 66:4, 10 67:15

77:15, 19

14-foot 77:11**15** 1:8 4:24 10:7

11:15 25:16, 19

35:13 44:17 55:24

56:7, 22, 24 57:2, 4,

6, 8, 10, 11 98:2, 19

15,676 44:8**15-foot** 9:13**15th** 3:3 12:23**16** 1:6 11:12 43:3

44:2 45:5, 9 52:6

79:16 81:20 83:7

97:10, 12, 14, 16, 17,

22 98:1, 3

1600s 75:19**17** 78:24**178** 13:10**18** 66:2 97:11**189** 9:17**1977** 21:10**1979** 19:16, 22**1991** 83:7**1994** 4:13**19th** 104:1

< 2 >

2 45:25 46:4 102:3**2/7/23** 83:20**20** 12:12 44:17

83:11, 14

2002 16:8 18:13, 16,

20 19:19

2007 83:9**2023** 20:22 44:22**2024** 1:8 3:3

10:16 12:18, 23

45:1 105:12

2025 105:17**209-11-00-014** 1:7

44:3

21 93:9**22** 18:21 22:1**23** 105:17**24** 30:4, 5 36:16

53:1 86:18 93:10

25 9:12 10:6, 25

63:12

264-02-00-059 1:5

9:19

27 9:13**275** 46:21**28** 78:24**28th** 10:15 45:1**29422** 1:17

< 3 >

3 11:14 46:4 48:8,

9 79:8 102:3

3,300 35:17, 18**3,714** 44:10**3:00** 61:22**3:08** 104:5**30** 6:24 9:15 10:8

11:22 12:10 30:5

44:18 83:13 105:12

30-year-old 36:1**31** 43:4**32** 77:16**33** 55:5, 9 88:13

90:15

34 78:1, 2 92:15**35** 77:17 85:3**38** 27:7, 9**39** 1:4 8:8 9:18

19:18 36:18

39.87 56:2

< 4 >

4 11:16 12:4, 9

66:3 81:1, 4

4,770 56:1**40** 10:10 38:3

44:20 45:14 46:14,

17 47:13 48:10

49:7 55:11, 15, 19,

25 56:8 57:3, 5, 11

62:25 63:7 76:12

84:13, 24 85:3, 12,

14 88:7 94:6 98:19

40.65 55:6, 14 56:12**40-inch** 84:13**41** 87:20**41-inch** 87:17**43** 13:9 41:14, 15**46** 57:15**4th** 12:18 79:12

< 5 >

5 11:1, 2, 5 12:2, 5

35:12 42:24 102:19

5,612 46:22**500** 5:3 86:21

88:15

536 10:3**55** 83:20

< 6 >

6 10:25 11:10

30:25 46:1 57:13,

14, 16 71:12 98:19

60 9:16 84:15**6-29-70** 4:24**6-29-823** 6:23**65** 57:7**6th** 19:16

< 7 >

7,737 10:2**70** 38:2**72** 52:25**77** 56:10

< 8 >

8 11:1, 23 12:4, 9

46:1 97:12 98:2

8,273 10:1**843-762-6294** 1:17

< 9 >

9 11:23**90** 101:14**93** 56:9**99** 82:16, 21

< A >

aback 32:20**able** 18:14 19:21

30:25 31:6 99:5

absolute 89:10**absolutely** 40:14

64:5 86:24

absorb 98:9**abuse** 39:5**accelerated** 92:10**acceptable** 83:15**access** 19:20 31:6

91:19

accessibility 66:21**accidentally** 55:16**accommodate** 89:6

95:13

accommodates 94:19**account** 61:1

100:15

accurate 5:22 7:5,

13

acquired 16:8

44:21

acres 46:21, 22**Act** 4:12, 23 5:7**acted** 16:10**action** 29:5 31:23

32:1 100:20

actions 4:6, 10 16:5,

6 50:13, 14
activity 20:23
actual 29:12 57:15
acute 13:12, 13
ADA 77:14
ADAMS 2:6 3:9
 26:24 28:4, 6, 19
 30:18 39:24 41:21
 42:22 52:21 56:16
 60:21 64:3 72:9,
 16 73:3 74:23
 100:11 101:17, 20
 102:17 103:25
add 40:8 41:25
 54:12 100:10
addition 3:5 5:15
 54:11
additional 6:12
 12:24 34:17 78:16
 97:6 98:19
Additionally 12:7
additions 14:21
 48:20
address 8:11, 12, 17
 20:11, 20 24:19
 57:24 58:11 68:25
 69:12 73:2 78:20
 83:3 85:24, 25
 86:15 87:12 90:14
 94:1
addressed 6:22
addressing 21:23
adhere 94:24
adhered 68:4
Adjacent 9:20, 24
 10:17, 18 13:21
 14:20, 25 31:25
 44:4, 12 45:16
 48:15, 19 49:1
 94:23
adjoining 80:25
adjourn 103:23, 24
adjourned 104:3
administer 7:22
administrative 4:6
 11:1 12:5
administrator 4:7,
 19 6:15
adopted 83:19

adults 67:13
advance 32:16
advancement 21:13
adversely 16:14, 19
 50:23 51:3
advisable 6:7
aerial 10:12, 13
 44:24, 25
aesthetics 28:11
 83:1
affect 16:15, 19
 50:24 51:3 71:17
 86:23
affixed 105:12
afternoon 3:1 7:24
 66:24
agent 5:18
ago 29:21 60:22
 62:19 67:6 71:7
 87:1, 19
agree 54:23 60:23
 62:23 65:20
agreement 15:4
 17:2
agrees 65:15
ahead 55:18
AIKEN 2:9 3:11
 7:22, 23 8:3, 5
 21:18 40:11, 14, 17,
 25 53:21 54:1
 72:22
air 31:8 39:14
Alex 9:2, 9 20:16
aligning 31:2
alive 87:23
allow 4:14 15:6, 12,
 17 24:11 31:24
 34:25 49:9, 14, 19
 66:7 76:15 95:10
allowable 55:20, 24
 56:20 57:15
allowed 10:9 44:19
 55:10, 25 56:7
 57:6 86:7 88:7
 99:11
allowing 71:6, 10
 100:1
alternative 53:16
alternatives 46:24

altogether 29:15
amenable 24:1, 14
amount 21:8 22:16
 31:19 48:11 56:6
 77:10 90:5
and/or 46:24
angle 13:12
announcement 4:25
answer 28:25
 72:19 99:2, 6 101:1
Anybody 36:25
anyone's 75:17
anyway 80:7 81:16
apologies 45:4
apologize 45:13
apparent 88:21
apparently 99:1
appeal 4:19 6:14,
 20, 23 7:1
Appeals 1:1 3:4
 4:3, 4, 5 6:4, 22
 17:13 49:12 72:12
appearance 43:11
appears 78:11
appease 33:25
apples 58:19
applicant 5:9, 18
 6:24 7:10, 16 8:10,
 11, 18 9:2 12:14
 16:10 17:16, 21
 19:21 20:5, 11
 28:3 43:22 48:22
 51:22 53:3, 5, 7, 9,
 14, 18 58:1, 3 73:4
 77:7 100:12, 20
applicants 5:2
applicant's 6:13, 19
 7:19 10:21, 23
 11:8, 14, 21 12:7
 13:8 14:9, 24
 15:16 16:1, 4, 6, 9,
 22 17:9, 21 45:21
 46:16 47:11, 25
 48:24 50:3, 12, 14,
 15 56:1, 9 94:10
application 4:9
 14:2, 5 16:2 20:24
 47:18, 21
applications 5:4
applies 47:15

apply 6:16 13:17,
 19 47:2, 4
appreciate 68:3, 5
approach 7:11
appropriate 34:25
appropriately 52:22
approval 12:16, 22
 13:1 15:3 17:1, 14,
 16 23:9 25:8 46:8
 51:20, 21 102:8
 103:12
approve 6:1, 2 37:6,
 7 39:24 42:12, 14,
 16 69:18 72:12, 17
approved 6:13
 12:20 34:1 38:18
 40:18 42:6, 24
 69:22
approves 12:24
approximately 9:12,
 14, 16 10:1, 25 11:7,
 10, 12, 23 12:4, 12
 35:13, 18 43:25
 44:7, 8 45:25 46:3,
 4 83:10
April 12:18
ARB 12:24 15:3
 17:1 24:25 25:1, 4,
 7, 16, 18 28:10
 32:19, 23 33:4, 16,
 25 34:1 39:8
 58:15, 17 64:9, 13,
 25 66:6, 7 69:16, 20,
 22 71:4, 10 72:3, 6
 73:11, 19 81:15
 82:23, 24, 25 84:10
 85:17
Arbor 64:10
arborist 64:10
 75:23
arborists 85:5
arborist's 81:9
architect 19:4
 20:16, 19 67:24
 68:10 70:2 80:8
 85:7 89:6 90:17
Architects 20:18
 65:6 68:5
architect's 65:21
Architectural 12:15

area 6:9 9:24
 12:19 13:12, 14
 26:5 29:11, 14
 38:19 44:12 46:20,
 22 47:14, 16 48:2, 3
 62:22 63:3, 9
 65:24 79:24 88:15
 95:12 97:3 99:6
areas 52:10
arguably 67:23
argue 67:18 68:9
argument 49:6
as-built 17:17
 41:19 42:1 45:18
asked 29:20 32:19
 33:4 34:19 86:6
asking 25:17 33:8
 53:3, 5 59:7 67:10
 73:14 74:17 84:20
 101:6
asks 27:15
assembled 5:23
assist 5:11 83:24
 84:11
associated 73:6
assume 54:22
assumed 5:21
assuming 19:3
attach 6:4
attending 3:8
attention 64:2
ATTORNEY 2:9
 75:15
atypical 65:19
 66:17 67:19, 21, 25
 68:2, 7
audience 8:23
authority 5:15
authorization 14:14,
 19 48:13, 18
authorized 6:11
available 3:13
 62:10
average 13:10
avoid 43:10
aware 18:2 59:10
 60:6 61:19 66:23
< B >

back 8:6 22:8
 23:8 25:15 29:9
 31:12 32:18 37:8
 38:25 39:2 42:3, 5
 48:23 54:16 55:14
 60:18 62:8 63:10
 68:23 69:5 75:18
 80:10, 15 85:14
 93:17 95:16 103:3
barge 92:25
barrier 83:22
base 25:20
based 4:11 30:3, 6,
 9 43:10 47:8
 72:24 73:13 83:9
 100:20 102:7
basically 21:24
 66:8 67:1 98:9
 101:6 102:21
bathroom 26:6
 35:12
bay 23:15, 16
bear 62:15
beautiful 52:10
 62:23
beauty 22:18
bedroom 26:5
 35:10, 12 48:4
bedrooms 68:15, 20
beg 52:8, 13
beginning 36:12
 55:8
believe 27:9 43:9
 52:7 59:13 60:2
 63:20 64:13 65:14,
 16 66:16 67:20
 70:5 73:1 97:21
 101:13
bell 67:9
Bend 94:6
benefit 3:18 49:10
benefits 84:6
Berkeley 105:13
best 48:9 61:9
 82:3 93:18
better 84:12 85:16
beware 95:3
beyond 12:5 79:18
 80:1

big 63:17 67:3
 71:8 81:14 89:13
 93:14
bigger 87:20
bike 89:5 94:8
biked 94:13
bit 29:10 31:4
 32:20 59:21 71:15
 72:1 74:12
block 90:5
blocked 91:3
Blue 88:23
BLUFF 1:6 36:16
 43:3, 4 44:2, 5
 45:3 52:7, 9, 14
 62:23 78:24 79:6,
 15 81:19 82:9, 16,
 21 86:18 90:16
 93:10, 16 94:8, 13
 98:5
Board 1:1 2:1 3:4,
 5, 6 4:2, 14 5:11, 14,
 16 6:1, 3, 7, 21, 25
 7:7, 15 12:15, 23
 17:13 39:6 49:12
 51:19 52:25 53:24
 59:11 61:7, 24
 68:25 72:11, 17
 79:1 80:22 99:16
 100:13 103:15
boards 68:6
board's 4:10 54:1
 72:23 73:1
body 3:25 5:21 7:3
bog 98:11
BOLEN 1:16
BOONE 2:9 3:11
 8:7 21:16 40:9
 53:20 86:3 103:10,
 14
bottom 32:23 98:13
bought 18:20 63:23
 64:4 86:25 88:10
 95:2, 10
bounce 71:23
boundaries 15:10,
 15, 19 49:17, 22
BOX 1:16
boxes 80:21
boy 34:12

break 29:6 31:24
 32:3, 5
breakaway 31:21
 32:7
breathing 25:2
 33:9, 13 34:21
Brief 9:7 62:12
briefly 3:24
bring 37:21, 23, 25
 54:16 60:17 64:2
 69:4 73:9 74:20
bringing 66:24
 70:11
Britain 75:18
broach 31:10
brought 24:9 67:16
buffer 73:14 81:18
build 28:13, 20
 50:5, 18 80:5 84:9
 87:22, 25 88:14
 89:5 94:20 95:2, 12
buildability 95:4
buildable 13:14
 29:11 46:20, 21
 47:13 48:1, 3
 62:21 63:1, 3, 9
 65:24
builders 20:19
building 6:6 11:5
 25:1 30:4, 10, 12, 24
 33:2 34:7 64:15
 67:12 78:13 79:18
 90:18
built 19:8 20:9
 32:6, 14 38:22
 41:6 51:22 85:12
 89:4 92:18, 22
buried 97:19
BURROUGHS 1:4
 8:8 9:18 13:22
 19:18 27:8 36:19,
 20 45:2, 7 83:13
bushwa 78:4
business 3:14 8:12
 91:2 102:24
busy 33:8 35:3
buy 88:11 94:19
 95:12
Buyer 95:3
buying 88:18

