



**Case #BZA25-000014**  
**Kiawah Island BZA Meeting of September 22, 2025**

**Applicant/Property Owner:** CHERF KELLY TRUST & CHERF JOHN TRUST

**Representative:** Jedd McLuen

**Property Location:** 138 Blue Heron Pond

**TMS#:** 265-02-00-064

**Lot Size:** Total: 33,580 sqft (.77 acres)

**Zoning District:** R-1, Residential Zoning Overlay District

**Request:** Variance request for the reduction of the required 30' side setback for approximately 42 square feet for a proposed HVAC stand

**Requirement:**

Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-65. - R-1, Residential Zoning District.

Required setbacks: 30' (Front); 30' (Side); 30' (Rear)

Maximum 33% Lot Coverage

The Ordinance defines Setback as "a required minimum distance from the lot line, or street right-of-way, or OCRM critical line that establishes an area within which a structure shall be erected." The Ordinance defines Side Setback as, "any setback other than a rear or front setback."

Applicant provided 6 letters of support from neighbors

**Sec. 12-65. R-1, Residential District.**

- (a) *Purpose and intent.* The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single-family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to all dwelling units in the R-1 zoning district:
  - (1) The maximum density for this district is three dwelling units per acre;
  - (2) All required parking shall be enclosed;
  - (3) Open storage is prohibited;
  - (4) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2B following subsection (b)(6) of this section;
  - (5) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings not covered by subsection (b)(4) of this section are listed in table 2B following subsection (b)(6) of this section and table 2C following section 12-66(b)(8);
  - (6) Authorized uses are listed in table 3A in section 12-102(c).

Table 2B. Lot Standards for R-1 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (feet) <sup>(1)</sup>	Minimum Yard Setbacks (feet)			Maximum Height	
				Front <sup>(2)</sup>	Side <sup>(3)(5)</sup>	Rear <sup>(4)</sup>	(stories)	(feet)
8,000—11,999	40 percent	100	60	25	10	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
<sup>(1)</sup> For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.								
<sup>(2)</sup> On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.								
<sup>(3)</sup> A minimum of 15 feet must be provided between structures.								
<sup>(4)</sup> The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								
<sup>(5)</sup> Minimum setbacks in side yard for lots currently in existence and reflected on the current zoning map and fronting on Eugenia Avenue the side yard setback shall be ten feet.								

(Code 1993, § 12A-205; Ord. No. 2005-08, § 12A-205, 10-12-2005; Ord. No. 2006-10, § 2, 2-6-2007; Ord. No. 2007-05, § 2(12A-205), 7-10-2007)

Sec. 12-64. - Setbacks.

*Setback* means a required minimum distance from the lot line, or street right-of-way, or OCRM critical line that establishes an area within which a structure shall be erected.

- (1) *Contextual setbacks.* Notwithstanding the front setback requirements of the underlying zoning district, the front building line of any structure or addition to a structure may be as close to the street as the front building line of a structure located on any lot that is immediately adjacent to the subject lot. If the subject lot is located between two developed lots, the front building line of the structure that is set back further from the street shall apply to the subject lot.
- (2) *Setbacks on corner and double frontage lots.* On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principle structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- (3) *Exception to setbacks.* Every part of a required setback must be open and unobstructed from the ground to the sky except as set out in this subsection.

Driveways and walkways may be located within any required setback.

Uncovered stairs or stair landings to building entrances may extend up to five feet into any required setback.

Uncovered, at-grade patios may extend into a required setback; however, they shall maintain a minimum ten-foot distance from the property line.

Uncovered decks may extend up to five feet into any required rear yard setback.

Sills, belt courses, cornices, buttresses, eaves and other architectural features may extend up to two feet into any required setback.

Walls and retaining walls below three feet in height may be located within required setback.

In all zoning districts heating, ventilation and air conditioning (HVAC) equipment and associated HVAC stands may extend up to five feet into required side or rear setbacks only when all of the following conditions are met:

- (1) The HVAC equipment is replacing existing HVAC equipment which was originally placed below an existing structure and/or which HVAC equipment being replaced is now required to be elevated to meet the requirements of the Federal Emergency Management Agency (FEMA) and the Town of Kiawah Island Building Code;
- (2) Such HVAC equipment cannot reasonably be accommodated within the setback required by otherwise applicable zoning requirements;
- (3) The property owner has, through regular mail postmarked no later than five days in advance of applying for a Zoning Permit, notified the affected adjacent property owner(s) that are adjacent to the property line where the proposed HVAC equipment will be located, and has submitted to the Planning Director a signed affidavit stating that such property owner has notified the affected adjacent property owner(s) and proving each name and address to which notice was sent; and
- (4) A Zoning Permit is approved by the Planning Director.

(Code 1993, § 12A-204; Ord. No. 2005-08, § 12A-204, 10-12-2005; Ord. No. 2012-03, § 2, 4-3-2012; Ord. No. [2015-04](#), § 2, 4-14-2015)

REFERENCE:  
BLAT BY: MARK S BUSSEY  
DATED: JUNE 15, 1999  
RMC CHAS. CO.  
TAX MAP No. 265-02-00-062  
No. 134 BLUE HERON POND RD  
TAX MAP No. 265-02-00-063  
No. 136 BLUE HERON POND RD  
PLAT BY: MARK S BUSSEY  
DATED: MAY 9, 2000  
BOOK: EE PAGE: 293  
RMC CHAS. CO.  
TAX MAP No. 265-02-00-064  
No. 138 BLUE HERON POND RD  
TAX MAP No. 265-02-00-064  
BOOK: EE PAGE: 293  
RMC CHAS. CO.  
Requested by: TODD SINGLETON

**APPROVED EXEMPT PLAT**  
DIRECTOR OF PLANNING  
KIAWAH ISLAND  
SB022-000003  
APPLICATION #  
2/19/2022  
DATE

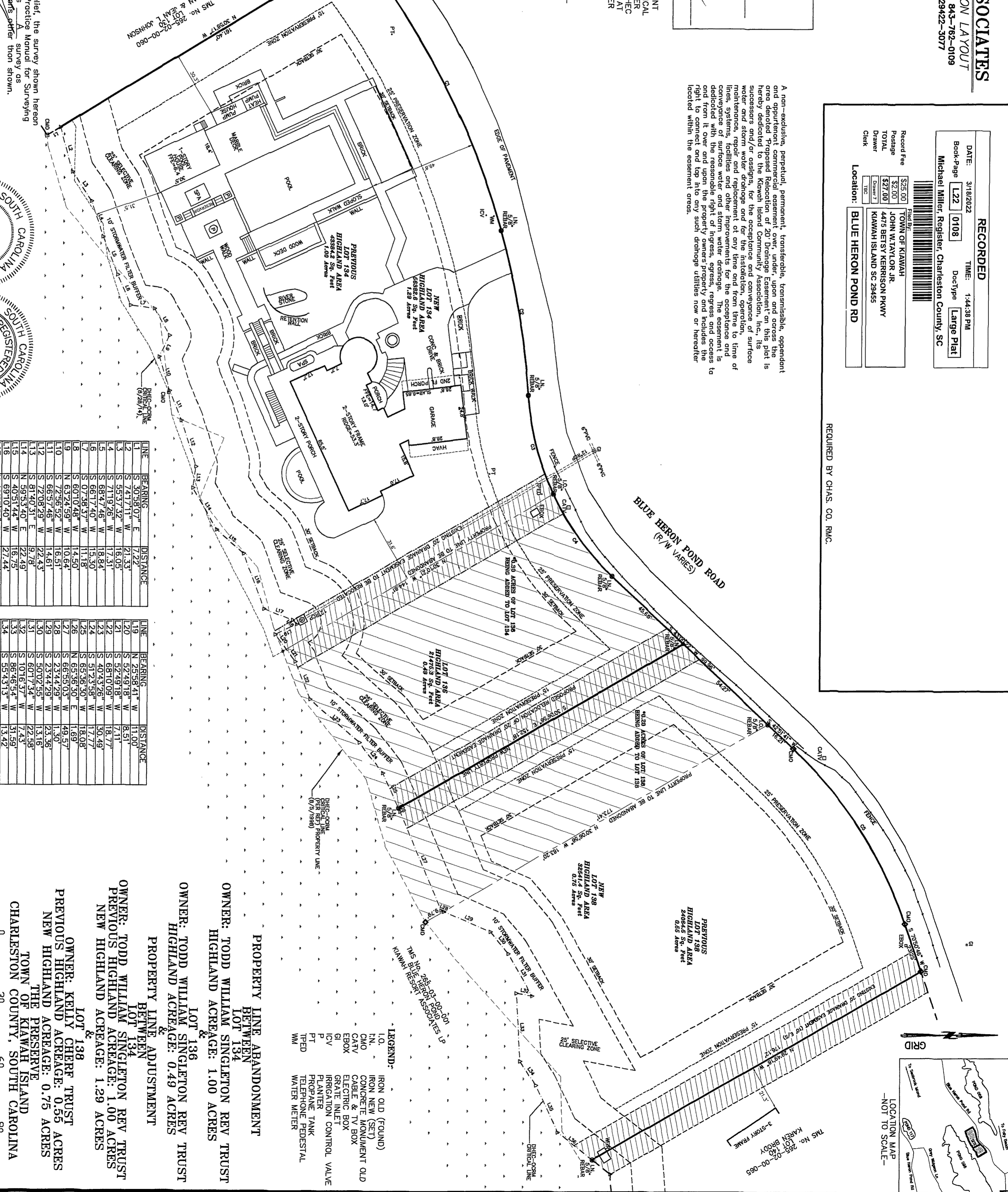
MCKENZIE O'CONNOR  
SIGNATURE  
DATE 12-22-2021  
The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.