BZA 3:12, 25 5:13
 6:18 7:6 8:23
 15:5, 24 43:20
 49:3 50:1
BZA24-000010 1:4
 8:8 9:2
BZA24-000011 1:6
 43:3, 22

 < C >
call 3:2 7:10 8:8,
 10, 14 42:13 43:3
 57:22 91:1
called 88:23
calls 25:15
canopy 46:19
 47:12 48:2 63:8,
 17 76:21
cantilever 19:6
 30:12 31:14
cantilevered 12:8
 22:21 24:16 28:8
 31:12
cantilevering 30:19
 39:3
cantilevers 34:15
 38:10
capability 100:25
card 95:3
care 39:22 64:10,
 18 78:14 87:24
Carol 93:1
Carolina 75:16
 105:4, 13
CASE 1:4, 6 3:12
 5:12, 14, 18 6:11, 21
 7:9 8:8, 10, 11 9:1
 24:17 36:6 37:1
 43:3, 7, 12, 21 53:10
 61:9 62:14 65:19
 68:7 100:14 103:9
cases 3:7 4:4 7:20
 9:1 103:6
CASSIDY 2:1 3:1,
 4 8:7 17:20 18:7
 20:7, 10 21:14
 24:16 25:22 28:2,
 5 35:19, 25 36:3, 10,
 25 38:6 39:13, 17,
 20, 25 40:7 41:5, 17,
 23 42:7, 10, 15, 17,
 19, 21, 23 43:2
 103:1
Cassique 86:5, 10
cause 4:9 16:10
 39:1, 3 54:22
 59:11 71:24 78:10
 85:22 105:6, 11
cedars 81:10
cement 90:5
CENTER 1:12
 34:20 49:5
certain 4:15 18:5
 20:8 31:8 58:17,
 20, 21 91:6
certainly 65:1
 87:20
CERTIFICATE
 105:1
Certified 105:3, 16
certify 7:7 105:4,
 10
CHAIR 2:1, 4 8:22
 43:13, 20
chairman 3:5 7:24
 8:6 78:25 79:1
challenge 65:22, 23
challenging 62:19
 80:4
chance 20:25 69:2
change 15:10, 15, 19
 24:14 30:19, 22
 37:13 49:17, 22
 61:12 74:11 75:5,
 12
changed 30:15 88:9
changes 37:6
character 6:5
 14:17 15:1 48:16
 49:2, 11
CHARLESTON
 1:17 10:12 16:7
 44:20, 24
check 90:25 91:1
children 68:15, 18
chips 61:11
choked 91:5
Circuit 6:22 7:7
civil 90:23 91:11
clarification 40:2
 53:18
clarify 5:14
clarifying 5:24
CLARK 1:16
clean 3:17
clear 3:17 7:13
 54:10 72:20, 22
clearance 30:6
clearances 29:13
 30:8
clearly 33:22
client 29:14 60:25
clients 80:8
Cliff 58:5
Clifton 43:23 44:21
Cliftons 71:20
close 63:14 73:18
 81:2 82:16, 21
 85:14 99:15 100:4
closer 23:22 90:7
CMU 90:5
Code 4:23 6:23
 56:7 72:24
come 20:6 39:6
 40:5 41:3 42:3, 4
 54:18 57:23 58:8
 59:24 63:13 69:19
 78:19 82:14 91:15
 93:25 94:15 95:16
 96:8, 13, 17 99:21
 100:25
comes 18:8 28:13,
 20 54:13 71:19, 21
 92:8, 10, 12, 13, 24
 98:16
comfortable 25:8
 33:14 34:23
coming 61:19
 93:15 96:9, 10
 97:6 103:8
comment 36:9, 23
 54:24 91:10 92:7
 99:15 100:4
commented 91:13
comments 7:12, 15
 8:17, 20 26:12
 27:16 43:7, 9
 52:25 53:4, 8, 11, 15
 74:18
commission 99:1
 105:17
committee 79:19, 22
common 75:17, 21
 78:9
communicating 33:7
communication
 26:13
community 94:12,
 23 95:1
company 22:13
 79:13
comparatively 46:23
compare 58:19
comparison 18:13
 63:13
complaining 26:8
complete 5:21 7:4
 80:6 105:9
completely 32:24
 89:14
compliance 4:22
compliments 65:2
comprehensive 17:5,
 7, 10 51:9, 11
compressed 25:2
compressor 30:3, 5,
 20
compressors 28:22
 29:19, 24 30:9, 15
compromise 38:25
computer-aided
 105:8
concept 40:21
concern 30:13 62:5
 87:2 89:10 93:14
concerned 28:7
 66:24 79:6, 7 81:8
 83:1
concerning 6:21
 83:16
concerns 54:14, 25
 61:1 79:2, 9
concluded 104:5
concludes 17:19
 51:25
condition 41:19
 47:14 51:21 67:25
conditions 4:15 6:2,
 4 13:3, 6, 16, 18

14:2, 10 17:15
 46:10, 12 47:1, 3, 17
 50:16, 20 65:19
 67:21 68:2 83:4
conducted 3:15
 10:15 45:1
conflict 17:4, 7, 10
 43:11 51:8, 11
confused 33:21
consequences 81:14
consider 6:7 15:24
 17:14 23:1 50:1
 85:17 88:17
consideration 93:3
 99:25 100:14
considered 5:19
 7:6 15:23 23:3
 49:25
considering 15:25
 21:13 23:8, 9 50:2
 54:6 69:14 84:24
 87:9
considers 51:19
consistent 51:17
constructed 19:5
 39:5
construction 17:17
 31:15 51:23 73:5
 76:16, 17
contained 4:11, 15
contempt 7:7
continually 18:23
continuance 60:10,
 17
continue 19:3 61:4
 100:14 101:6, 8
continuing 9:9
contrary 16:13, 18,
 23 50:18, 22 51:2
 54:4 102:9
conversation 24:8
 33:19 73:10
conversations 79:3
converts 55:1
copies 53:8
corner 29:9 37:17
 105:13
correct 21:17, 18
 23:18 25:25 27:23
 28:1 32:10 35:24

36:2 40:7 45:11
 54:1 57:5 59:3
 60:16 75:6 86:16
 96:10 98:10 104:2
correctly 33:22
cost 22:21
council 52:23
 53:13 72:11
counsel 3:11 105:11
count 58:22, 25
counting 98:18
County 10:12 16:7
 44:20, 24 86:8
 105:13
couple 28:21 54:7
 93:23
Courier 4:25
course 79:3
court 3:19 6:22
 7:2, 7 19:13
Cove 94:6
covenant 17:23, 25
 18:3 24:20 25:14,
 15, 18 36:1 40:3, 16
covenants 40:24
coverage 10:10
 29:10 44:19 55:4,
 9, 11, 17, 20, 24, 25
 56:3, 6, 18, 21 58:11,
 14, 16, 18, 23 59:2, 7
 63:1 88:8
covered 11:9
COWART 90:15
 91:21, 25 96:18, 22
cramped 33:1, 8
 34:20
crazy 93:21
create 50:16
creating 98:21
creek 79:8 81:19
criteria 13:2, 16
 14:1, 14 15:5, 21
 16:3, 12 17:3 46:9
 47:1, 17 48:13
 49:12, 23 50:11, 21
 51:7 54:4, 10, 24
 65:14 102:8 103:12
critical 9:24 10:8
 11:22 12:11, 13, 19

13:7 43:25 44:12,
 18 79:17, 25 83:11
CRR 1:14
cul-de-sac 89:3
curious 30:14
current 21:17
 26:17 30:9 34:5
 47:9 64:6 90:7
currently 9:23 14:9
 44:11 70:15 71:2
 86:22
cut 84:14, 16 85:14,
 18
cutting 56:16

 < D >
damage 76:2, 6, 11
 85:20, 22, 23 90:9
damaged 31:14
Dan 3:10 8:21
 17:20 18:9, 10
 20:12, 13 26:21
 43:18 55:3 90:21
 96:25 97:5 98:4
 102:25 103:1
DANIEL 2:8 8:24
 58:13
data 5:22
DATE 1:8 20:4, 21
 103:25
daughter 77:13
day 87:7
days 4:24 6:24
 53:20 54:7 59:23
 62:9 101:14
dead 39:21
deal 21:15
dealing 89:15
deals 67:23, 24
dealt 75:13
December 89:12
decide 100:21
decision 4:18 6:15,
 21, 25 86:8
decisions 4:6 59:21
deck 11:21 12:4, 12
 22:8 23:8, 15, 17, 21,
 22 32:3, 5 48:4
 50:7 58:22 73:21
decking 98:7

decks 11:4 12:1
 23:2, 4, 6
declaration 5:6
decrease 38:1
decreasing 89:23
deep 63:7 66:2
 78:5
deeper 23:14 93:15
defer 6:11
definitely 72:5
degree 47:12 48:2,
 6 49:4
deliberations 43:15
delimiting 77:5
delineate 19:17
denial 103:12
denied 99:25 102:7,
 19, 21
deny 6:2
department 82:24
 83:5
deprives 7:1
depth 65:25 66:7
 88:21
describe 3:24
description 55:23
design 21:20 24:17
 32:22 33:24 38:23
 46:25 48:4, 9 50:8,
 19 62:21 64:6, 12,
 13, 23, 25 65:4, 6, 7,
 22 68:10 78:4
designated 5:1
designed 21:19
 22:20 66:20
designing 31:21
 65:3
despite 78:9 89:14
details 27:4 103:7,
 9
detriment 14:15, 20,
 25 48:14, 19, 25
detrimental 80:24,
 25
develop 13:15
developed 47:10
developer 25:15
developers 64:21
developer's 83:8

development 18:19
 20:22 64:22, 24
 87:3
developments 51:13
dialogue 36:24
 86:13 95:25
diameter 97:18
Diana 82:15, 20
 89:16
Diane 92:19
dictate 60:24
differ 52:8, 13
difference 73:7
 75:3
different 18:4, 6
 41:3 52:14 58:15
 83:12 97:9
difficult 13:14
 62:20 63:5
diligence 93:5
dining 23:11
direct 7:15
directed 52:22
directing 21:16
directly 43:5 69:1
 74:13
dirt 70:10 81:11
disapprove 72:12, 17
disapproved 6:20
discretion 53:19
 54:2 78:21
discuss 54:19 82:5
 99:16 100:5
discussed 37:13
 59:8
discussion 25:11
 40:1 42:11 67:5
disruption 87:4
disruptive 90:4
distance 35:2 63:7,
 10
district 9:20, 22
 10:6 13:21, 23
 14:17 15:1, 8, 10, 14,
 15 25:21 44:4, 6, 15,
 16 47:7 48:16
 49:2, 15, 17, 21, 22
districts 55:23
disturb 80:16

dock 97:3
doctrine 75:17
document 21:9
 58:14
documentation 21:6
 26:19
documents 59:13
dog 87:10
doing 24:23 30:23
 31:12 84:11 85:20
 89:21
Dolphin 20:18
door 28:14, 20
doubt 83:14
drain 45:18 69:25
 70:3, 4 90:18, 21, 24
 91:3, 9, 19 92:6
 96:5, 6
drainable 98:21, 23
drainage 54:19
 69:13, 14, 17, 23, 24
 70:8 71:17 73:7, 8
 74:12, 19 75:15
 90:17 95:18, 20
 97:11, 13
drains 72:3 75:3
 90:19 91:6, 16
draw 66:11
drawings 26:15
drawn 30:8
dream 84:9
drier 98:13
drive 52:11, 15
driver 64:12
driveway 98:7
driving 50:17
Droba 9:4, 10 16:8
 20:17
dual 33:10, 11
due 13:7 14:12
 32:1 46:13 65:18
 68:1 93:5
duly 105:4
dunk 65:17

< E >
earlier 93:2
early 63:20
easement 91:14, 18
 92:2 95:18, 19
 97:3, 7, 11, 13, 22
 98:1 101:2
easements 97:9
east 9:21 11:16
 44:5 70:1 92:9
 96:3
eat 23:11
eave 34:21
eaves 35:2
ebb 79:20
ecosystem 79:15
 94:22
educated 79:19
effect 15:6 19:12
 49:13
effectively 14:4
 40:19 47:19
effects 5:24
efficiency 29:25
effort 48:9
Efforts 49:4
eight 68:15 98:2
either 7:8 65:8
 72:4 73:24 74:2
 94:19 97:10
Elaine 9:4, 10 16:8
 20:17
elegant 24:17 38:10
elements 22:21 50:8
elevated 50:7 92:22
elevation 34:7 92:8
elevation's 70:21
eliminate 23:22
 25:5
eliminated 22:7
 35:1 84:25
eliminating 23:2, 4,
 6, 25
Ellmers 90:22
email 27:15
empathize 82:3
empowered 6:1
empty 38:23
Enabling 4:12
encountered 17:25
 63:5
encouraged 33:16
encroach 14:22
 22:23 39:8 45:24
 48:21

encroaches 10:24
 11:7, 22 30:20
 46:3 63:2
encroaching 19:10
 23:1 38:15
encroachment 9:15,
 17 11:14, 16, 18
 12:17, 22 18:21
 22:24 23:23 24:23
 27:21, 25 28:9, 23
 32:11 35:23 38:1
 46:5 47:12 48:2, 8,
 12 49:5 73:21
 74:1 75:8, 10
 80:24 100:1 102:22
encroachments
 13:25 17:11, 18
 47:8 51:24
encroachment's
 11:11
endorse 66:11
enemy 75:17, 21
engineer 90:23
 91:11
English 78:9
enjoy 50:6
ensure 17:17 22:3
entered 5:20
entertain 37:2
 102:4
entire 84:6
entrances 11:5
entry 66:4
environment 22:15,
 17
epitomizes 65:4
equally 98:23
equipment 29:7, 13
 91:16
erosion 41:13
 81:12, 16 83:25
 87:1, 5
especially 37:8 84:3
established 4:1 6:8
 25:14 63:11
establishment 15:7,
 12, 17 49:14, 19
estimation 80:14
event 31:23 51:19

89:13
events 105:11
eventually 92:16
everybody 58:4
 63:15 80:19
evidence 5:12, 19
 7:6
evolved 83:18
exactly 18:16 84:21
exception 4:20 6:14
exceptional 13:3, 5
 46:10, 12
exceptions 4:5, 14
 6:17
exhaust 31:9
exist 68:6
existing 13:7, 23
 15:18 19:5 40:6
 46:13 47:7 63:7
 64:11 76:19
expect 66:13
expected 68:3 72:19
expecting 68:23
expensive 80:14
experiences 60:1
expert 75:10
expires 105:17
explain 32:18
exquisite 52:9
extend 11:5 12:2
 15:8, 14, 18 49:16,
 21 78:21 85:8
extended 81:22
extending 12:9
extends 11:9 12:4
 46:19 63:9
extent 30:19 53:2, 3
extra 22:23 77:16
extraordinary 13:3,
 5 46:9, 12 87:13, 24
 88:17
extremely 62:19

 < F >
facilities 19:5
facing 96:14, 16
fact 15:21 26:11
 35:25 49:23 59:20
 62:21 65:17 102:8

factfinding 4:22
factor 73:25
facts 8:9 43:10
fails 102:3
Failure 6:25
fair 66:13
fairly 98:16
fairness 60:23
faith 17:12
fall 20:21 24:9
 61:11
false 7:8
family 10:22 44:1
 50:6 51:13
family's 82:4
far 24:25 62:6
 73:23 74:1
features 6:6
February 105:17
feedback 24:25
feel 5:13 25:8
 34:22 53:10 60:5
 68:7 82:11 86:20
 90:8
feeling 33:7 39:12
feelings 78:14
feels 53:9
feet 5:3 9:13, 14,
 16, 17 10:1, 2, 3, 25
 11:1, 2, 5, 7, 12, 19,
 23 12:2, 4, 9, 12
 35:13, 17, 18 44:1, 8,
 9, 10 45:25 46:1, 4,
 7, 21, 22 48:8, 9
 55:13 56:1, 10
 63:12 66:2, 3, 4, 10
 75:8 77:18, 19, 24
 78:2, 3 79:8 80:11
 83:10, 11, 13 84:19
 88:6, 7, 15 97:12, 22
felt 25:1 34:1, 19
 35:2
figure 19:21
figured 29:19
file 7:1
filed 6:24
files 20:5
final 43:21
finally 92:16

find 84:9
fine 74:9
finish 69:20
finished 69:19 89:4
firmly 54:19
first 9:1 17:24
 33:21 34:4, 13
 62:22 66:17 69:7
 72:10 86:18 88:24
 89:1, 18 93:11
 94:16
fit 21:24 22:9 26:5
 29:8, 16 73:12
 77:18 89:7
fitting 22:5
five 19:1 38:15
 53:20 59:23 62:9
 70:22 85:11
flood 29:5 31:11,
 14 69:14 71:16
 75:10
flooded 71:10
flooding 54:14
 71:24 75:11, 20
 78:8 79:23 83:23,
 25 89:10 98:6
floods 92:11 93:17
floor 8:21 39:18
flow 79:20 86:24
focused 74:25
fold 90:6
folks 92:3
follow 8:15 83:5
following 7:9 17:15
 51:21
follows 75:16 76:21
follow-up 72:10
 74:24
foot 9:12, 15 10:7,
 8 11:1, 10, 11, 14, 15,
 16, 22 12:5, 10
 25:12, 16, 19, 23
 30:6 35:12 39:6
 44:17, 18 77:15
 86:21 97:11, 16
 98:1, 2
footage 11:17 31:4
 35:15, 17

footprint 12:11
 22:6 29:12 76:19,
 23
foregoing 105:4, 9
foregone 29:14
form 26:9
forth 61:9 76:14
 91:9
forward 80:8 82:14
 84:19, 22 85:19
 94:1
found 87:9
foundation 31:13
 32:14 74:8 90:3, 5
foundations 31:21
 32:1
four 43:6 48:4
 68:14, 20 70:23
 86:2 94:9
four-bedroom 21:24
 68:11
four-person 22:9
FRANK 2:1 3:4
 28:4 42:17 103:4
frankly 28:6
free 82:12
Freedom 4:23 5:7
Friday 58:8 103:8
front 9:12 10:7, 17,
 25 11:10 12:17, 20
 25:5, 6 30:7 33:1
 35:5 37:7, 20
 38:24, 25 44:17
 45:15 46:15, 18
 49:8 51:16 61:7
 68:12 81:20 84:16
 96:11
full 58:21 61:20
 105:9
full-time 22:3
fully 70:5
functional 77:24
fundamental 60:23
further 5:13 18:19
 19:7 23:23 36:5
 40:1 42:10 43:6
 48:23 81:16 83:24
 105:10
Furthermore 46:20

future 82:2 84:1

< G >

Gail 78:23

Gail's 91:8

gain 30:25 31:3

gathering 5:12

general 6:10 19:11

82:23

generally 13:17, 19

47:2, 4, 15 76:20

generator 29:15

getting 79:11 93:15,

16

GIS 10:13 44:24

give 24:11 33:12

61:23 65:2 70:17

82:10 96:25 100:14

given 12:18 28:7

41:11 48:1 50:9

53:11 62:12 67:18

gives 88:14

giving 68:13

glass 95:21

go 6:16 21:21

25:18 32:18 33:17

36:8 37:5 38:24

39:10 52:3 55:17

56:7 60:19 65:25

67:15 71:23 80:1

88:24 92:25 93:1

98:12, 18 99:7

goal 79:14

goes 23:17 37:4

40:19 60:20 62:8

75:18 92:9, 14, 15,

16 98:14

going 19:3 22:20

23:15 31:16 32:15

33:23 36:10 38:16

52:8 54:18, 22

60:4, 13 61:8, 9, 10

65:17 66:5 68:20

69:13 70:24 71:23

73:7 75:2 79:2, 5

80:8 81:13 82:22

84:14, 16, 25 85:1, 2,

23 87:7, 8 90:8

92:23, 24, 25 93:1

94:10 96:9, 12, 17

98:8, 17 103:11, 17

Good 3:1 7:24

14:16, 21 15:1

17:11 39:14 45:12

48:15, 20 49:1, 10

62:14 64:14 81:5

87:24

gorgeous 93:18

gotten 72:2 74:18

Government 4:12

grade 31:20 46:5

58:22 72:1

grades 70:16

grand 46:17 47:13

48:10, 22 49:7

52:12 80:13 84:24

85:1 95:7

grandchild 74:4

grandchildren

68:16, 19

granddaughter

66:16, 18 68:14

grant 4:1, 17, 19

15:5 49:3, 13

65:18 68:1 72:23

80:22

granted 4:8 6:18

15:23 49:25

granting 6:3 14:18

15:2, 11 16:12, 17

17:3, 6 48:17

49:18 50:21 51:1,

7, 10 67:20 75:1, 2

grants 55:24

grass 81:22 98:22

great 67:7 90:23

92:21

greater 48:8

Greg 20:17

Gregory 9:3, 10

16:8

ground 19:5 22:22

44:9

grounds 15:23

49:25

group 55:2 79:19

grow 73:17 87:20,

21

growing 76:17

81:20

guarantee 85:6

guess 52:7 70:1

71:6, 10 76:16, 18

guest 22:4 25:6

32:23

guidelines 65:4

68:4

guilt 95:3

guilty 79:11

< H >

half 29:21 70:21,

22 71:9 77:17

78:1, 2 79:8 80:11

84:19

HALL 1:4 3:15

8:9 9:19 13:22

36:19 45:3, 7 83:13

HANAN 2:4 3:8

19:23 20:2 27:12

35:14 42:14 54:23

100:7 101:23

102:6, 13

hand 3:22 8:1

57:23 78:19 82:14

105:12

handicapped 77:12

handle 69:13

hanging 30:11

31:13

happen 61:8

happening 18:23

82:22 87:2

happens 19:7

28:13 82:9

happily 93:11

happy 20:6, 20

87:4, 22, 23

hard 68:9 85:23

hardship 4:10

80:18, 20

harmed 14:18 15:2

48:17 49:3

harmony 16:16, 21

50:25 51:5

head 40:10

HEALEY 93:9

health 6:9 58:8

66:19 74:5 79:21

healthy 63:8 76:3,

17 84:7, 17

hear 3:6 7:2 33:22

57:2 60:14

heard 4:5 5:11

9:1 21:25 75:18

79:4 84:3 86:8

95:6

hearing 4:21, 24

38:8 94:14, 15

104:5 105:4, 7, 10

heartfelt 61:15

hearts 24:9

height 71:3, 18

72:13, 18 74:7

Hello 20:15 58:4

help 34:22 56:13

84:8 89:12

hereunto 105:12

Heron 88:24

hesitant 80:22

hesitation 72:20

hid 99:4

high 10:13 44:9, 25

98:16

higher 71:15 93:16

highest 71:6

highland 12:19

highlands 10:2

19:18 88:4

history 41:11

hits 71:21

hold 36:22 68:24

70:18 75:19 81:11

holds 25:17 81:11

home 21:24 22:2

48:4, 10, 23 50:5, 8,

18 52:11, 16 62:18

68:11 84:10 85:10

homeowner 75:13

84:7

hope 80:2 84:10

hopefully 103:7

hoping 50:5 65:6

hours 3:14 53:1

house 18:20 21:20

22:6 25:9 28:13,

14, 20 29:2, 9 31:25

33:13 34:23 35:2,
15, 17 38:22 39:6
43:4 46:24 63:10
65:7 66:1, 12, 20
68:17 73:12, 15, 17
76:23 77:4 78:4,
13 80:10, 15 81:15
84:4, 18 85:9, 12, 19,
20 87:21, 25 88:22
89:2, 5, 7, 19 90:4
91:8, 13 92:2, 12, 14,
18, 22, 23 94:19
95:2, 11, 13 96:9, 15,
17
houses 31:25 71:5
88:16
huge 52:17 63:16
86:6
Hunt 43:23 44:21
58:6
hurricanes 71:8
husband 93:12
HVAC 11:17 26:2,
9 28:21, 24 29:2, 9,
18, 23 30:7 39:2

< I >
idea 19:11 33:24
34:2
identifying 8:16
ignore 39:9
image 45:17
imagine 75:11
76:22 90:2
impact 22:16 31:20
74:7
impacts 83:25
imperative 54:20
impervious 56:2, 6
99:6
implying 98:1
importance 84:23
important 3:19
50:8 71:14 83:17,
21
inch 45:14 46:15,
17 47:13 48:10
49:7 63:8 76:12
97:17

inches 11:1, 10, 23
12:5, 10 30:25
45:25 46:1, 4 48:9
71:12, 16 77:16, 17
78:1, 2 97:14
include 10:22, 23,
24 11:8, 14, 21 12:8
31:13 41:18 45:22
56:1, 9
includes 11:16 83:2
including 8:16
46:14
incorporate 82:11
increase 56:20
increasing 89:22
93:20, 22
incremental 80:23
indicates 15:4 17:1
indicating 10:14, 20
19:19 45:20 63:17
92:12 96:19, 23
individuals 7:10
inflow 31:9
influential 64:22
Information 4:23
5:7, 14, 17, 19 6:12
7:5 19:12 54:6
62:6, 10 70:18
91:12 103:9
informed 86:20
87:25 88:13 101:3
initially 24:22
32:22
Inlet 94:6
input 104:4
inspection 3:14
integral 31:18
intending 94:15
intent 13:9 14:10,
24 15:16 16:1, 9, 16,
21, 23 17:9 46:16
47:12, 25 48:24
50:3, 15, 25 51:5
interest 5:4, 9 7:17
16:14, 19, 24 43:11
50:23 51:3 54:5
102:9
interested 5:10
105:11

Interesting 40:24,
25 41:2
interests 54:25
interfere 16:16, 20,
24 50:25 51:4
80:11, 13
interfering 79:16
interpret 4:1
intrude 85:21
intruding 97:4
investigated 29:1, 3
investing 66:12
investments 89:11
inviting 103:10
involved 63:24
involves 80:23
irreversible 85:23
ISLAND 1:1, 4, 6,
12, 14 3:3 4:13
6:16 10:4 11:2, 24
12:15 20:22 25:11,
13 44:13 52:10
55:21 83:17, 20, 22,
25 84:7 93:19 94:7
Island's 35:22
83:24
issue 24:19 25:23
66:15 74:5
issues 17:22 28:7
66:19 75:15 94:10
iteration 34:13
iterations 34:4
its 12:13 83:17
84:18

< J >

January 44:21
JAY 2:4 3:7 42:15
43:13, 16
job 39:4 64:14
65:21 72:23
JOHN 2:8 3:10
27:4 99:3
JULY 1:8 3:2
79:12 83:7 105:12
June 10:15 45:1
jurisdiction 4:3 7:2
justification 67:8

< K >

keep 65:11 76:17
Kenneth 43:22 58:5
KIAWAH 1:1, 4, 6,
12, 14 3:3 4:13
6:16 8:25 10:4
11:2, 24 12:15
18:4, 24 20:22
25:11, 13 35:22
44:13 52:10 55:21
63:4, 14 64:17, 21,
23 79:22 83:17, 20
88:22 90:3 93:10
KICA 25:14 45:19
90:23 91:11
KICA's 89:11
kidding 94:17
kids 22:4
kind 25:1, 3 38:14
103:11
kinds 94:10
knew 38:22 60:2, 8
66:18, 19
know 18:4 19:8, 10
24:13 28:9 30:16
34:4 37:4 38:15,
17 39:10 40:18
41:12 53:6, 7
54:21 58:10 59:23
60:4, 12 61:2, 7, 10,
19 63:15 64:19
66:21 67:8 68:22
69:22 71:7, 11
73:23 74:21 75:17
76:23 81:13 82:2
84:20 85:8 87:7,
13 88:11 90:1, 6
93:14 95:2, 4 103:1
knowing 69:21
knowledge 21:4
83:16
known 75:16
knows 64:19