**NOTES:**  
BEARING SHOWN ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM, NAD 83.  
AREA DETERMINED BY COORDINATE METHOD.  
THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH, ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.  
THE REQUIRED SETBACKS MAY BE DESIGNATED AND/OR VARIED BY THE KIAWAH ISLAND ARCHITECTURAL REVIEW BOARD. THE ARCHITECTURAL REVIEW BOARD RESERVES THE RIGHT TO GRANT VARIANCES TO EXPAND THE "BUILDABLE" AREA AND/OR TO EXPAND THE "BUILDABLE" AREA.  
A UNITED STATES ARMY CORPS OF ENGINEERS (USACE) JURISDICTIONAL DETERMINATION IS NOT REQUIRED FOR APPROVAL OF A SUBDIVISION PLAT APPLICATION EXCEPT THAT AN APPROVED JURISDICTIONAL DETERMINATION IS REQUIRED FOR AREAS LOCATED WITHIN PROPOSED PUBLICLY DEDICATED RIGHTS-OF-WAY AND/OR EASEMENTS PRIOR TO PRELIMINARY PLAT APPROVAL. WHEN A USACE JURISDICTIONAL DETERMINATION FOR THE ENTIRE PROPERTY IS NOT PROVIDED AS PART OF THE SUBDIVISION APPLICATION, THE FOLLOWING NOTES SHALL BE PLACED ON THE PLAT:  
i. THE USAGE HAS NOT MADE A DETERMINATION OF THE PRESENCE OR ABSENCE OF WETLANDS AND/OR WATER OF THE UNITED STATES ON THIS PROPERTY/THESE PROPERTIES AS OF THE DATE OF APPROVAL/RECORDING OF THIS PLAT.  
ii. JURISDICTION DETERMINATION BY THE UNITED STATES ARMY CORPS OF ENGINEERS ON THIS PROPERTY/THESE PROPERTIES PRIOR TO THE ISSUANCE OF ZONING PERMITS FOR LAND DEVELOPMENT ACTIVITIES.  
PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE (EL. 11') AS PER FEMA FLOOD MAPS.  
DATED: JANUARY 29, 2021  
COMMUNITY No. 450257

A non-exclusive, perpetual, permanent, transferable, transmissible, appurtenant and opportunity conveyed easement is hereby granted, proposed, and accepted, and the area denoted "Proposed Relocation of 20' Dr. under Easement" on this plat is hereby dedicated to the Kiawah Island Community Association, Inc., its successors and/or assigns, for the installation, operation, maintenance, repair and replacement of any time and from time to time of lines, systems, facilities and other improvements for the acceptance and conveyance of surface water and storm water drainage. The easement is dedicated with the reasonable right of ingress, egress, regress and access to the easement and upon the property owners' property and includes the right to install, repair and replace any such drainage utilities now or hereafter located within the easement areas.

**RECORDED**  
DATE: 3/18/2022 TIME: 1:44:38 PM  
Book-Page: L22 0108 DocType: Large Plat  
Michael Miller, Register, Charleston County, SC  
Record Fee: \$25.00  
Postage: \$2.00  
TOTAL: \$27.00  
TOWN OF KIAWAH  
JOHN W. TAYLOR JR.  
4475 BETSY KERRISON PKWY  
KIAWAH ISLAND SC 29455  
Location: BLUE HERON POND RD

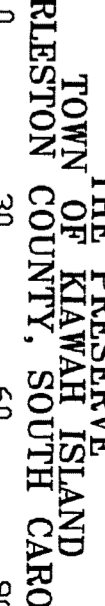
REQUIRED BY CHAS. CO. RMC.



LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
1	S 30°58'07" E	7.22	19	N 63°38'41" W	11.00
2	S 74°17'11" W	21.33	20	N 62°48'18" W	8.31
3	S 55°33'32" W	16.05	21	S 62°48'18" W	7.11
4	S 71°19'26" W	17.31	22	S 61°10'09" W	18.77
5	S 68°47'46" W	18.84	23	S 61°43'26" W	30.49
6	S 66°17'40" W	15.36	24	S 61°43'26" W	17.77
7	S 07°56'37" W	11.18	25	S 63°38'30" W	18.05
8	S 60°10'48" W	14.50	26	N 63°38'30" W	18.05
9	N 63°24'59" W	10.64	27	N 66°35'03" W	49.57
10	S 72°56'57" W	16.51	28	S 23°44'29" W	13.30
11	S 66°57'46" W	14.81	29	S 23°44'29" W	23.36
12	S 72°08'29" W	22.43	30	S 101°57'54" W	22.58
13	S 81°40'31" E	92.49	31	S 101°57'54" W	7.43
14	N 59°53'40" E	92.49	32	S 86°46'54" W	51.59
15	S 40°51'44" W	16.49	33	S 86°46'54" W	13.42
16	S 69°10'40" W	27.44	34	S 53°43'13" W	13.42
17	N 19°57'30" E	12.44	35	S 64°26'20" W	23.81
18	N 45°45'08" E	12.82	36	S 38°17'25" W	20.57

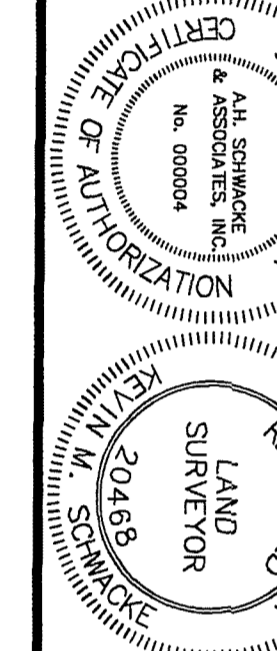
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	36.776'	14.34	146.36'	S 62°40'57" W	22°57'19"
C2	36.776'	76.92'	76.78'	N 80°09'08" E	11°59'02"
C3	125.00'	47.35'	47.07'	N 75°17'30" E	21°42'18"
C4	125.00'	46.97'	46.70'	S 53°44'52" W	21°31'48"
C5	200.00'	97.69'	96.72'	N 56°56'49" E	27°59'09"

**PROPERTY LINE ABANDONMENT**  
BETWEEN  
LOT 134  
OWNER: TODD WILLIAM SINGLETON REV TRUST  
HIGHLAND ACREAGE: 1.00 ACRES  
  