< L >
lack 88:21
Lance 94:5
Land 10:4 11:3, 24
15:9, 15 44:13

49:16, 22 55:21
 64:20, 24 98:9, 18
landed 64:13
landings 11:4
landscape 51:14
 70:2
landscaping 31:18
 83:2
language 72:25
large 48:22 62:24
larger 34:13
LARRY 2:5 3:7
 38:9 42:19
Larry's 54:24
late 53:12 79:12
 87:10 100:16
latest 21:2
law 40:20 75:16
 78:10
laws 40:23 77:14
lead 74:14
leaned 92:13
leave 91:14 98:22
left 10:19 23:12, 17
 27:11, 21 29:9, 10
 34:17 37:12 45:17
 66:5 70:1, 4, 8
 83:11 89:2 92:25
 96:9, 15, 17
left-hand 37:17
 97:7
leg 21:23 77:13
legal 3:11 40:16
 83:5
lessen 81:12
letter 13:9 14:10,
 24 15:3, 16 16:1, 9,
 22, 25 17:9, 22
 38:12 46:16 47:11,
 25 48:24 50:3, 15
 59:18 61:24, 25
 62:3 76:14
letters 79:10, 11
letting 79:1 85:17
LEWIS 2:4 3:8
 9:5 18:10, 17 26:1,
 21 27:7, 17 33:16
 34:3 40:2, 9, 12
 41:22 42:16 43:13,
 17 45:10 52:1, 18
 53:17 55:3, 12
 56:13, 22 57:6, 13,
 20 58:2 60:9, 14
 62:1, 5 68:24 69:4,
 7, 11 72:14 75:6, 22
 76:1, 5, 12 77:1, 6
 78:15 81:1, 4, 7, 24
 82:6, 10, 18 86:1, 14
 89:24 90:11, 13
 91:23 93:7, 25
 95:14 96:25 97:19
 99:9, 13, 21 100:3, 9,
 18 101:4, 10, 13, 18,
 21, 24 102:2, 11, 14,
 18 103:3, 22 104:3
Libengood 9:2, 9
 18:8 19:11 20:14,
 15, 16 21:4, 11, 22
 23:3, 7, 18, 24 24:3,
 7, 12, 15, 21 25:25
 26:4, 10, 20 27:10,
 23 28:1, 16, 25 30:2,
 22 31:7, 17 32:4, 10,
 13, 21 33:6, 18, 23
 34:6, 12 35:7, 11, 16,
 24 36:2 37:14 43:1
lied 77:19
limbing 76:15
limbs 73:17 76:8,
 24 77:4
limit 7:1 22:16
 31:19 49:5
limited 8:18 48:7
 78:20
LiMWA 31:22
LIN 2:5 3:7 42:18,
 19 52:2 56:14
 69:11 100:22
line 10:8 11:23
 12:11, 13, 19 13:7,
 13 18:22 19:6, 7
 21:17, 21 22:13
 28:22 32:9 33:5
 41:14 43:25 44:18
 46:16, 18 63:2, 11
 70:7, 23 72:4
 79:17, 25 80:1
 83:11 92:2 97:13
lines 38:24 39:11
 42:2, 5
Lin's 101:15
listen 43:14
listening 3:18
little 25:2 29:10
 30:23 31:3 32:20
 46:23 60:22 71:14
 87:10 89:2 103:11
live 3:18 36:16
 45:15 46:15, 17
 47:13 48:10 49:8
 51:16 52:16, 17
 63:8 68:12 77:10
 84:17 85:6 87:16,
 18, 22, 25 88:12
 94:6, 18
lived 78:24 93:10
living 66:2, 3, 10
 77:11 90:9
Local 4:12
located 9:18, 20, 22
 13:22 43:5 44:2, 3,
 6 45:15, 22 46:2, 15,
 18 47:6
LOCATION 1:12
 5:24 6:5 105:6
long 41:6 72:25
 89:3
look 18:15 31:1
 34:8 59:23 69:23
 92:4
looked 29:25 30:10,
 16 68:16 80:3
 86:5 87:18 88:3
looking 18:11, 21
 21:10 22:16 28:11
 53:19 96:1, 2, 12, 21
 97:9
looks 19:17 28:10
 69:22 90:3 96:7
 97:8, 10 98:1
Lori 93:9
losing 74:9
loss 12:19
lost 21:8 102:1
lot 10:9 13:8, 9, 10
 21:2, 23 22:1, 7, 10
 25:3 29:16 38:23
 44:19 46:20 48:24
 50:5, 10 54:15
 55:4, 8, 10, 17, 20, 24,
 25 56:2, 6, 18, 20
 58:6, 11, 14, 16, 17,
 23 59:2, 7 62:19, 24,
 25 63:1, 6, 11, 19, 23
 65:11, 23, 25 66:22
 68:11 69:3, 14
 70:6, 17, 22 71:20
 73:8, 22 74:1 75:3
 76:8 77:2, 13
 78:11, 12 79:16
 80:3, 6, 7 81:19, 23
 83:7 84:16 86:5,
 19, 25 87:15 88:3, 5,
 8, 9, 10, 11, 16, 18
 89:3, 7, 9, 11, 15
 90:9 91:18 92:6, 8,
 11, 15 94:19, 20
 95:2, 5, 10, 12 97:7
lots 13:11 18:5
 71:8, 24 79:13
 86:24 87:17 94:24
lot's 83:10
Louise 58:5
Lou's 93:1
love 84:24 92:20
loved 60:7
low 80:4
lower 71:12 72:2

 < M >
ma'am 36:7
Mac 103:10, 14
magnifying 95:21
mailed 5:2 6:25
maintained 91:4
maintenance 91:16
major 54:14 87:2
majority 4:16
making 13:14 43:9
 62:9 83:6
management 83:19
mandating 62:7
map 10:11 15:11,
 20 49:18 91:19
marching 18:22
Mariellen 36:16
 86:18
Mark 64:20
Markowski 20:18

Markowskis 21:25
 22:14
marsh 9:25 19:17
 22:13 32:16 50:10
 79:17, 21, 22 80:1,
 12, 17 81:10, 21
 83:4, 16, 19 84:6, 7
 85:21 87:1 89:9,
 16, 17, 18 90:20
 91:3, 7 93:12
marshes 83:24
marshland 83:21
marshlands 10:3
 44:10
massing 33:2, 7
 34:20
massive 54:22
master 83:8, 9
match 17:18 51:24
material 56:9, 10
math 38:4 55:13
 88:14
math's 102:2
matter 7:2 21:14
 78:14 105:6
maximum 10:9
 12:9 44:19 55:8,
 10, 20, 25 57:15
mean 23:10 40:3
 41:8 78:5 93:17
 95:20 98:10
means 50:4 88:17
 97:12 98:6
measured 87:19
media 5:5
meet 17:12 102:8
meeting 3:3, 13, 15
 4:22 5:6 6:19 7:4
 36:12 53:20 54:25
 59:24 61:4 64:14
 86:20 99:4 103:2,
 13, 17, 19, 21 104:1
meetings 64:25
member 94:11
MEMBERS 2:1, 7
 3:6, 9 5:13 7:20
 8:14, 23 36:6
 43:20 61:24 79:1
 103:15
member's 53:19

Memphis 58:6
 92:21
message 61:15
met 4:16 65:14
MEZZANOTTE
 82:15, 20
microphone 7:12
middle 34:19 59:14
 65:9, 10, 11 70:22
 73:22 74:1 86:6
Milleman 64:10
 73:16 75:24
Millemans 85:4
mind 8:1 22:12, 19
 65:5
minimally 14:22
 48:21
minimize 49:4
 73:25
minimizing 48:11
minimum 30:8 66:6
minutes 8:18 78:21
 81:1, 4 86:2
miscommunication
 58:13
missing 77:13
mitigate 22:24
 28:23
mitigates 79:22
mitigation 26:15
mitigations 17:11
moderate 29:5
 31:23
modify 41:18
Moncks 105:13
money 66:12 77:10
 78:11, 12
month 38:18 60:18
 67:6 100:24 101:7
 103:2, 6, 17, 19
months 6:18 39:7
morning 54:17
 59:19
MORRIS 2:4 3:8
 42:13
motion 37:5 38:7
 39:19 41:18 42:12,
 23 99:12 100:6, 8,
 10, 19, 22, 24 101:15
 102:7 103:23, 24

motions 37:2 39:18,
 22 102:5
MOTT 1:14 105:1,
 13
move 13:1 19:3
 39:24 80:10, 15
 84:18, 22 86:7
moved 18:24, 25
 19:1 34:10 93:12
movement 12:19
moves 19:7
moving 22:2, 14
 46:8 69:24 85:18
multiple 90:6
MUNICIPAL 1:12
mute 27:25
myrtle 81:18, 20

< N >
name 8:12, 17, 23
 20:15 36:15 57:23
 78:20 86:15 90:14
 94:1
name's 94:5
narrow 25:3 34:18
 89:3
natural 22:15, 17,
 18 31:20 70:8
 81:18
nature 37:5 65:3, 6
 80:16
near 5:1
nearby 87:3
nearest 12:13
necessarily 23:7
 67:7
need 5:13 6:11
 16:3, 5, 11 36:8, 11
 50:11, 13, 17 60:14
 61:23 67:3 88:11
 89:20, 21 91:11
 94:24 95:21 99:21
needed 25:2 48:12
needs 18:19 27:1
 83:5
negotiations 25:4
neighbor 26:7 27:5
 73:24 74:2, 15
 75:14 94:18

neighborhood 16:14,
 19, 24 22:19 25:10
 49:11 50:23 51:3
 54:5, 8, 9, 25 88:20
 89:11, 16 94:11
 102:9
neighborhoods 18:4
neighboring 69:25
 71:24 75:11
neighbors 14:23
 26:11 27:21, 24
 43:6, 8 54:21 60:2
 61:2 62:2 68:21
 69:1 71:22 74:18
 75:4, 20 78:10
 79:5 82:2 92:20
neither 105:10
nerve 39:9
never 41:3 63:13
new 10:22 29:24
 40:3 62:17 76:11
 92:20
news 5:5
nice 92:20
night 61:18 66:21
 67:11, 17
nine 65:14
nonconforming
 15:9, 14, 19 49:16,
 21
normal 3:14
normally 40:5
 74:20 83:3
north 44:5 96:2
Notary 105:3
note 41:8
noted 42:3 81:17
notice 5:2 23:14
 94:14
noticed 76:8
notification 5:8
 86:22
notified 5:7
noting 50:20
November 19:16
nowadays 98:17
number 9:19 43:8
 44:2 52:24 77:8,
 11, 12 92:23

< O >

oak 45:15 46:15, 17 47:13 48:10, 22 49:8 51:16 52:12, 16, 17 63:8 68:12 80:13 81:14 84:18 85:1, 18 87:18, 22, 25
oaks 84:24 95:8
oath 7:22 8:4 36:14 94:4
objected 54:9
objection 26:12, 22, 24 27:6, 13 38:19
objections 26:14, 17 105:7, 10
obtain 3:17 6:12 51:22
obviously 18:22 24:10 27:1 65:15 88:10 98:6
OC 41:13
oceans 93:15
OCR 41:14
OCRM 9:15 10:8 11:22 12:10, 13 13:7, 13 18:10, 22 19:6, 24 21:17 38:15 43:25 44:18 63:11 70:7, 23 89:23 102:22
offer 46:23
offered 76:7
offering 62:8
official 15:11 49:18 105:12
Oh 34:12 36:21 58:2 96:4 97:23 103:20
Okay 18:17 20:13 34:12 36:3, 25 41:17 42:23 43:2 52:1 55:18 57:20 59:1, 9 62:17 64:1 69:6, 9 72:7 73:3 74:5, 10 75:22 77:1 81:5, 24, 25 82:6 86:11 88:1 89:24 97:2, 23

99:14 100:3, 18 101:21 103:21 104:3
old 66:18 95:7
O'LEARY 2:5 3:7 20:9, 25 21:7 27:18 28:18 29:17 30:14 31:5 32:12, 17 33:3, 20 34:11 35:9 36:20 37:9, 15, 18, 23 39:19 41:1, 7, 25 42:9, 18, 25 45:2, 6 52:3 53:23 54:11 56:4, 15 57:1 59:3, 6, 15 61:14, 21 63:18, 22 64:1, 5 69:12 70:9, 14, 19 71:19 72:7 74:16 86:3, 11 88:25 91:17 95:19 96:4, 7, 16, 20, 24 97:2 99:11, 17 100:23 101:8, 11 102:1, 15 103:16, 20, 24
once 86:5 100:12
ones 77:16 89:20
one-story 65:8
Oops 34:11
open 23:5
opinion 76:7, 16 93:6
opinions 61:13
opportunity 8:19 26:15 41:12 60:24, 25 95:4 100:15
opposed 77:19
opposite 89:21
opposition 59:10, 12, 18, 25 60:1, 3, 6 62:3, 13 69:3
option 24:4 29:8 30:13
options 29:1
orally 7:9
order 3:2, 17 5:11 25:7, 19 33:9, 24 34:22
ordinance 4:2, 9, 14, 16 10:5 11:3, 25

14:2, 6 17:6, 8, 12 25:12, 20 44:14 47:18, 22 51:10, 12, 15, 18 55:22 58:20 84:23
ordinances 83:5 86:22 98:25
organizations 5:5
original 20:1 21:12
originally 29:22 57:1 68:16
osmosis 98:14
outcropping 23:21 37:12, 20
outdoor 22:8
outside 31:2 42:5
oval 77:17
overage 58:25
overall 38:3
overhang 28:8
overhangs 37:8
Overlapping 36:24 86:13 95:25
overlay 21:1, 2 44:23
override 40:16, 19, 23
overturn 4:18
owned 21:25 41:9 45:19
owner 50:16 59:25 61:5 64:9 66:17 70:2 71:13 84:2
owners 9:3, 10 50:3, 9 60:17 64:12 68:5, 13 71:14 72:5 74:4, 8
owner's 66:15
Oyster 88:23, 25 89:1
< P >
P.M 1:12 104:5
P.O 1:16
packet 26:22, 25 27:1, 19
paragraph 17:22
part 18:12 25:10 33:18 55:17 62:20

participants 3:20
participate 43:15
particular 13:4, 6 14:3 22:14 38:2 46:11 47:19 88:4 94:22, 23
parties 5:4, 9 7:16
Partly 84:2
party 39:15 105:11
pass 62:4
passed 89:2
path 66:2
PATREA 2:8 3:10
pause 9:7
penchant 98:5
pending 105:11
people 54:8 64:22 77:18 79:13, 20 85:4 88:11
percent 10:10 13:9 38:2, 3 41:14, 15 44:20 55:5, 6, 9, 11, 20, 24, 25 56:2, 7, 8, 11, 23, 25 57:2, 3, 4, 5, 7, 8, 10, 11, 12, 15, 16 62:25 83:20 84:14, 15, 25 85:3, 13, 15 88:8, 13 98:19, 20
percentage 56:11
perfect 86:12
perforated 70:3
permanent 5:20
Permar 64:20
permit 4:15
permits 6:17
permitted 15:8, 13, 18 49:15, 20 56:18, 20
person 67:24 75:19
personal 67:19 77:20 82:1 92:20
persons 3:18 5:5, 11 7:14
perspective 64:24
pertaining 13:4, 6 46:10, 13
pertinent 5:12 8:9