LOT 136  
OWNER: TODD WILLIAM SINGLETON REV TRUST  
HIGHLAND ACREAGE: 0.49 ACRES  
  
LOT 138  
OWNER: KELLY CHEREF TRUST  
PREVIOUS HIGHLAND ACREAGE: 0.75 ACRES  
NEW HIGHLAND ACREAGE: 0.75 ACRES  
  
TOWN OF KIAWAH ISLAND  
THE PRESERVE  
CHARLESTON COUNTY, SOUTH CAROLINA



DATE: MARCH 19, 2021 SCALE: 1" = 30'  
REVISED: OCTOBER 1, 2021  
REVISED: OCTOBER 18, 2021 (EASEMENT)  
REVISED: NOVEMBER 18, 2021 (OCRM & EASEMENT)  
REVISED: JANUARY 6, 2022 (LOT 138 SETBACK)

CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS PLAT IS COPYRIGHTED AND IS INTENDED ONLY FOR THE ENTITY OR PERSON(S) SHOWN HEREON. THIS PLAT REPRESENTS A SURVEY BASED ON THE LISTED REFERENCES ONLY AND IS NOT THE RESULT OF A TITLE SEARCH. KM21 / 21055 SD



**Staff Review:**

The applicant and property owners, Cherf Kelly Trust & Cherf John Trust, represented by Jedd McLuen, are requesting a variance for the reduction of the required 30-foot side setback by approximately 42 square feet for a proposed HVAC stand located at 138 Blue Heron Pond, Kiawah Island, SC (TMS# 265-02-00-064). The subject property is located within the R-1, Residential Zoning District.

The subject property is approximately 33,580 square feet (0.77 acres) in size. The property has been recently developed as a single-family residence. A zoning permit was approved on January 16, 2024, and the building permit was approved on January 26, 2024. The CO was issued for the Subject Property on June 6, 2025. The surrounding properties to the east, west, and to the north are located within the R-1, Residential Zoning District. The marsh sits adjacent to the south of the Subject Property. Adjacent properties are developed with single-family homes of similar character. The subject property is subject to review by the Kiawah Island Architectural Review Board (KIARB).

The *Town of Kiawah Island Land Use Planning and Zoning Ordinance* pursuant to *Sec. 12-65. R-1, Residential District* requires a 30' front yard setback, a 30' side yard setback and a 30' rear yard setback. The maximum allowable lot coverage for the subject property is 33%. The subject property is considered non-conforming regarding setbacks.

The Town was notified on June 11, 2025 by a neighbor of a potential violation located at the subject property of newly installed HVAC equipment on the home. After obtaining site pictures, and discussion with the representative, the Town requested the applicant provide an as-built survey to determine if the HVAC equipment was in violation. The applicant submitted an As-built survey for review on August 1, 2025. In reviewing the requested as-built survey of the subject property, planning staff determined that the HVAC equipment was in violation of the required building setbacks, as the newly installed HVAC stand extends into the required 30' side setback. Planning staff notified the applicant of the violation and advised the applicant they must come into compliance. On August 14, 2025 the applicant subsequently applied for a zoning variance to remove the existing HVAC equipment, and build an enclosed HVAC stand beyond the 30' left side setback.

The applicant's proposed plans include the installation of an HVAC stand that would encroach into the required 30-foot side setback by approximately 4 feet. The requested variance seeks relief for approximately 42 square feet of encroachment into the side setback area. The proposed HVAC stand is approximately 26' from the adjacent property line. The proposed HVAC stand is intended to replace the existing HVAC equipment currently in violation of the Zoning Ordinance.

The current total lot coverage is 26.2%, 0.9% of which is pervious. The proposed HVAC stand will add approximately 42 square feet, resulting in a total proposed lot coverage of approximately 26.4%.

The Ordinance defines Setback as *"a required minimum distance from the lot line, or street right-of-way, or OCRM critical line that establishes an area within which a structure*

*shall be erected.” The Ordinance defines Side Setback as, “any setback other than a rear or front setback.”*

The Ordinance states in Sec. 12-64. – Setbacks that *“In all zoning districts heating, ventilation and air conditioning (HVAC) equipment and associated HVAC stands may extend up to five feet into required side or rear setbacks only when all of the following conditions are met:*

- a. The HVAC equipment is replacing existing HVAC equipment which was originally placed below an existing structure and/or which HVAC equipment being replaced is now required to be elevated to meet the requirements of the Federal Emergency Management Agency (FEMA) and the Town of Kiawah Island Building Code;*
- b. Such HVAC equipment cannot reasonably be accommodated in compliance with the setback required by otherwise applicable zoning requirements;*
- c. The property owner has, through regular mail postmarked no later than five days in advance of applying for a zoning permit, notified the affected adjacent property owner(s) that are adjacent to the property line where the proposed HVAC equipment will be located, and has submitted to the Planning Director a signed affidavit stating that such property owner has notified the affected adjacent property owner(s) and proving each name and address to which notice was sent; and*
- d. A zoning permit is approved by the Planning Director.”*

The applicant has submitted to the Kiawah Island Architectural Review Board (KIARB) for review. The KIARB granted approval stating, *“The appeal to locate the equipment stand in the side yard is approved for the attached design in consideration of the quality of the architecture and as the recommended solution of the architect to best respect the defining architectural elements of the home and to fully screen all equipment in this location. Ample landscaping to screen the side of the property and the stand will be required.”*

Please see the attachments for further information regarding this request. A site visit was conducted on September 5, 2025, at which time the following determinations were made regarding the Approval Criteria for Variances, as stated in Chapter 12 of the Town of Kiawah Island *Land Use Planning and Zoning Ordinance*, Article II, Division 5, Section 12-163.(4):

**Staff Findings:**

The BZA may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is so substantial, serious, and compelling that relaxation of the general restrictions ought to be granted. No variance shall be granted unless the applicant shall show and the BZA shall find that:

§ 12-163.(4)a.: *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Staff Response:** **Staff finds there are conditions that may qualify as extraordinary/exceptional for this parcel. Per the applicant's letter of intent, "*The property is located in a LIMWA zone which provides limited opportunities for utility services to the home. The side setbacks are somewhat more restrictive at 30' for a residential property.*"**

§ 12-163.(4)b.: *These conditions do not generally apply to other property in the vicinity;*

**Staff Response:** **These conditions may be unique to the subject property and may not generally apply to other properties in the vicinity. The property is located in the R-1 Residential Zoning District. Adjacent properties along Blue Heron Pond Road are also located in the R-1 Residential Zoning District. Existing structures in the vicinity may or may not have similar encroachments based on current setback standards. Per the applicant's letter of intent, "*The LIMWA designation is a fairly new flood designation that didn't apply to neighboring properties when built.*"**

§ 12-163.(4)c.: *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

**Staff Response:** **The application of this Ordinance to the property may not prohibit or unreasonably restrict the utilization of the property. Per the applicant's letter of intent, "*These conditions don't prohibit the utilization, but would require an aesthetic location that isn't supported by neighbors.*"**

§ 12-163.(4)d.: *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

**Staff Response:** **The authorization of this variance may not be of substantial detriment to the adjacent properties or the public good. The proposed location has received support from the adjacent property owner and the KIARB, with conditions requiring screening. Per the applicant's letter of intent, "*The adjacent homeowner is in full agreement with the proposed variance along with other neighboring properties and the Kiawah Island ARB (see attached support letters).*"**

§ 12-163.(4)e.: *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;*

**Staff Response:** **Granting of this variance would not allow the establishment of a use not otherwise permitted in this zoning district, extend physically a non-conforming use of land, or change the zoning district boundaries.**

§ 12-163.(4)f.: *The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;*

**Staff Response:** **The BZA may not consider profitability when considering this variance request. Per the applicant's letter of intent, "*Financial basis is not a motive for the variance request.*"**

§ 12-163.(4)g.: *The need for the variance shall not be the result of the applicant's own actions;*

**Staff Response:** **The need for the variance may be the result of the applicant's own actions. Per the applicant's letter of intent, "*The applicant has not acted in a way to cause the request for the variance.*"**

§ 12-163.(4)h.: *Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent and purpose of these regulations;*

**Staff Response:** **Given the KIARB approval and written support from adjacent neighbors, granting the variance may not be contrary to neighborhood or public interests. The intent of the setback—to provide separation and visual relief—will be preserved through required screening. Per the applicant's letter of intent, "*This would not be contrary to the public or neighborhood interest and would not interfere with the purpose of the regulations. The letters of approval from the ARB and also from adjacent neighbors indicate a majority agreement in the variance request.*"**

§ 12-163.(4)i.: *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Staff Response:** **Granting of the variance may not substantially conflict with the *Comprehensive Plan* or the purposes of the *Ordinance*. The proposed plans are in line with the Town of Kiawah Islands Land Use element of the Comprehensive plan of maintaining the residential character and natural environment of Kiawah Island. Per the applicant's letter of intent, "*This would not conflict with the comprehensive plan as there is plenty of available lot***

***coverage and the approved variance would not allow another building or habitable structure.”***

**Board of Zoning Appeals' Action:**

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000014 (Variance request to reduce the required 30-foot side setback for approximately 42 square feet to allow a proposed HVAC stand at 138 Blue Heron Pond, Kiawah Island, SC; TMS# 265-02-00-064) Based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision.

**Should the Board of Zoning Appeals consider approval of the variance, planning staff requests the BZA consider the following conditions:**

- 1) The applicant shall provide an as-built survey to the Planning Director, ensuring the proposed addition conforms to the requested and approved encroachment.
- 2) Prior to the issuance of a zoning permit and construction, the applicant shall provide a landscape plan to be approved by the Planning Director showing enhanced landscaping providing additional buffering from the adjacent neighbor and from the street.

# Town of Kiawah Island Board of Zoning Appeals

September 22, 2025



*Town of Kiawah Island Municipal Center | 4475 Betsy Kerrison Parkway | Kiawah Island, SC 29455*

**CASE# BZA25-000014**

<b>Applicant/Property Owner:</b>	<b>CHERF KELLY TRUST &amp; CHERF JOHN TRUST</b>
<b>Representative:</b>	<b>Jedd McLuen</b>
<b>Property Location:</b>	<b>138 Blue Heron Pond</b>
<b>TMS#:</b>	<b>265-02-00-064</b>
<b>Lot Size:</b>	<b>Total: 33,580 sqft (.77 acres)</b>
<b>Zoning District:</b>	<b>R-1, Residential Zoning Overlay District</b>
<b>Request:</b>	<b>Variance request for the reduction of the required 30' side setback for approximately 42 square feet for a proposed HVAC stand</b>

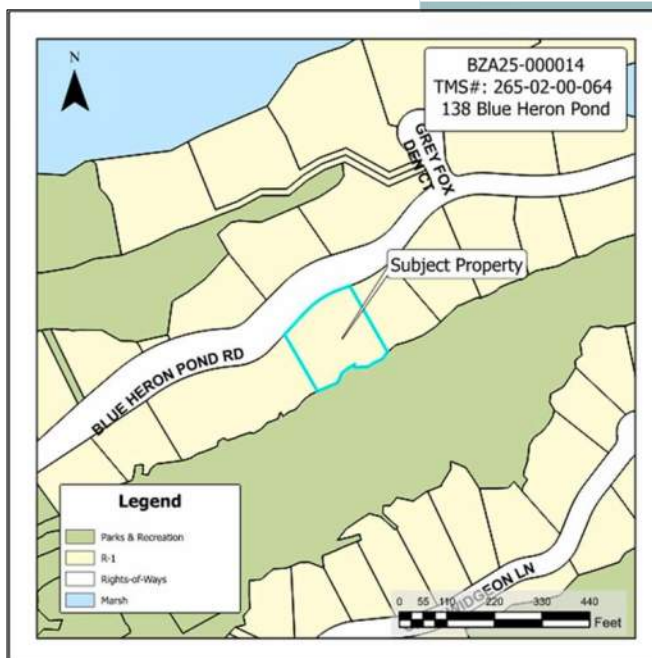
**CASE# BZA25-000014**

**Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-65. - R-1, Residential District.**

**Required setbacks: 30' (Front); 30' (Side); 30' (Rear)  
Maximum 33% Lot Coverage**

**The Ordinance defines Setback as “a required minimum distance from the lot line, or street right-of-way, or OCRM critical line that establishes an area within which a structure shall be erected.” The Ordinance defines Side Setback as, "any setback other than a rear or front setback**

3



4



5

**Case # BZA25-000014**  
**BZA Meeting of September 22, 2025**  
**Subject Property: 138 Blue Heron Pond Road– Kiawah Island**

Variance request for the reduction of the required 30' side setback for approximately 42 square feet for a proposed HVAC stand.



6

### Property Front



### Adjacent Properties



### Adjacent Properties



### Property Side



### Property Side



### Property Rear

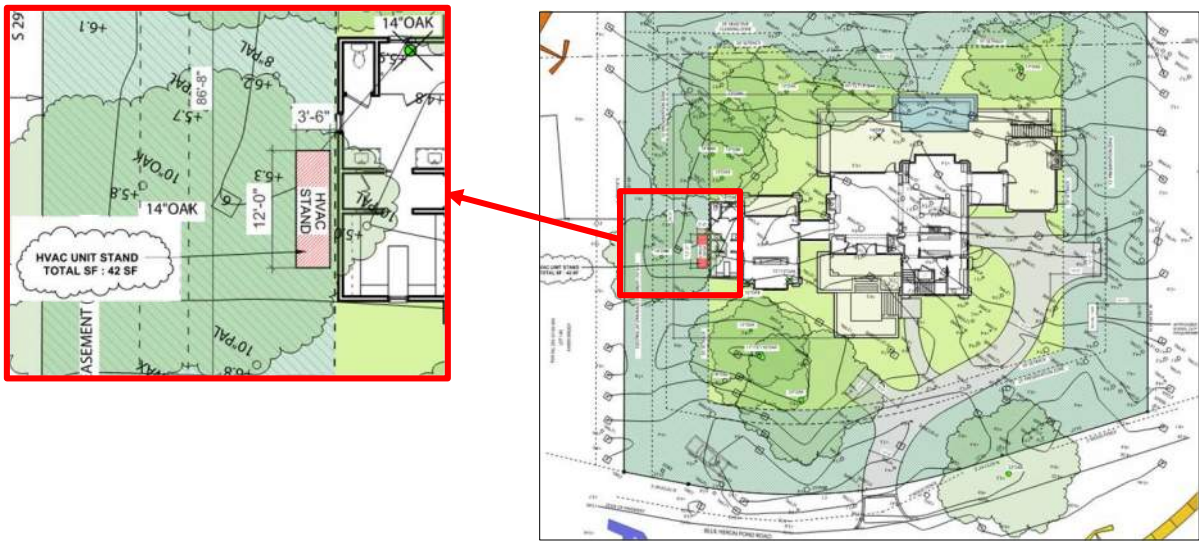


### Subject Property



13

### Proposed Site Plan



14

## Variance Approval Criteria

According to Chapter 12 of the Land Use Planning and Zoning Ordinance of the Town of Kiawah Island Code of Ordinances, Section 12-163. Variances (4) Approval Criteria, the Board of Zoning Appeals may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is so substantial, serious, and compelling that relaxation of the general restrictions ought to be granted. No variance shall be granted unless the applicant shall show and the BZA shall find that:

- a) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b) These conditions do not generally apply to other property in the vicinity;
- c) Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
- d) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;

15

## Variance Approval Criteria

e) The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;

f) The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;

g) The need for the variance shall not be the result of the applicant's own actions;

h) Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent and purpose of these regulations;

i) Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

16

## **Board of Zoning Appeals Action**

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000014 (Variance request for the reduction of the required 30' side setback for approximately 42 square feet for a proposed HVAC stand located at 138 Blue Heron Pond, Kiawah Island, SC (TMS # 265-02-00-064) based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision.

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.



June 19, 2025

Kelly Ann and John Cherf  
179 Marsh Hawk Lane  
Kiawah Island, SC 29455

**PHYSICAL ADDRESS**  
250 Gardeners Circle, Suite 200  
Johns Island, SC 29455

**MAILING ADDRESS**  
130 Gardeners Circle, Suite 123  
Johns Island, SC 29455

Re: **Variance Appeal**  
Construction Address: 138 Blue Heron Pond Road  
ARB Action: Approved

Dear Dr. and Mrs. Cherf,

Thank you for your submittal to the Kiawah Island Architectural Review Board (KIARB) to appeal the denial of your request for a variance to locate mechanical equipment over the side setback at 138 Blue Heron Pond Road.