PERUGINI 36:8, 13, 15, 16, 21 86:17, 18 89:1, 25 90:12
pervious 56:8, 10 57:9, 16 58:22 90:18 98:7, 11, 18 99:7
Phil 3:9 28:5 41:17 42:21 52:20 64:5 72:15 100:9 101:19
PHILLIP 2:6
photograph 23:13
physical 30:20
physically 15:9, 14 49:16, 21
picture 45:8, 14 85:2
pictures 10:16 45:10 82:8
picture's 45:12
piece 13:4, 6 14:3 46:11 47:19
piers 32:6, 8, 11
pine 91:5
pipe 90:24 97:17
pipes 97:14
pipng 90:20
place 23:10 83:6 84:18 98:8, 11, 17
placed 36:14 94:4
placement 46:24 80:5
places 8:3 18:4
plan 17:5, 8, 10 24:23 51:9, 12 69:23 73:7 83:19 89:20 103:10
plane 22:22
PLANNER 2:8 8:24
PLANNING 2:8 3:10 4:12 10:5 11:3, 24 17:15 31:17 44:14 51:20 55:21 70:9, 10 82:24 83:4 99:1
plans 10:21, 23 11:8, 14, 21 12:8 17:18 45:21 51:15, 24 54:19, 21 56:1, 9 88:4
plant 80:15 84:17
planter 80:21
planters 45:22, 23 46:2, 6 74:6 100:2 101:2
plat 18:15 19:15, 17 20:1 21:12
platform 28:24
platted 83:7
please 3:16, 21 8:2 45:3 78:19 86:15 89:21 90:13 93:25 97:1 102:20
plot 19:15
podium 3:23 7:11 8:12 36:9
point 12:13 42:8 52:24 53:2, 11 59:18 67:12 74:13, 25 78:17 88:10 103:13
pole 93:12, 13
pool 45:22 46:2, 6 48:5 50:7 66:3, 4 67:3, 12, 14, 16 68:14 73:13, 20 74:10 77:15, 24 80:19, 20 84:5 90:2, 3 100:1
porch 10:24 11:9 33:1 37:21, 23, 25 48:5 50:7
portion 63:2
positive 74:7
possibility 80:10
possible 22:17 29:4 66:8 73:24 74:2
possibly 22:7 23:22 101:2 103:13
Post 4:25 17:17 51:23
posted 5:1
potential 69:10
precedence 36:1
prefer 61:3
prepared 53:10, 14
presence 61:12
PRESENT 2:1, 7 3:9 4:17 8:9 79:5 82:8
presentation 9:6 55:5 61:1
presentations 7:9
presented 5:16, 22 33:14, 25 34:23
presenting 8:13, 25
presents 25:9
preservation 49:7 51:14 64:11
preserve 22:18, 22 51:15
preserves 48:10
preserving 68:12
pretty 18:23 26:5 64:14 72:20
previous 59:25
primary 22:1 64:12
printed 4:25
prior 4:24 23:15 37:13 53:20 103:7
probably 31:3 38:3 52:23 64:3 74:5, 9 78:13 84:19 85:11 95:9
problem 38:11, 21 39:1, 3 60:11 70:3 78:6
problems 38:17 54:22 66:22 78:10
procedure 8:16
proceed 3:22
process 53:12 69:20 72:3 100:17
Professional 105:3, 16
profit 50:4
profitability 15:24 16:1 50:1
profitably 15:22 49:24
program 22:5
prohibit 14:4, 6, 11 47:20, 22 79:18
project 12:16, 21 20:17 33:11
promote 6:9
properties 5:2, 25 9:21 10:18 13:17, 20, 22 14:20 16:15, 20 44:4 45:16 47:2, 5, 9, 15 48:19 49:1 50:24 51:4 52:6 63:14 65:21 69:25 75:11 80:25
property 6:8 9:3, 10, 18, 23, 25 10:9, 12, 17, 18, 20 11:13, 20 12:25 13:4, 7, 19, 21 14:3, 5, 6, 8, 12, 16, 25 15:21 16:7 27:11 28:12, 14 41:4, 9 43:6 44:7, 11, 16, 21, 24 45:16, 17, 19, 23 46:11, 13, 14 47:4, 5, 10, 14, 19, 21, 22, 24 48:1, 5, 15 49:6, 8, 23 52:13 55:9, 19 64:4, 16 65:11 67:22 68:13 72:4 78:9 84:8, 10 97:12
property's 44:3 50:9
proposal 56:17, 19 76:15
proposed 6:6 10:21 12:4, 7, 12, 16, 21 14:21 17:18 44:1 45:21 48:20 51:15, 24 64:7 71:2 76:23
proposing 76:6, 24
protect 6:8 79:14 84:8 94:23
protecting 84:6
protection 83:17
protective 83:21
prove 41:15
provide 17:16
provided 7:6 41:20
proximity 50:9
public 3:13 4:21 6:9 7:11, 20 8:14, 20 14:16, 21 15:1 16:13, 18, 23 36:6, 9 48:15, 20 49:1, 10 50:22 51:2 54:4

86:21 99:15 100:4
105:3
pull 23:21 95:23
pulled 25:6 33:12
34:24
pulling 23:8
purchase 63:19
purchased 21:2
41:6 50:5 63:25
purely 25:20
purpose 5:10, 23
purposes 16:17, 21,
25 17:5, 8, 12 51:1,
5, 9, 12, 17
pursuant 10:5
11:25 44:14 55:22
purview 72:11, 17
73:2
push 31:25 33:4
68:23
pushing 48:23
put 20:24 21:22
27:1 29:7 45:3
61:9 73:14, 18
76:14 77:3 93:12
97:1 98:7, 11
100:12
puts 58:17
putting 29:2 72:3
90:6

< Q >
quasi-judicial 3:25
7:3
question 18:19
29:1, 18, 22 32:18
40:16, 24, 25 41:16
53:13 54:3 55:3
59:7 60:22 61:3,
18 72:15 73:2, 4
74:4, 17, 24 75:22
76:10 86:4 87:5, 6
91:24 95:17 98:5
99:2 100:12
questions 18:9
20:12, 20 28:2
35:19 36:5 52:1,
19, 20 57:21 69:8,
11 72:10 77:6

78:16 79:4 99:9
101:1
quick 29:18 62:15
quite 22:9 62:22
63:3, 6
quorum 4:17
quote 12:18 14:10
46:17 47:25 50:15
75:20

< R >
R-1 9:20, 22 10:6
13:21, 23 25:12, 13
44:4, 6, 15 47:6
raise 57:23 70:25
78:19 82:13
raised 45:22, 23, 25
46:1, 2, 6 60:22
74:6 100:2, 16
raises 41:16
raising 3:21 8:1
52:23 70:10 78:8
rake 54:17
Randy 90:15
range 21:5
react 100:20
reaction 94:17
read 55:4, 18 68:22
76:13
reads 97:21
ready 100:5, 10, 19
101:10, 12
real 62:15 70:8
82:21 90:23
realize 23:13
really 21:9 22:4
39:4, 11 53:13
58:7, 9 65:16
71:17 82:16 84:15
87:15 89:6
Realtime 105:3, 16
reapply 100:25
rear 10:8, 19 11:20,
22 12:3, 10, 12, 17,
20 13:8, 13 28:7
39:4 43:24 44:18
45:19, 23, 24 46:3
48:4 49:6, 9 50:8
58:22 63:11 64:7
73:13, 21, 22

reason 16:2 60:21
65:9, 18 67:1 68:1
74:16, 24 75:7
81:21 93:21
reasons 94:20, 21
rebuttal 8:19 68:21
69:10 99:20, 24
receive 31:22 61:14
received 12:16, 21
53:7 54:7 59:12,
16 79:10
recognize 3:22
recommendation
81:9 82:24
recommendations
83:6
recommended
41:19 73:20
record 3:17 5:20
7:13 8:13 21:6
82:11 105:9
recorded 18:15
19:15, 16 105:7
records 16:7 19:20
44:20
recuse 27:6
recusing 43:12
reduced 41:16
reducing 77:23
reduction 9:11, 13,
15 43:24
referred 89:17
regarding 4:5 6:5
65:13 82:23
regards 12:1 86:4
Registered 105:1, 16
regularly 98:16
regulation 16:25
38:12
regulations 16:17,
22 21:15 51:1, 6
55:23
related 76:24
105:11
relates 62:21 83:22
relatively 62:22
100:16
relay 62:11
relevant 53:4

relief 4:1 11:2 12:5
relying 30:24
remain 84:16
remaining 44:10
Remember 7:12
67:5 71:7 89:17
reminded 3:16 7:14
removal 23:10
remove 23:20
27:15 37:11, 20, 21
76:25 81:9
repeat 72:14 82:19
replaced 29:20
report 43:18 87:16
REPORTED 1:14
reporter 3:19
19:13 105:1, 3, 16
representatives 5:3
represented 43:23
representing 9:3, 9
20:17
request 6:13, 19
15:25 17:14 19:13
27:5 39:5 48:6
50:2 51:20 59:2
64:16 65:14 75:2
79:7
requested 5:6 48:7
51:21 64:8 73:6
74:25
requesting 9:11
43:23 50:4
requests 6:2 12:20
17:15
require 5:8 18:5, 6
required 4:17 9:12
11:6, 9, 15 12:2, 3,
10 14:22 29:13
31:8 43:24 45:24
48:21 72:6
requirement 66:6
71:12
requirements 64:15
requires 10:6
residence 10:22
22:2 44:2
resident 51:13
residential 10:6
44:15, 16 47:6

residents 5:3
resistant 32:15
resolution 10:13
 44:25
resort 24:4, 5, 6
respect 25:19
respects 64:17
respond 53:11, 15
responds 50:19
response 52:3 99:20
responsible 75:19
rest 25:10
restrict 14:4, 7, 11
 47:20, 23
restrictive 48:3
result 16:4, 6 50:12,
 14 64:8
retention 83:2
rethink 72:21
review 3:13 12:15
 17:19 51:25 68:7
reviews 24:24 69:17
revisited 86:23
RHETTS 1:6
 36:16 43:3, 4 44:2,
 5 45:3, 5 52:7, 9, 14
 62:23 78:24 79:6,
 15 81:19 82:9, 16,
 21 86:18 90:16
 93:10, 16 94:7, 13
 98:5
ridiculous 54:6
right 8:1 9:8
 10:19 12:25 17:22
 19:18 24:19, 22
 26:8 27:2 28:10,
 11 32:23 34:25
 35:5 37:2, 7, 19
 40:16 41:7 42:12
 45:14 58:21 59:9
 66:5 70:6, 8, 17
 74:12 76:5 83:12
 84:20 86:2, 11
 89:18 93:1 96:2
 97:20 98:25 104:1
right-hand 25:24
 26:1 35:21
rising 83:3
river 92:25

road 36:17 43:3, 4
 80:11 85:9 86:18
 88:23 90:16 91:7
RODDEY 78:23
 81:3, 5, 8, 25 82:7
 92:19
roll 42:13
room 23:9, 11, 25
 25:3, 6 26:3 32:23
 33:9, 13 34:21
 35:4 66:2, 3, 10
 77:11 98:13
root 76:2, 6, 21
 81:11
roots 76:11, 19, 22
 85:7
ROSENFELD 2:5
 3:7 18:18 21:19
 22:25 23:5, 12, 20
 24:1, 5, 10, 13 26:7,
 18 27:20, 24 31:10
 32:2, 8 35:4, 8
 37:4, 11, 16, 19, 25
 38:13 39:15 40:15,
 22 42:20 54:3
 55:1 57:8, 17
 70:24 77:8, 23
 96:14 98:4 99:3
 101:25 102:10, 16
rot 32:15
roughly 63:12
round 69:17
rounds 69:18
RPR 1:14
rule 40:4 59:22
 92:1
rules 35:23 39:9
 58:16 59:19
rulings 3:12
run 62:15
running 70:3
runs 90:20 92:13
RUTH 1:14 105:1,
 13
Ryan 90:22
 < S >
sacrifice 84:13
safety 6:10
salt 50:10

Sammy 64:9 73:16
 75:24
saturated 98:9, 15
save 91:23
saving 48:22
saw 55:5 83:12
 87:2 89:18 91:21
 94:13
saying 21:7 67:6
 91:17 93:4, 5
says 45:7, 9 56:7
SC 1:4, 6, 14, 17
 4:12, 23 6:23
scope 74:21
scrapping 74:6
screen 19:14 32:7,
 24 34:8
screened 48:5 50:6
screens 9:5
seal 105:12
seawall 31:15, 19
second 18:12 34:4
 38:6 39:25 41:22,
 23 101:4, 15, 17
 102:10, 11
seconded 39:20
seconding 101:18
Section 10:5 11:3,
 25 31:12 37:22
 44:15 55:22
sections 23:1
see 19:15 22:8
 24:8 26:15 34:16
 41:12 42:1 43:7
 45:9, 18 52:16
 60:20 87:4 95:21
seeing 74:21 85:2
 95:1, 16 101:16
seen 63:16 90:3
seminar 103:11
send 103:6
sense 24:18 66:14
 76:25 86:12 101:3
sensitive 22:12 28:9
sent 27:15 61:15
separate 12:8
sequencing 77:4
serious 66:22
seriously 29:3

serves 83:21
service 31:7
set 63:9 70:12
 71:5 72:18 79:17,
 24
setback 9:12, 14, 16
 10:7, 8, 25 11:6, 10,
 15, 23 12:2, 3, 6, 11,
 17, 20, 23, 25 17:23,
 24, 25 18:3 24:22,
 24 25:7, 12, 16, 18,
 20, 23 26:16 28:22
 30:21 32:25 33:4,
 17, 24 34:10 35:22
 43:25 44:17, 18, 19
 45:24 46:3, 15, 18
 47:9 48:7, 11 49:5,
 9 50:17 51:17
 64:7 65:18 68:1
 70:4 73:13, 21
 91:15 92:1 93:20
setbacks 12:1
 14:22 18:6 22:11
 40:6 48:21 83:10
 89:22 90:8 94:21
setting 38:21
setup 80:6
seven 70:13, 25
 71:2, 9, 11, 20, 21
 87:1
shaking 40:9
shallow 80:4
shape 13:14 14:13
 26:8
share 7:11 62:6
 79:2 82:12
sheet 83:8, 9
shelf 67:4, 6, 12, 13
Shell 88:25 89:1
shocked 87:15
Shoolbred 92:17
shoreline 80:12, 16
shorter 78:5
shorty 89:4
show 17:11 63:15
shown 15:10 49:17
 90:21 91:18
shows 34:7
sic 71:20