The appeal to locate the equipment stand in the side yard is approved for the attached design in consideration of the quality of the architecture and as the recommended solution of the architect to best respect the defining architectural elements of the home and to fully screen all equipment in this location. Ample landscaping to screen the side of the property and the stand will be required.

Once again, thank you for your submittal to the ARB. Please let us know how we can assist you moving forward.

Sincerely,

Jane Maybank, *Director*  
On Behalf of the Kiawah Island Architectural Review Board

cc: Property file  
ARB Members

Encl. Proposal Drawing



**GENERAL NOTES:**

1. REFERENCE PLAT BOOK ED. PAGE 375
2. ELEVATIONS AND CONTOURS REFER TO MEAN SEA LEVEL.
3. TMS NUMBER #265-02-00-064
4. TOTAL HIGHLAND AREA OF PROPERTY IS 33,580 SF OR .77 ACRES.
5. PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE. ELEVATION 11' SHOWN ON COMMUNITY PANEL 45019C-0668 K DATED JANUARY 29, 2021.

**LOT COVERAGE CALCULATIONS:**

138 BLUE HERON POND ROAD	
LOT SIZE:	33,580 SF
HIGHLAND AREA:	33,580 SF
MAX. ALLOWABLE LOT COVERAGE (30%):	10,074 SF
MIN. OPEN SPACE: (60%):	20,148 SF
<b>BUILDING FOOTPRINT:</b>	<b>2,998 SF</b>
SCREENED + COVERED:	838 SF
OPEN DECKING + STAIRS:	1,238 SF
PRIMARY DRIVE + WALKS:	2,372 SF
RAISED PLANTERS:	682 SF
POOL + SPA:	375 SF
HVAC:	42 SF
<b>TOTAL LOT COVERAGE:</b>	<b>8,545 SF</b>
HIGHLAND AREA:	33,580 SF
LOT COVERAGE %:	25.4%
SECONDARY ELEMENTS SF:	308 SF
PRIMARY + SECONDARY TOTAL %:	26.3% (not to exceed 30.67%)

**A1 LOT COVERAGE DIAGRAM + CALCULATIONS**

**A1 SITE PLAN**  
SCALE: 1" = 10'-0"

**LEGEND**

- 10- CONTOUR LINE WITH ELEVATION
- 24" + DIAMETER OAK
- 12" + DIAMETER OAK
- BUILDABLE AREA
- NON-BUILDABLE AREA
- PRIMARY DRIVES + WALKS
- SECONDARY LOT COVERAGE

**cumulus**  
architecture + design llc

ARCHITECT SEAL & SIGNATURE

STATE OF SOUTH CAROLINA  
CUMULUS ARCHITECTURE + DESIGN LLC  
Charleston, SC  
No. 10784  
REGISTERED ARCHITECT




STATE OF SOUTH CAROLINA  
ROBERT DENTON  
Charleston, SC  
No. 9559  
REGISTERED ARCHITECT

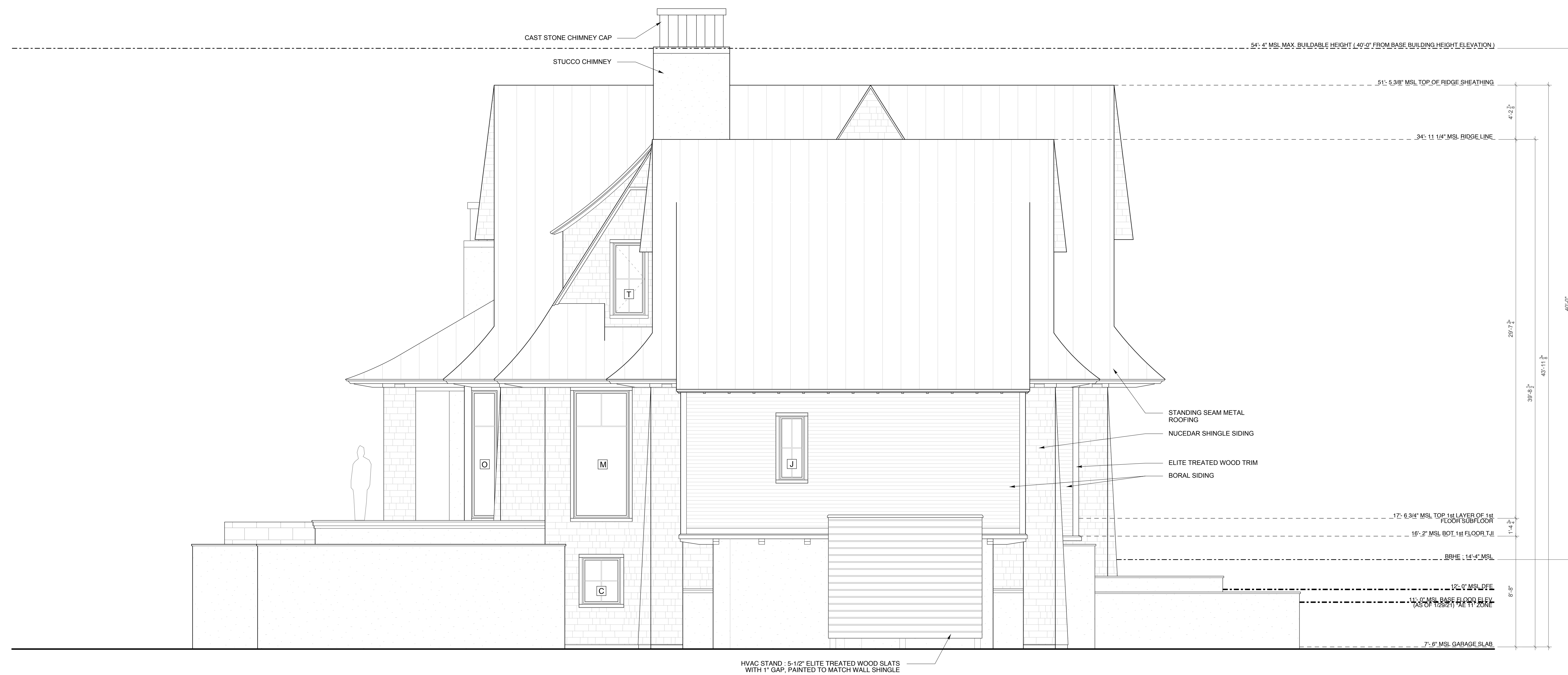
WARNING: IT IS A VIOLATION OF THE LAW FOR ANY PERSON, UNLESS ACTING UNDER THE EXPLICIT DIRECTION OF A LICENSED ARCHITECT, TO ALTER THIS ITEM IN ANY WAY.

HVAC STAND : SIDE ELEVATION 6.18.25		
<b>the CHERF</b> <b>RESIDENCE</b>		
138 BLUE HERON POND RD. KIAWAH ISLAND, SC		
DRAWING NAME		
<b>SITE PLAN</b>		
DATE:	DRAWN BY:	PROJ. NO.:
5.29.24	RDL	03.22
SHEET NUMBER:		<b>A-100</b>



**A1 NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"

	HVAC STAND : SIDE ELEVATION 6.18.25	
	<b>the CHERF RESIDENCE</b> 138 BLUE HERON POND RD. KIAWAH ISLAND, SC	
ARCHITECT SEAL & SIGNATURE 	DRAWING NAME <b>NORTH ELEVATION</b>	DATE: 5.29.24 DRAWN BY: RDL PROJ. NO.: 03.22
	SHEET NUMBER: <b>A-200</b>	
<small>WARNING: IT IS A VIOLATION OF THE LAW FOR ANY PERSON, UNLESS ACTING UNDER THE EXPLICIT DIRECTION OF A LICENSED ARCHITECT, TO ALTER THIS ITEM IN ANY WAY.</small>		



**A1 EAST ELEVATION**  
SCALE: 1/4" = 1'-0"

**cumulus**  
architecture + design llc

ARCHITECT SEAL & SIGNATURE

STATE OF SOUTH CAROLINA  
CUMULUS ARCHITECTURE + DESIGN LLC  
Charleston, SC  
No. 100764  
REGISTERED ARCHITECTS

STATE OF SOUTH CAROLINA  
ROBERT DENTON  
Charleston, SC  
No. 8550  
REGISTERED ARCHITECTS

WARNING: IT IS A VIOLATION OF THE LAW FOR ANY PERSON, UNLESS ACTING UNDER THE EXPLICIT DIRECTION OF A LICENSED ARCHITECT, TO ALTER THIS ITEM IN ANY WAY.

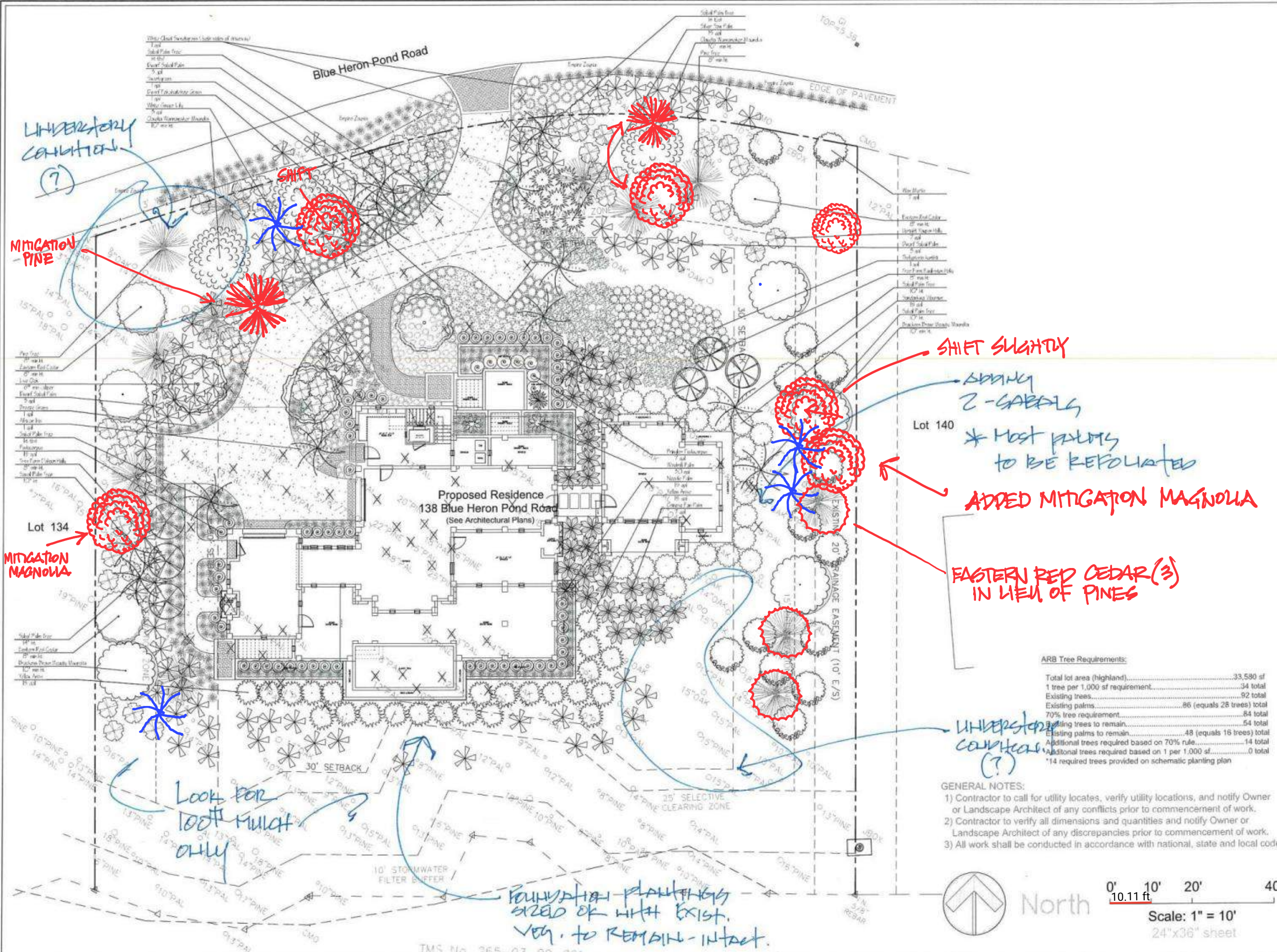
HVAC STAND : SIDE ELEVATION  
6.18.25

**the CHERF RESIDENCE**  
138 BLUE HERON POND RD.  
KIAWAH ISLAND, SC

DRAWING NAME  
**EAST ELEVATION**

DATE: 5.29.24 DRAWN BY: RDL PROJ. NO.: 03.22

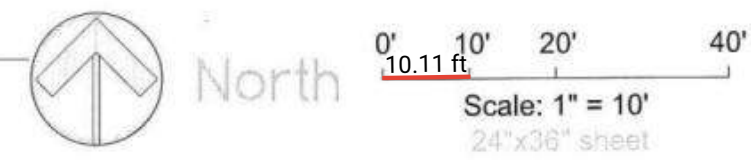
SHEET NUMBER: **A-201**



ARB Tree Requirements:

Total lot area (highland)	33,580 sf
1 tree per 1,000 sf requirement	34 total
Existing trees	92 total
Existing palms	86 (equals 28 trees) total
70% tree requirement	84 total
Planting trees to remain	54 total
Existing palms to remain	48 (equals 16 trees) total
Additional trees required based on 70% rule	14 total
Additional trees required based on 1 per 1,000 sf	0 total
*14 required trees provided on schematic planting plan	

- GENERAL NOTES:
- 1) Contractor to call for utility locates, verify utility locations, and notify Owner or Landscape Architect of any conflicts prior to commencement of work.
  - 2) Contractor to verify all dimensions and quantities and notify Owner or Landscape Architect of any discrepancies prior to commencement of work.
  - 3) All work shall be conducted in accordance with national, state and local codes.



L4- Planting Plan  
October 25, 2023  
February 14, 2025  
March 12, 2025

REFERENCE:  
BLAT BY: MARK S BUSSEY  
DATED: JUNE 15, 1999  
RMC CHAS. CO.  
TAX MAP No. 265-02-00-062  
No. 134 BLUE HERON POND RD  
TAX MAP No. 265-02-00-063  
No. 136 BLUE HERON POND RD  
PLAT BY: MARK S BUSSEY  
DATED: MAY 9, 2000  
BOOK: EE PAGE: 293  
RMC CHAS. CO.  
TAX MAP No. 265-02-00-064  
No. 138 BLUE HERON POND RD  
Requested by: TODD SINGLETON