side 9:13 10:7
 11:13, 15 12:22, 25
 17:22 23:13 24:19,
 22, 23 25:24 26:1, 8
 27:21, 22, 25 28:10
 35:12, 21 36:17
 37:7, 12 38:24
 41:8 44:17 65:8
 70:1, 4, 6 71:17
 72:4 73:24 74:2
 79:9, 18 81:10, 15,
 19 91:8 94:7 96:2
 97:7 101:2
sides 30:7 97:11
 98:2
sign 5:1 87:11
significant 36:4
 46:19 51:16 63:2
 83:23
similar 13:24 47:8
 52:6
simple 4:16
simply 32:3
single 10:22 33:11
 34:16 44:1 51:13
 65:8
sir 30:17 42:25
 53:22 70:19 72:8
 78:18 90:13 91:19
 93:7
sit 41:13 67:4
 78:18
site 10:15, 17 28:16
 44:25 50:16, 19
sits 9:24 12:12
 44:12
situation 19:2
 61:20 66:17 67:18,
 19, 22 78:8 82:4
 88:18
situations 68:7 91:6
six 39:7 70:13, 21,
 25 71:2, 9, 11, 20, 21,
 22, 25 86:24 88:16
six-foot 93:13
size 10:1 14:13
 22:10 26:3 29:21,
 24 30:3, 8 32:19
 35:1 44:8 46:20
 48:1 67:3 88:9
sized 30:2 77:17
sizes 18:5 29:19
size-wise 88:3
skipped 55:17
slab 31:24 46:1, 5
 70:12 71:1, 3, 12, 14,
 18 72:13, 18
slabs 71:9
slam 65:17
slide 34:7 97:1
slightly 78:5
slopes 70:6, 21
 74:13
slowly 87:21
small 13:12 14:12
 22:9 46:22 62:22,
 25 63:3 65:24
 95:20
smaller 13:9 29:23
 67:14 74:10
smallest 22:6
smart 90:23
smug 77:22
smugly 77:9
snake 54:17
soaked 89:14
solution 24:17
 38:11 39:14 85:16
solve 78:6
somebody 28:13, 20
 88:18 99:17
somebody's 95:10
somewhat 87:15
sorry 12:3 34:9
 36:13, 21 37:15
 52:17 57:18, 19
 58:2 59:16 77:22
 81:3 82:18 86:12
 93:23 97:4 103:16
sort 31:15 40:20
 62:12 67:9 72:9
south 9:21, 25
 44:12 75:16 105:4,
 13
space 21:8 22:8
speak 3:20, 21 7:12,
 14, 21 8:15 36:6
 37:1 82:22 94:12,
 15 95:15 103:14
SPEAKER 86:9
speakers 7:16
speaking 7:19
 46:23 62:23
spec 85:10
special 4:4, 14, 19
 6:14, 17 64:17
specific 4:11 50:16,
 19 65:13 74:3
specifically 73:2, 5
specifics 53:5
speed 19:9, 10
SPENCER 94:2, 5,
 6 97:14, 17, 23
spending 77:10
spent 78:11, 12
spirit 16:16, 21
 38:12 50:25 51:5
 67:20
spoke 82:25
spring 62:18 73:11
square 9:13, 14, 16,
 17 10:1, 2, 3 11:7,
 11, 12, 17, 18 31:4
 35:14, 16, 17, 18
 44:1, 8, 9, 10 46:7,
 21, 22 48:8 55:13
 56:1, 10 75:8 88:6,
 15
ST 2:8 3:10
STAFF 2:7 3:9, 11
 4:7 5:17, 23 7:10,
 19 8:9 10:16
 17:15 19:21 43:18
 51:20 52:2, 23
 57:21 82:10 87:14
 91:24 95:16 97:25
 99:10 102:20, 24
staff's 17:19 41:18
 51:25
stair 11:4 25:6
 33:2, 10, 11, 12
 34:14, 16, 17, 25
 35:1 66:5 73:12, 18
staircase 10:24 11:6
stairs 25:5 33:1
 34:18
stand 7:21 8:11
 11:17 28:21 29:9,
 15, 18, 23 30:7, 20
standard 30:3 71:3
standards 4:11
 31:22 47:9 94:22
standing 8:4 96:12
start 43:17
started 62:17 67:17
 71:10 73:10
starts 86:23
state 8:12 57:23
 78:19 79:17 86:15
 90:13 94:1 105:3
stated 19:4 93:2
 105:6
statements 7:8
states 6:23 12:1
stating 11:4 12:18,
 23
stay 76:17 79:3
 81:13
staying 43:14
stenographically
 105:7
step 72:3
steps 22:23 102:21
Stewarding 83:23
stilts 30:11
stop 93:4
storm 31:23 71:8
storms 71:15 83:23
stormwater 98:25
story 65:12
strategies 26:16
straw 91:5
street 10:18 25:9
 33:15 34:24 35:3
 43:5 45:16 70:7,
 20 90:19 92:14, 15
strict 4:8
structure 6:6 22:20
 30:23 76:2, 7, 11
 92:3
structures 12:9
 13:23 31:18 47:7
studied 79:20
studies 73:15 77:14
 79:23
study 89:17

subject 9:23, 25
 10:9, 11 13:19, 20
 14:8, 16 44:7, 11, 16,
 23 45:17, 19 46:14
 47:4, 24 51:14
 55:9, 19
submit 26:11
submitted 5:17
 12:14 27:5 32:22
 43:7 52:25 53:12
 58:15
subpoena 5:15
subsequent 61:4
substantial 14:15,
 20 48:14, 19, 25
 49:10
substantially 17:4, 7
 51:8, 11
sued 75:14
suggested 80:21
suggestions 67:15
sun 23:9, 25 67:4, 6,
 11, 13
Sunlet 94:6
super 90:4
support 73:20
supposed 59:22
 91:2
Sure 32:21 35:20
 43:19 52:22 53:2,
 9 59:5 62:9, 13
 69:24 70:1, 17
 81:7 92:4 97:24
surrounding 5:25
 6:9
survey 17:17 20:21
 21:3, 5 41:19 42:8
 45:19 51:23 95:22,
 24
surveys 20:22 41:10
survive 76:16
swear 7:18
swoops 65:10
sworn 36:11, 22
 86:16 94:2 105:5
system 39:2 76:21
 81:11 90:20

< T >
table 22:9 100:24

take 24:11 53:25
 55:14 60:25 64:18
 77:9 92:4 100:15,
 20 101:21 102:12
taken 22:23 32:20
 60:15 76:8 87:23
 105:6
takes 36:1
talk 17:23 20:6
 54:13, 18 60:17
 62:12 65:1 69:3
 71:13 90:16 95:1
talked 52:5 66:23
 89:9 90:18
talking 35:10 62:9
 88:5 92:7
talks 52:4 73:16
tear 95:7, 11
tell 18:15 39:10
 67:9 88:2 102:21
telling 71:5
ten 38:16 87:19
Tennessee 58:7
 92:21
terms 19:19 31:8
 46:24 54:24 68:14
 75:3 77:3 82:23
 88:18
terrible 60:5
testify 105:5
testimony 5:16
 8:13 105:6, 9
text 45:13
Thank 7:23 8:5, 7,
 22 20:13 30:17
 32:12 42:24, 25
 43:1, 19 45:6
 56:15 70:19 72:7
 78:15, 25 82:6, 7
 86:1, 2 89:24
 90:11 93:6, 7, 25
 95:14 99:14 100:2
 102:23 104:4
thanks 78:17 90:12
 103:22
theirs 71:23
thereof 105:11
thickheaded 38:20
thing 21:15 23:16
 24:20 30:9 31:1

38:4, 14 58:8 70:6
 72:1 88:2 89:8
 90:1, 19
things 58:17 77:14
 87:15 94:10 100:15
think 18:18 38:20
 39:1, 2, 4, 13 42:7, 9
 52:4, 8 53:17 54:5,
 10, 20 58:12 60:7
 61:10, 11 65:20
 66:10, 13 67:22, 25
 68:9 71:13, 22
 72:4 73:12 74:11,
 14 77:19 78:3, 4, 9
 79:5, 24 82:4
 84:21 85:12 86:9
 91:21 93:5, 14, 19,
 22 94:25 100:19
thinking 28:12
 89:22 94:16
third 61:6 69:17
 72:2
thought 26:21
 28:19 33:22 55:5
 57:1, 3 65:16 74:6
 77:3 80:7
threatening 75:14
three 4:3 8:18
 12:8 24:24 29:21
 34:3 41:10 68:15,
 18 70:23 71:6, 16
 78:3, 21 80:10
 84:19 94:8
three-bedroom
 68:17
three-fourths 81:23
three-step 76:14
ticks 39:11
tide 79:21 92:9
 98:16
tides 92:10 93:13,
 15, 20
tight 63:12
TIME 1:12 7:1, 25
 17:24 20:8, 24
 21:5 33:21 38:20
 57:22 61:7 67:10
 83:8 85:21 86:19
 90:1 91:5 98:15

99:14 100:3, 18
 105:6, 7, 10
times 57:11 94:9
TMS 1:5, 7 9:19
 44:2
today 3:7, 9 5:10
 7:19, 21 9:1 21:12
 30:4 35:22 43:8,
 21 58:8 64:23
 74:11 75:7 83:6,
 24 87:20 91:3
 92:10
today's 4:21 83:14
told 59:25 60:6
 61:5, 8 67:1, 2, 11
 73:11 76:20
top 23:17 37:16
 45:13 71:1 98:11
topic 31:11
topo 87:18
total 9:17 10:1
 11:11, 17 35:7, 14,
 16 46:5 98:20
totally 93:16
tough 59:24
tower 33:2 34:14
TOWN 1:1 2:9
 3:3, 15 4:13 6:16
 8:24 10:4 11:2, 24
 25:11, 15 35:22
 44:13 55:21 58:16,
 18, 23 82:24 84:11
 85:17 86:10, 22
 87:14 88:7
town's 17:23 83:4,
 18
transcribed 105:8
transcription 105:8
treat 85:10
tree 46:17 47:13
 48:23 51:14, 16
 63:1, 8, 11, 16, 22
 64:3, 11 65:10
 68:12 73:13, 15, 18
 76:4, 15, 19 77:5
 80:15 83:2 84:13,
 15, 17, 22 85:6, 7, 18,
 25 86:4, 6, 7 87:18
 95:7, 11

trees 46:14 62:24
64:18 65:20, 22
80:5 81:11, 12
84:23 85:11, 13, 15
tree's 84:25
trend 94:25
tried 21:24 66:7
true 5:21 7:5
77:25 105:9
truth 105:5
try 22:23 29:8, 15
62:12 73:25 79:2
89:12
trying 31:19 39:8
64:18 74:19 77:21
tucked 32:24
turn 8:6 103:3
turning 43:12 64:22
twice 59:11 87:6
two 8:25 13:11
18:25 23:1 26:11
30:5 35:5 37:8, 9
39:7 46:2 59:25
65:7 67:6 69:18
71:8 72:9 77:12
81:10 94:8 97:9
100:2 103:5, 7
two-story 65:7
type 23:16 31:15
48:6 90:25
types 4:3
typically 30:4
typo 55:7, 10

< U >

umbrage 77:9
unable 29:12
unbuildable 80:7
uncovered 11:4, 21
12:1
underground 98:15
underneath 30:24
76:22 85:8, 9
understand 18:1
26:2 35:20 38:13
59:6, 19 67:17
74:23 84:3, 22, 23
understanding
53:22 54:15 82:25
91:20

undeveloped 9:24
14:9 28:17, 18
44:11 47:11, 24
unexpected 62:13
unfair 59:21
Unfortunately 29:3,
11
unhealthy 89:20
unheard 88:21
UNIDENTIFIED
86:9
unique 13:18 47:3
units 26:9 29:25
unnecessary 4:10
unreasonably 14:4,
7, 11 47:20, 23 48:3
unusual 14:13
updated 83:9
urge 84:8
use 6:7 10:4 11:3,
24 15:7, 9, 13, 14, 17,
19 44:13 49:14, 16,
20, 21 55:21 66:25
67:13 86:19
useless 98:20
uses 4:15
utilization 14:5, 7,
12 47:20, 23
utilized 49:24

< V >

valid 6:18 49:6
valuable 79:14, 25
values 6:8
valve 90:25 91:1, 4
Vanderhorsts 64:4
95:9
variance 4:18 6:3,
14 9:11 12:24
13:1 14:15, 18, 19
15:3, 6, 12, 22, 24, 25
16:2, 3, 5, 11, 12, 18
17:4, 6, 14 40:18, 19
43:24 46:8 48:6, 7,
14, 17, 18 49:3, 9, 13,
19, 24 50:1, 2, 4, 11,
13, 17, 21 51:2, 7, 10,
20 59:2 64:7, 16
65:13, 18 67:1, 8, 20,
21 68:1 69:19

72:23 73:6 75:1, 5
79:8, 16 80:23
99:24 102:7, 18
103:12
variances 4:4, 8
6:17 40:22 68:3, 6
verbal 40:13
verify 51:23
versa 58:18
versus 21:12 77:15
78:2 85:20
VICE 2:4 43:13, 20
58:18 78:25
vicinity 13:10, 18,
20, 24 16:15, 20
47:3, 5, 7, 10 50:24
51:4
video 89:12
view 10:12, 13
81:13 93:18
VINCENT 2:8
3:10 8:22, 24 9:8
18:2, 14 19:14, 25
20:4 26:23 27:3, 9,
14 36:18 43:19
45:4, 8, 12 55:7, 16
56:5, 19, 24 57:10,
14, 18, 25 58:24
95:23 96:1, 6 97:8,
16, 21, 25 98:24
99:5 103:5, 18
104:2
violate 93:21
virtually 3:8, 16
vis-a-vis 75:4
visible 14:23
visit 10:15 44:25
visual 33:13
voiced 79:9
volume 25:6 32:23
33:12 34:9, 10, 24
vote 4:17 60:13, 15
101:22 102:12, 19
voted 60:5

< W >

waders 89:13, 14
walk 87:10
walking 88:19

wall 31:2 37:20
walls 31:24 32:6
want 24:13 36:6
40:12 53:8, 25
57:25 58:9, 11
59:4 60:3 62:6, 13
63:15 66:25 68:13
72:21 73:19 78:25
81:13, 16 84:2, 4, 5
85:19, 20 86:19
88:2, 22 89:8
90:16 92:5 93:4,
11 95:12 97:24
100:5 101:15
wanted 25:4 27:6
61:2 64:2 87:12
watched 93:13
water 32:14 69:24
71:16, 19 74:12, 14
75:16 86:23 87:6
90:25 92:8, 11, 24
93:2, 22 98:12, 14
99:7
waterborne 77:25
waters 79:23 83:3
water's 71:23
92:25 93:1
wave 29:5 31:23
wax 81:18, 20
way 16:10 25:9
26:8 28:23 33:14
34:21, 23 38:4
43:15 54:7, 16
64:17 68:25 75:3
81:23 84:9 87:6
91:10 92:9, 12, 17
94:3
ways 62:20
wearing 89:13
Wednesday 59:13
week 24:8 26:12
59:14 94:9, 13
weeks 103:7
welfare 6:10
well 22:18 27:2
30:13 32:4 40:4
53:6, 8 60:11
61:16 87:23 88:3
94:12 102:1

went 33:11 34:11
 38:17 41:14 74:8
we're 18:21 21:13
 29:5 30:23, 24
 31:19, 20 61:10
 62:7 64:18 68:19
 74:25 75:7 82:5
 88:5 89:15 92:4
 97:9 98:25 100:19
 103:10 104:3
west 9:21 44:5
 92:9
wet 92:6
wetlands 80:24
we've 5:22 21:25
 22:7, 23 24:24
 26:11, 16 29:1
 41:3, 8, 9 42:3, 4
 54:6 62:8 64:13
 67:11 68:17 69:17
 74:18 79:12 81:8
 87:23 88:12 89:9
 90:9
wheelchair 66:19,
 20 77:16, 25
whistle 67:9
wide 63:6 66:1, 10
 77:16, 17 78:1
width 35:6, 7 88:20
Wiland 43:22
 54:13 58:4, 5 59:1,
 4, 9, 17 60:11, 19
 61:5, 17, 23 62:2, 11
 63:20, 24 64:6
 69:2, 6, 9, 16 70:12,
 16, 20 71:1, 25 73:9
 75:9, 24 76:3, 10, 13
 77:2, 21 95:22
 99:19, 23
willing 25:18 38:25
 70:5 72:5
willingness 50:18
window 23:16
windows 35:5
wing 65:8
wings 65:8
wish 6:20 7:14, 21
 8:14 41:8, 10
 58:10 82:2
wished 58:7

withdrawal 26:25
 27:13
withdrew 26:14
within-entitled 105:5
Witness 36:14 94:4
 105:12
witnesses 5:15 8:3
 105:4, 7, 9
wonder 84:12
wondered 80:9
wonderful 85:4, 5
words 32:2 66:9
work 20:18 21:23
 60:4 62:17 64:8
 66:9 67:18 91:4
 96:8 102:20
workable 88:15
worked 39:7 52:12
working 58:5 63:4
 71:4 85:14 98:25
workings 3:25
works 7:25 68:25
 91:10
workshops 99:2
world 83:14
worry 94:18
worth 50:20 52:23
 87:8
wow 89:6
wrapping 81:2
writers 65:5
writing 7:8 65:3
written 5:17 27:12
 43:7
**WWW.CLARKBOL
 EN.COM** 1:18

< Y >
yard 12:3 44:17, 19
 92:15
year 18:11 20:23
 62:18, 19 63:21
years 18:21, 25
 19:1, 2 22:1 29:21
 38:15, 16 39:7
 41:9 63:4 66:18
 71:7 78:24 83:18
 85:11 87:1, 19
 93:11, 23
year's 64:8

yesterday 61:16, 22
 66:23
you-all 7:25 55:18
 59:20 60:12 61:24
 91:11 103:6
YouTube 3:16

< Z >
zone 29:5, 6 31:11
 69:15
Zoning 1:1 3:4
 4:2, 6, 9, 13, 16, 18
 6:3, 15 9:20, 22
 10:5, 11 11:3, 25
 13:21, 23 14:17
 15:8, 10, 11, 13, 15,
 20 17:13, 24 25:11
 40:20 44:4, 6, 14, 23
 47:6 48:16 49:2,
 12, 15, 17, 18, 20, 22
 55:22, 23 56:6
 58:20 64:15 68:4
 72:12, 24
ZOOM 2:6
zoomed 10:13

WORD LIST

< 0 >

0 (1)

< 1 >

1 (3)

1:00 (1)

10 (12)

102 (2)

10-by-10 (3)

11 (2)

11,962 (2)

110 (6)

12 (2)

12,000 (1)

12:00 (1)

12189 (1)

12-63 (1)

12-64 (2)

12-65 (2)

13 (1)

13,000 (1)

139 (1)

13th (1)

14 (8)

14-foot (1)

15 (22)

15,676 (1)

15-foot (1)

15th (2)

16 (18)

1600s (1)

17 (1)

178 (1)

18 (2)

189 (1)

1977 (1)

1979 (2)

1991 (1)

1994 (1)

19th (1)

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2002 (5)

2007 (1)

2023 (2)

2024 (7)

2025 (1)

209-11-00-014 (2)

21 (1)

22 (2)

23 (1)

24 (6)

25 (4)

264-02-00-059 (2)

27 (1)

275 (1)

28 (1)

28th (2)

29422 (1)

< 3 >

3 (6)

3,300 (2)

3,714 (1)

3:00 (1)

3:08 (1)

30 (10)

30-year-old (1)

31 (1)

32 (1)

33 (4)

34 (3)

35 (2)

38 (2)

39 (5)

39.87 (1)

< 4 >

4 (6)

4,770 (1)

40 (29)

40.65 (3)

40-inch (1)

41 (1)

41-inch (1)

43 (3)

46 (1)

4th (2)

< 5 >

5 (8)

5,612 (1)

500 (3)

536 (1)

55 (1)

< 6 >

6 (9)

60 (2)

6-29-70 (1)

6-29-823 (1)

65 (1)

6th (1)

< 7 >

7,737 (1)

70 (1)

72 (1)

77 (1)

< 8 >

8 (7)

8,273 (1)

843-762-6294 (1)

< 9 >

9 (1)

90 (1)

93 (1)

99 (2)

< A >

aback (1)

able (5)

absolute (1)

absolutely (3)

absorb (1)

abuse (1)

accelerated (1)

acceptable (1)

access (3)

accessibility (1)

accidentally (1)

accommodate (2)

accommodates (1)

account (2)

accurate (3)

acquired (2)

acres (2)

Act (3)

acted (1)

action (4)

actions (6)

activity (1)

actual (2)

acute (2)

ADA (1)

ADAMS (23)

add (4)

addition (3)

additional (6)

Additionally (1)

additions (2)

address (20)

addressed (1)

addressing (1)

adhere (1)

adhered (1)

Adjacent (15)

adjoining (1)

adjourn (2)

adjourned (1)

administer (1)

administrative (3)

administrator (3)

adopted (1)

adults (1)

advance (1)

advancement (1)

adversely (4)

advisable (1)

aerial (4)

aesthetics (2)

affect (6)

affixed (1)

afternoon (3)

agent (1)

ago (7)

agree (4)

agreement (2)

agrees (1)

ahead (1)

AIKEN (14)

air (2)

Alex (3)

aligning (1)

alive (1)

allow (13)

allowable (4)

allowed (9)

allowing (3)

alternative (1)
 alternatives (1)
 altogether (1)
 amenable (2)
 amount (7)
 and/or (1)
 angle (1)
 announcement (1)
 answer (5)
 Anybody (1)
 anyone's (1)
 anyway (2)
 apologies (1)
 apologize (1)
 apparent (1)
 apparently (1)
 appeal (5)
 Appeals (10)
 appearance (1)
 appears (1)
 appease (1)
 apples (2)
 applicant (32)
 applicants (1)
 applicant's (32)
 application (7)
 applications (1)
 applies (1)
 apply (5)
 appreciate (2)
 approach (1)
 appropriate (1)
 appropriately (1)
 approval (14)
 approve (12)
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 approves (1)
 approximately (20)
 April (1)
 ARB (41)
 Arbor (1)
 arborist (2)
 arborists (1)
 arborist's (1)
 architect (10)
 Architects (3)
 architect's (1)
 Architectural (1)
 area (25)

areas (1)
 arguably (1)
 argue (2)
 argument (1)
 as-built (4)
 asked (5)
 asking (10)
 asks (1)
 assembled (1)
 assist (3)
 associated (1)
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 ATTORNEY (2)
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 audience (1)
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 authorization (4)
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 avoid (1)
 aware (5)

< B >

back (28)
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 based (11)
 basically (6)
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 beginning (2)
 believe (15)
 bell (1)
 Bend (1)
 benefit (2)
 benefits (1)

Berkeley (1)
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 better (2)
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 beyond (3)
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 bigger (1)
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 Blue (1)
 BLUFF (25)
 Board (36)
 boards (1)
 board's (4)
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 BOLEN (1)
 BOONE (9)
 bottom (2)
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 bounce (1)
 boundaries (5)
 BOX (1)
 boxes (1)
 boy (1)
 break (4)
 breakaway (2)
 breathing (4)
 Brief (2)
 briefly (1)
 bring (9)
 bringing (2)
 Britain (1)
 broach (1)
 brought (2)
 buffer (2)
 build (13)
 buildability (1)
 buildable (12)
 builders (1)
 building (14)
 built (12)
 buried (1)
 BURROUGHS (11)
 bushwa (1)
 business (4)

busy (2)
 buy (3)
 Buyer (2)
 buying (1)
 BZA (11)
 BZA24-000010 (3)
 BZA24-000011 (3)

< C >

call (9)
 called (1)
 calls (1)
 canopy (6)
 cantilever (3)
 cantilevered (5)
 cantilevering (2)
 cantilevers (2)
 capability (1)
 card (1)
 care (5)
 Carol (1)
 Carolina (3)
 CASE (29)
 cases (5)
 CASSIDY (36)
 Cassique (2)
 cause (11)
 cedars (1)
 cement (1)
 CENTER (3)
 certain (8)
 certainly (2)
 CERTIFICATE (1)
 Certified (2)
 certify (3)
 CHAIR (6)
 chairman (5)
 challenge (2)
 challenging (2)
 chance (2)
 change (14)
 changed (2)
 changes (1)
 character (6)
 CHARLESTON (5)
 check (2)
 children (2)
 chips (1)
 choked (1)

Circuit (2)	concern (5)	COWART (6)	denial (1)
civil (2)	concerned (6)	cramped (3)	denied (4)
clarification (2)	concerning (2)	crazy (1)	deny (1)
clarify (1)	concerns (5)	create (1)	department (2)
clarifying (1)	concluded (1)	creating (1)	deprives (1)
CLARK (1)	concludes (2)	creek (2)	depth (3)
clean (1)	condition (4)	criteria (26)	describe (1)
clear (5)	conditions (21)	critical (13)	description (1)
clearance (1)	conducted (3)	CRR (1)	design (23)
clearances (2)	conflict (6)	cul-de-sac (1)	designated (1)
clearly (1)	confused (1)	curious (1)	designed (3)
client (2)	consequences (1)	current (7)	designing (2)
clients (1)	consider (7)	currently (6)	despite (2)
Cliff (1)	consideration (3)	cut (4)	details (3)
Clifton (2)	considered (5)	cutting (1)	detriment (6)
Cliftons (1)	considering (9)	< D >	detrimental (2)
close (8)	considers (1)	damage (7)	develop (1)
closer (2)	consistent (1)	damaged (1)	developed (1)
CMU (1)	constructed (2)	Dan (16)	developer (1)
Code (4)	construction (6)	DANIEL (3)	developers (1)
come (23)	contained (2)	data (1)	developer's (1)
comes (12)	contempt (1)	DATE (4)	development (5)
comfortable (3)	continually (1)	daughter (1)	developments (1)
coming (6)	continuance (2)	day (1)	dialogue (3)
comment (7)	continue (5)	days (7)	diameter (1)
commented (1)	continuing (1)	dead (1)	Diana (3)
comments (14)	contrary (8)	deal (1)	Diane (1)
commission (2)	conversation (3)	dealing (1)	dictate (1)
committee (2)	conversations (1)	deals (2)	differ (2)
common (3)	converts (1)	dealt (1)	difference (2)
communicating (1)	copies (1)	December (1)	different (7)
communication (1)	corner (3)	decide (1)	difficult (3)
community (3)	correct (20)	decision (5)	diligence (1)
company (2)	correctly (1)	decisions (2)	dining (1)
comparatively (1)	cost (1)	deck (16)	direct (1)
compare (1)	council (3)	decking (1)	directed (1)
comparison (2)	counsel (2)	decks (5)	directing (1)
complaining (1)	count (2)	declaration (1)	directly (3)
complete (4)	counting (1)	decrease (1)	dirt (2)
completely (2)	County (6)	decreasing (1)	disapprove (2)
compliance (1)	couple (3)	deep (3)	disapproved (1)
compliments (1)	Courier (1)	deeper (2)	discretion (3)
comprehensive (5)	course (1)	defer (1)	discuss (4)
compressed (1)	court (5)	definitely (1)	discussed (2)
compressor (3)	Cove (1)	degree (4)	discussion (4)
compressors (5)	covenant (11)	deliberations (1)	disruption (1)
compromise (1)	covenants (1)	delimiting (1)	disruptive (1)
computer-aided (1)	coverage (23)	delineate (1)	distance (3)
concept (1)	covered (1)		district (23)

districts (1)	eight (2)	evidence (3)	feeling (2)
disturb (1)	either (7)	evolved (1)	feelings (1)
dock (1)	Elaine (4)	exactly (2)	feels (1)
doctrine (1)	elegant (2)	exception (2)	feet (63)
document (2)	elements (2)	exceptional (4)	felt (4)
documentation (2)	elevated (3)	exceptions (3)	figure (1)
documents (1)	elevation (2)	exhaust (1)	figured (1)
dog (1)	elevation's (1)	exist (1)	file (1)
doing (6)	eliminate (2)	existing (10)	filed (1)
Dolphin (1)	eliminated (3)	expect (1)	files (1)
door (2)	eliminating (4)	expected (2)	final (1)
doubt (1)	Ellmers (1)	expecting (1)	finally (1)
drain (13)	email (1)	expensive (1)	find (1)
drainable (2)	empathize (1)	experiences (1)	fine (1)
drainage (19)	empowered (1)	expert (1)	finish (1)
drains (5)	empty (1)	expires (1)	finished (2)
draw (1)	Enabling (1)	explain (1)	firmly (1)
drawings (1)	encountered (2)	exquisite (1)	first (15)
drawn (1)	encouraged (1)	extend (9)	fit (8)
dream (1)	encroach (5)	extended (1)	fitting (1)
drier (1)	encroaches (6)	extending (1)	five (8)
drive (2)	encroaching (3)	extends (4)	flood (6)
driver (1)	encroachment (31)	extent (3)	flooded (1)
driveway (1)	encroachments (5)	extra (2)	flooding (10)
driving (1)	encroachment's (1)	extraordinary (7)	floods (3)
Droba (4)	endorse (1)	extremely (1)	floor (2)
dual (2)	enemy (2)		flow (2)
due (7)	engineer (2)	< F >	focused (1)
duly (1)	English (1)	facilities (1)	fold (1)
dunk (1)	enjoy (1)	facing (2)	folks (1)
	ensure (2)	fact (8)	follow (2)
< E >	entered (1)	factfinding (1)	following (3)
earlier (1)	entertain (2)	factor (1)	follows (2)
early (1)	entire (1)	facts (2)	follow-up (2)
easement (14)	entrances (1)	fails (1)	foot (33)
easements (1)	entry (1)	Failure (1)	footage (4)
east (6)	environment (2)	fair (1)	footprint (5)
eat (1)	epitomizes (1)	fairly (1)	foregoing (2)
eave (1)	equally (1)	fairness (1)	foregone (1)
eaves (1)	equipment (3)	faith (1)	form (1)
ebb (1)	erosion (6)	fall (3)	forth (3)
ecosystem (2)	especially (2)	false (1)	forward (6)
educated (1)	established (4)	family (4)	found (1)
effect (3)	establishment (5)	family's (1)	foundation (5)
effectively (3)	estimation (1)	far (4)	foundations (2)
effects (1)	event (3)	features (1)	four (7)
efficiency (1)	events (1)	February (1)	four-bedroom (2)
effort (1)	eventually (1)	feedback (1)	four-person (1)
Efforts (1)	everybody (3)	feel (9)	FRANK (5)

frankly (1)
free (1)
Freedom (2)
Friday (4)
front (27)
full (3)
full-time (1)
fully (1)
functional (1)
fundamental (1)
further (12)
Furthermore (1)
future (2)