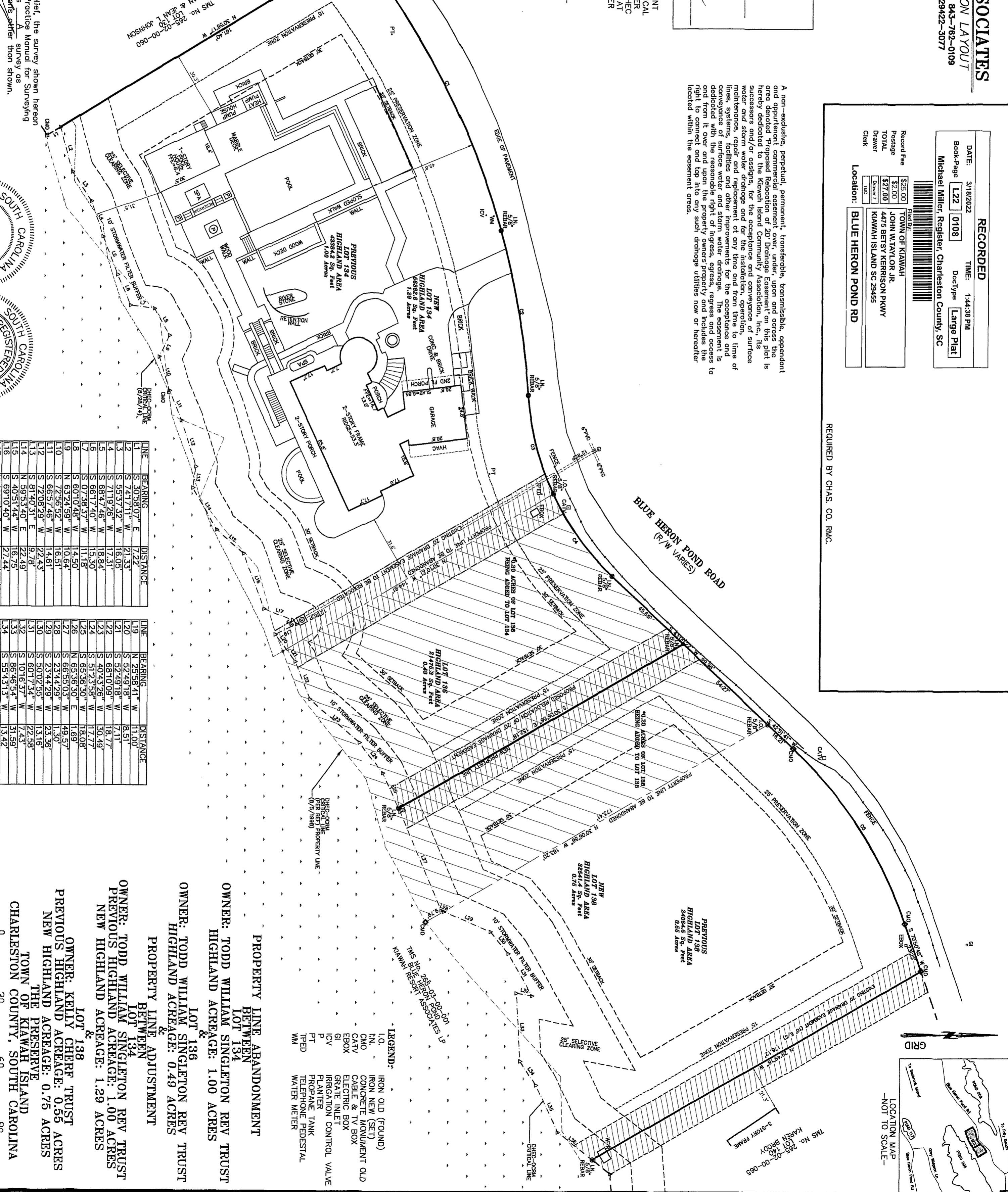
**APPROVED EXEMPT PLAT**  
DIRECTOR OF PLANNING  
KIAWAH ISLAND  
SB022-000003  
APPLICATION #  
2/19/2022  
DATE

MCKENZIE O'CONNOR  
SIGNATURE  
DATE 12-22-2021  
The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.

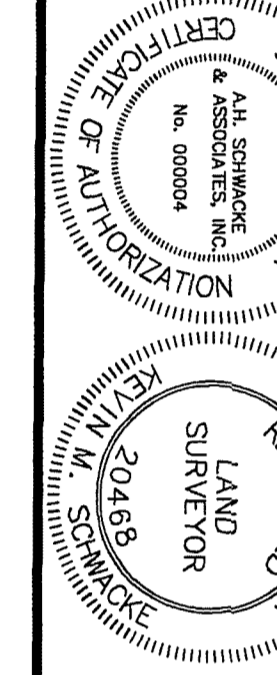
**NOTES:**  
BEARING SHOWN ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM, NAD 83.  
AREA DETERMINED BY COORDINATE METHOD.  
THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH, ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.  
THE REQUIRED SETBACKS MAY BE DESIGNATED AND/OR VARIED BY THE KIAWAH ISLAND ARCHITECTURAL REVIEW BOARD. THE ARCHITECTURAL REVIEW BOARD RESERVES THE RIGHT TO GRANT VARIANCES TO EXPAND THE "BUILDABLE" AREA AND/OR TO EXPAND THE "BUILDABLE" AREA.  
A UNITED STATES ARMY CORPS OF ENGINEERS (USACE) JURISDICTIONAL DETERMINATION IS NOT REQUIRED FOR APPROVAL OF A SUBDIVISION PLAT APPLICATION EXCEPT THAT AN APPROVED JURISDICTIONAL DETERMINATION IS REQUIRED FOR AREAS LOCATED WITHIN PROPOSED PUBLICLY DEDICATED RIGHTS-OF-WAY AND/OR EASEMENTS PRIOR TO PRELIMINARY PLAT APPROVAL. WHEN A USACE JURISDICTIONAL DETERMINATION FOR THE ENTIRE PROPERTY IS NOT PROVIDED AS PART OF THE SUBDIVISION APPLICATION, THE FOLLOWING NOTES SHALL BE PLACED ON THE PLAT:  
i. THE USAGE HAS NOT MADE A DETERMINATION OF THE PRESENCE OR ABSENCE OF WETLANDS AND/OR WATER OF THE UNITED STATES ON THIS PROPERTY/THESE PROPERTIES AS OF THE DATE OF APPROVAL/RECORDING OF THIS PLAT.  
ii. JURISDICTION DETERMINATION BY THE UNITED STATES ARMY CORPS OF ENGINEERS ON THIS PROPERTY/THESE PROPERTIES PRIOR TO THE ISSUANCE OF ZONING PERMITS FOR LAND DEVELOPMENT ACTIVITIES.  
PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE (EL. 11') AS PER FEMA FLOOD MAPS.  
DATED: JANUARY 29, 2021  
COMMUNITY No. 450257

A non-exclusive, perpetual, permanent, transferable, transmissible, appurtenant and opportunity conveyed easement is hereby granted, proposed, relocated, and/or modified by this plat to the successors and/or assigns, for the installation, operation, maintenance, repair and replacement of any time and from time to time of lines, systems, facilities and other improvements for the acceptance and conveyance of surface water and storm water drainage. The easement is dedicated with the reasonable right of ingress, egress, regress and access to the easement and upon the property owners' property and includes the right to construct and lay out to any such drainage utilities now or hereafter located within the easement areas.  
I hereby state that to the best of my knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of the Standards of Practice Manual for Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein. Also there are no visible encroachments or projections other than shown.

**RECORDED**  
DATE: 3/18/2022 TIME: 1:44:38 PM  
Book-Page: L22 0108 DocType: Large Plat  
Michael Miller, Register, Charleston County, SC  
Record Fee: \$25.00  
Postage: \$2.00  
TOTAL: \$27.00  
TOWN OF KIAWAH  
JOHN W. TAYLOR JR.  
4475 BETSY KERRISON PKWY  
KIAWAH ISLAND SC 29455  
Location: BLUE HERON POND RD  
REQUIRED BY CHAS. CO. RMC.



CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. THIS PLAT IS COPYRIGHTED AND IS INTENDED ONLY FOR THE ENTITY OR PERSON(S) SHOWN HEREON. THIS PLAT REPRESENTS A SURVEY BASED ON THE LISTED REFERENCES ONLY AND IS NOT THE RESULT OF A TITLE SEARCH.  
KEVIN M. SCHWACKE, SR. PLS  
S.C. Registration Number: 20468



LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
1	S 30°58'07" E	7.22	10	S 62°40'57" W	22.5719'
2	S 74°17'11" W	21.33	11	N 80°09'08" E	11.59102'
3	S 55°33'32" W	16.05	12	N 75°17'30" E	21.4218'
4	S 71°19'26" W	17.31	13	S 53°44'52" W	21.3148'
5	S 68°47'46" W	18.84	14	N 56°56'49" E	27.5809'
6	S 66°17'40" W	15.36	15	S 62°40'57" W	11.00
7	S 07°56'37" W	11.18	16	S 62°40'57" W	11.00
8	S 60°10'48" W	14.50	17	S 62°40'57" W	11.00
9	N 63°24'59" W	10.64	18	S 62°40'57" W	11.00
10	S 72°56'57" W	16.51	19	S 62°40'57" W	11.00
11	S 66°57'46" W	14.81	20	S 62°40'57" W	11.00
12	S 72°08'29" W	22.43	21	S 62°40'57" W	11.00
13	S 81°40'31" E	92.49	22	S 62°40'57" W	11.00
14	N 59°53'40" E	92.49	23	S 62°40'57" W	11.00
15	S 40°51'44" W	16.49	24	S 62°40'57" W	11.00
16	S 69°10'40" W	27.44	25	S 62°40'57" W	11.00
17	N 19°57'30" E	12.44	26	S 62°40'57" W	11.00
18	N 45°45'08" E	12.82	27	S 62°40'57" W	11.00