< G >

Gail (1)
Gail's (1)
gain (2)
gathering (1)
general (3)
generally (6)
generator (1)
getting (3)
GIS (2)
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gives (1)
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glass (1)
go (24)
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goes (13)
going (54)
Good (16)
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gotten (2)
Government (1)
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grades (1)
grand (10)
grandchild (1)
grandchildren (2)
granddaughter (3)
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great (3)

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Greg (1)
Gregory (3)
ground (3)
grounds (2)
group (2)
grow (3)
growing (2)
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guess (6)
guest (3)
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guilty (1)

< H >

half (10)
HALL (9)
HANAN (12)
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hardship (3)
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harmony (4)
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health (5)
healthy (6)
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hearts (1)
height (5)
Hello (2)
help (4)
hereunto (1)
Heron (1)
hesitant (1)
hesitation (1)
hid (1)

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higher (2)
highest (1)
highland (1)
highlands (3)
history (1)
hits (1)
hold (5)
holds (2)
home (14)
homeowner (2)
hope (2)
hopefully (1)
hoping (2)
hours (3)
house (65)
houses (3)
huge (3)
Hunt (3)
hurricanes (1)
husband (1)
HVAC (11)

< I >

idea (3)
identifying (1)
ignore (1)
image (1)
imagine (3)
impact (3)
impacts (1)
imperative (1)
impervious (3)
implying (1)
importance (1)
important (5)
inch (9)
inches (17)
include (12)
includes (2)
including (2)
incorporate (1)
increase (1)
increasing (3)
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individuals (1)
inflow (1)

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Information (14)
informed (4)
initially (2)
Inlet (1)
input (1)
inspection (1)
integral (1)
intending (1)
intent (18)
interest (11)
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Interesting (3)
interests (1)
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interfering (1)
interpret (1)
intrude (1)
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investments (1)
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involved (1)
involves (1)
irreversible (1)
ISLAND (25)
Island's (2)
issue (4)
issues (5)
iteration (1)
iterations (1)
its (3)

< J >

January (1)
JAY (5)
job (4)
JOHN (4)
JULY (5)
June (2)
jurisdiction (2)
justification (1)

< K >

keep (2)
Kenneth (2)
KIAWAH (33)
KICA (4)

KICA's (1)
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kids (1)
kind (4)
kinds (1)
knew (5)
know (50)
knowing (1)
knowledge (2)
known (1)
knows (1)

< L >

lack (1)
Lance (1)
Land (13)
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landscape (2)
landscaping (2)
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larger (1)
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Larry's (1)
late (4)
latest (1)
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leaned (1)
leave (2)
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left-hand (2)
leg (2)
legal (3)
lessen (1)
letter (23)
letters (2)
letting (2)
LEWIS (84)
Libengood (48)
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limbing (1)
limbs (4)
limit (4)
limited (3)
LiMWA (1)
LIN (8)

line (32)
lines (4)
Lin's (1)
listen (1)
listening (1)
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live (23)
lived (2)
living (5)
Local (1)
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LOCATION (4)
long (3)
look (6)
looked (8)
looking (11)
looks (8)
Lori (1)
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loss (1)
lost (2)
lot (106)
lots (9)
lot's (1)
Louise (1)
Lou's (1)
love (2)
loved (1)
low (1)
lower (2)

< M >

ma'am (1)
Mac (2)
magnifying (1)
mailed (2)
maintained (1)
maintenance (1)
major (2)
majority (1)
making (4)
management (1)
mandating (1)
map (5)
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Mariellen (2)
Mark (1)
Markowski (1)
Markowskis (2)

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marshes (1)
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marshlands (2)
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math's (1)
matter (4)
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MEMBERS (14)
member's (1)
Memphis (2)
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MEZZANOTTE (4)
microphone (1)
middle (9)
Milleman (3)
Millemans (1)
mind (4)
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minimum (2)
minutes (5)
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mitigations (1)
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modify (1)
Moncks (1)
money (4)
month (9)

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morning (2)
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motions (4)
MOTT (3)
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moving (5)
multiple (1)
MUNICIPAL (1)
mute (1)
myrtle (2)

< N >

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nature (4)
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needs (3)
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nerve (1)
never (2)
new (7)
news (1)
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night (4)
nine (1)
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normally (3)
north (2)
Notary (1)
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 < O >
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 oceans (1)
 OCR (1)
 OCRM (20)
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 offered (1)
 offering (1)
 official (3)
 Oh (6)
 Okay (38)
 old (2)
 O'LEARY (73)
 once (2)
 ones (2)
 one-story (1)
 Oops (1)
 open (1)
 opinion (3)
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 opportunity (7)
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 opposite (1)
 opposition (10)
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 organizations (1)

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 outcropping (3)
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 outside (2)
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 overall (1)
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 Overlapping (3)
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 overturn (1)
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 Oyster (3)

< P >

P.M (2)
 P.O (1)
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 party (2)
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 percentage (1)
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 permanent (1)
 Permar (1)
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 permits (1)

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 pertinent (2)
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 pervious (10)
 Phil (9)
 PHILLIP (1)
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 physically (4)
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 profitably (2)
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 proposing (2)
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 provide (1)

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 purpose (2)
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 pursuant (4)
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 putting (3)

< Q >

quasi-judicial (2)
 question (34)
 questions (18)
 quick (2)
 quite (4)
 quorum (1)
 quote (6)

< R >

R-1 (11)
 raise (4)
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 Randy (1)
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 really (13)
 Realtime (2)
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 reason (11)

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 rebuttal (5)
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 regards (2)
 Registered (2)
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 regulations (6)
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 Remember (4)
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 removal (1)
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 REPORTED (1)
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 representing (3)
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require (3)
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 residential (4)
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 respects (1)
 respond (2)
 responds (1)
 response (2)
 responsible (1)
 rest (1)
 restrict (5)
 restrictive (1)
 result (5)
 retention (1)
 rethink (1)
 review (5)
 reviews (2)
 revisited (1)
 RHETTS (26)
 ridiculous (1)
 right (40)
 right-hand (3)
 rising (1)
 river (1)
 road (9)
 RODDEY (8)
 roll (1)
 room (16)
 root (4)
 roots (4)
 ROSENFELD (44)
 rot (1)
 roughly (1)
 round (1)
 rounds (1)
 RPR (1)
 rule (3)
 rules (4)
 rulings (1)
 run (1)

running (1)
 runs (2)
 RUTH (3)
 Ryan (1)
 < S >
 sacrifice (1)
 safety (1)
 salt (1)
 Sammy (3)
 saturated (2)
 save (1)
 saving (1)
 saw (7)
 saying (5)
 says (3)
 SC (7)
 scope (1)
 scrapping (1)
 screen (4)
 screened (2)
 screens (1)
 seal (1)
 seawall (2)
 second (11)
 seconded (1)
 seconding (1)
 Section (7)
 sections (1)
 see (14)
 seeing (5)
 seen (2)
 seminar (1)
 send (1)
 sense (5)
 sensitive (2)
 sent (2)
 separate (1)
 sequencing (1)
 serious (1)
 seriously (1)
 serves (1)
 service (1)
 set (6)
 setback (65)
 setbacks (10)
 setting (1)
 setup (1)
 seven (8)

shaking (1)	smugly (1)	stenographically (1)	talk (11)
shallow (1)	snake (1)	step (1)	talked (4)
shape (3)	soaked (1)	steps (2)	talking (4)
share (4)	solution (4)	Stewarding (1)	talks (2)
sheet (2)	solve (1)	stilts (1)	tear (2)
shelf (4)	somebody (4)	stop (1)	tell (5)
Shell (2)	somebody's (1)	storm (2)	telling (1)
shocked (1)	somewhat (1)	storms (2)	ten (2)
Shoolbred (1)	sorry (17)	stormwater (1)	Tennessee (2)
shoreline (2)	sort (5)	story (1)	terms (9)
shorter (1)	south (6)	strategies (1)	terrible (1)
shorty (1)	space (2)	straw (1)	testify (1)
show (2)	speak (13)	street (13)	testimony (4)
shown (5)	SPEAKER (1)	strict (1)	text (1)
shows (1)	speakers (1)	structure (7)	Thank (31)
sic (1)	speaking (3)	structures (4)	thanks (3)
side (44)	spec (1)	studied (1)	theirs (1)
sides (3)	special (6)	studies (3)	thereof (1)
sign (2)	specific (5)	study (1)	thickheaded (1)
significant (5)	specifically (2)	subject (21)	thing (14)
similar (3)	specifics (1)	submit (1)	things (5)
simple (1)	speed (2)	submitted (8)	think (47)
simply (1)	SPENCER (6)	subpoena (1)	thinking (3)
single (6)	spending (1)	subsequent (1)	third (3)
sir (9)	spent (2)	substantial (6)	thought (10)
sit (3)	spirit (6)	substantially (4)	threatening (1)
site (6)	spoke (1)	sued (1)	three (17)
sits (3)	spring (2)	suggested (1)	three-bedroom (1)
situation (9)	square (32)	suggestions (1)	three-fourths (1)
situations (2)	ST (2)	sun (6)	three-step (1)
six (14)	STAFF (26)	Sunlet (1)	ticks (1)
six-foot (1)	staff's (3)	super (1)	tide (3)
size (15)	stair (15)	support (1)	tides (4)
sized (2)	staircase (2)	supposed (2)	tight (1)
sizes (2)	stairs (3)	Sure (15)	TIME (24)
size-wise (1)	stand (10)	surrounding (2)	times (3)
skipped (1)	standard (2)	survey (10)	TMS (4)
slab (11)	standards (4)	surveys (2)	today (20)
slabs (1)	standing (2)	survive (1)	today's (2)
slam (1)	start (1)	swear (1)	told (9)
slide (2)	started (4)	swoops (1)	top (5)
slightly (2)	starts (1)	sworn (5)	topic (1)
slopes (3)	state (8)	system (4)	topo (1)
slowly (1)	stated (3)		total (9)
small (9)	statements (1)	< T >	totally (1)
smaller (4)	states (2)	table (2)	tough (1)
smallest (1)	stating (3)	take (11)	tower (3)
smart (1)	stay (3)	taken (6)	TOWN (25)
smug (1)	staying (1)	takes (1)	town's (3)

transcribed (1)
 transcription (1)
 treat (1)
 tree (39)
 trees (12)
 tree's (1)
 trend (1)
 tried (2)
 true (4)
 truth (3)
 try (7)
 trying (5)
 tucked (1)
 turn (2)
 turning (2)
 twice (2)
 two (25)
 two-story (1)
 type (4)
 types (1)
 typically (1)
 typo (2)

< U >

umbrage (1)
 unable (1)
 unbuildable (1)
 uncovered (3)
 underground (1)
 underneath (5)
 understand (11)
 understanding (4)
 undeveloped (7)
 unexpected (1)
 unfair (1)
 Unfortunately (2)
 unhealthy (1)
 unheard (1)
 UNIDENTIFIED (1)
 unique (2)
 units (2)
 unnecessary (1)
 unreasonably (6)
 unusual (1)
 updated (1)
 urge (1)
 use (19)
 useless (1)
 uses (1)

utilization (5)
 utilized (1)

< V >

valid (2)
 valuable (2)
 values (1)
 valve (6)
 Vanderhorsts (2)
 variance (71)
 variances (6)
 verbal (1)
 verify (1)
 versa (1)
 versus (4)
 VICE (5)
 vicinity (12)
 video (1)
 view (5)
 VINCENT (41)
 violate (1)
 virtually (2)
 vis-a-vis (1)
 visible (1)
 visit (2)
 visual (1)
 voiced (1)
 volume (7)
 vote (6)
 voted (1)

< W >

waders (2)
 walk (1)
 walking (1)
 wall (2)
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 want (38)
 wanted (5)
 watched (1)
 water (19)
 waterborne (1)
 waters (2)
 water's (3)
 wave (2)
 wax (2)
 way (22)
 ways (1)
 wearing (1)

Wednesday (1)
 week (6)
 weeks (1)
 welfare (1)
 well (13)
 went (5)
 we're (22)
 west (3)
 wet (1)
 wetlands (1)
 we've (26)
 wheelchair (4)
 whistle (1)
 wide (7)
 width (3)
 Wiland (38)
 willing (4)
 willingness (1)
 window (1)
 windows (1)
 wing (1)
 wings (1)
 wish (8)
 wished (1)
 withdrawal (2)
 withdrew (1)
 within-entitled (1)
 Witness (3)
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 wonderful (2)
 words (2)
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 worked (2)
 working (5)
 workings (1)
 works (3)
 workshops (1)
 world (1)
 worry (1)
 worth (3)
 wow (1)
 wrapping (1)
 writers (1)
 writing (2)
 written (3)
 WWW.CLARKBOL

EN.COM (1)

< Y >

yard (5)
 year (5)
 years (20)
 year's (1)
 yesterday (3)
 you-all (7)
 YouTube (1)

< Z >

zone (4)
 Zoning (51)
 ZOOM (1)
 zoomed (1)