**PROPERTY LINE ABANDONMENT**  
BETWEEN  
LOT 134  
OWNER: TODD WILLIAM SINGLETON REV TRUST  
HIGHLAND ACREAGE: 1.00 ACRES  
  
LOT 136  
OWNER: TODD WILLIAM SINGLETON REV TRUST  
HIGHLAND ACREAGE: 0.49 ACRES  
  
LOT 138  
OWNER: KELLY CHEREF TRUST  
PREVIOUS HIGHLAND ACREAGE: 0.75 ACRES  
NEW HIGHLAND ACREAGE: 0.75 ACRES  
  
TOWN OF KIAWAH ISLAND  
THE PRESERVE  
CHARLESTON COUNTY, SOUTH CAROLINA

DATE: MARCH 19, 2021 SCALE: 1" = 30'  
REVISED: OCTOBER 1, 2021  
REVISED: OCTOBER 18, 2021 (EASEMENT)  
REVISED: NOVEMBER 18, 2021 (OCRM & EASEMENT)  
REVISED: JANUARY 6, 2022 (LOT 138 SETBACK)



BP1091355

# PGS:

5

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS that we, Todd William Singleton, as Trustee of The Todd William Singleton Revocable Trust Agreement dated August 9, 2007 and Lisa Marie Mascolo, as Trustee of The Lisa Marie Mascolo Revocable Trust Agreement dated August 9, 2007 ("Grantors"), in the State aforesaid, for and in consideration of the sum of ONE HUNDRED THIRTY FOUR THOUSAND AND 00/100 Dollars (\$134,000.00), to us in hand paid at and before the sealing of these presents by John Cherf, as Trustee of the John Cherf Trust dated October 22, 2019 and Kelly Cherf, as Trustee of the Kelly Cherf Trust dated October 22, 2019 ("Grantees"), for which the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents, do grant, bargain, sell and release, subject to the below stated restrictions, unto the Grantees, their successors and assigns, the following described real property, to-wit:

ALL that certain piece, parcel or tract of land, situate, lying and being on in the Town of Kiawah Island, State of South Carolina, shown and designated as "\*0.20 ACRES OF LOT 136 BEING ADDED TO LOT 138" shown on a Plat prepared by Kevin M. Schwacke, Sr, PLS, S.C. Registration number 20468, entitled "PROPERTY LINE ABANDONMENT BETWEEN LOT 134 OWNER: TODD WILLIAM SINGLETON REV TRUST HIGHLAND ACREAGE: 1.00 ACRES & LOT 136 OWNER: TODD WILLIAM SINGLETON REV TRUST HIGHLAND ACREAGE: 0.49 ACRES & PROPERTY LINE ADJUSTMENT BETWEEN LOT 134 OWNER: TODD WILLIAM SINGLETON REV TRUST PREVIOUS HIGHLAND ACREAGE: 1.00 ACRES NEW HIGHLAND ACREAGE: 1.29 ACRES & LOT 138 OWNER: KELLY CHERF TRUST PREVIOUS HIGHLAND ACREAGE 0.55 ACRES NEW HIGHLAND ACREAGE: 0.75 ACRES THE PRESERVE TOWN OF KIAWAH ISLAND CHARLESTON COUNTY, SOUTH CAROLINA" dated March 19, 2021, last revised on January 6, 2022, and duly recorded at the Charleston County Register of Deed's Office on March 18, 2022, in Plat Book L22, at Page 0106.

The said .20 acre tract being conveyed hereunder is more particularly described as follows:

Commencing at the Northwest corner of the .20 acre tract shown on the aforesaid plat by Kevin, running along the NEW PROPERTY LINE S 30°06'56" E for a distance of one hundred fifty two and 18/100 (152.18") feet to a point marked I.N. 5/8" REBAR; thence turning and running East 1.69' to Line L26, thence running in the same direction to Line

L27 for a distance of 49.57', thence running in the same direction for a distance of 1.30 feet to Line L28 thence turning and running N 30°06'56" W for a distance of one hundred eighty-three and 20/100 (183.20') feet to a I.O 5/8" REBAR; thence turning and running West for a distance of fifty four and 27/100 (54.27') feet to the point of beginning.

SUBJECT TO ALL APPLICABLE EASEMENTS AND RESTRICTIONS OF RECORD.

BEING a portion of the the same property conveyed to the Grantors by deed of Osprey Properties LLC dated October 22, 2020, and duly recorded at the Charleston County County R.O.D. Office on December 2, 2020, in Book 0940, at Page 295.

T.M.S. No.                      Portion of 265-02-00-063

Grantees' address:    2525 North Greenview Avenue, Chicago, IL 60614

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the Grantees, their successors and assigns forever.

AND we do hereby bind ourselves and our successors and assigns, to warrant and forever defend, all and singular, the said Premises, subject to the above-stated restrictions, unto the Grantees and Grantees' successors and assigns, against us and our successors and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 10 day of March, 2022.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

[Signature]  
Witness No. 1

[Signature]  
Todd William Singleton, as Trustee of The  
Todd William Singleton Revocable Trust  
Agreement dated August 9, 2007

[Signature]  
Witness No. 2

[Signature]  
Lisa Marie Mascolo, as Trustee of The Lisa  
Marie Mascolo Revocable Trust Agreement  
dated August 9, 2007

STATE OF South Carolina  
COUNTY OF Charleston

ACKNOWLEDGMENT

I, a Notary Public for the State of South Carolina do hereby certify that the above  
named Grantors, personally appeared before me this 10 day of March, 2022 and  
acknowledged the due execution of the foregoing instrument.

[Signature] (SEAL)  
NOTARY PUBLIC FOR South Carolina  
My Commission Expires: \_\_\_\_\_

COLBY SNOW  
Notary Public, State of South Carolina  
My Commission Expires December 9, 2031

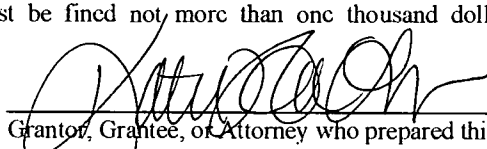
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

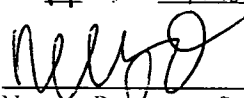
AFFIDAVIT

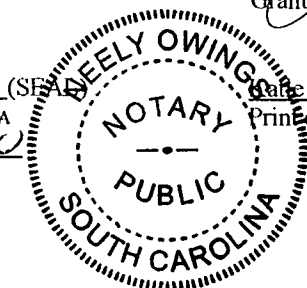
PERSONALLY appeared before me the undersigned, who being first duly sworn, deposes and says:

1. I have read the information in this Affidavit and I understand such information.
2. The property located at 136 Blue Heron Pond Road, Johns Island, SC, 29455 bearing Charleston County Tax Map Number 265-02-00-063, is being transferred from Todd William Singleton, as Trustee of the Todd William Singleton Revocable Trust Agreement dated August 9, 2007, and Lisa Marie Mascolo, as Trustee of the Lisa Marie Mascolo Revocable Trust Agreement dated August 9, 2007 to John Cherf, as Trustee of the John Cherf Trust dated October 22, 2019 and Kelly Cherf, as Trustee of the Kelly Cherf Trust dated October 22, 2019 on the 14 day of March, 2022.
3. The DEED is (check one of the following)  
 subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.  
 subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.  
 EXEMPT from the deed recording fee because (Exemption # \_\_\_\_\_)  
(Explanation if required: \_\_\_\_\_) (If exempt, please skip items 4-6, and go to item 7 of this affidavit).
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.  
(A)  The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$134,000.00.  
(B)  The fee is computed on the fair market value of the realty which is \$ \_\_\_\_\_.  
(C)  The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ \_\_\_\_\_.
5. Check YES  or NO  to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is \$ \_\_\_\_\_.
6. The Deed Recording Fee is computed as follows:  
(A) \$134,000.00 the amount listed in item 4 above  
(B) \$0.00 the amount listed in item 5 above  
(C) \$134,000.00 Subtract Line 6(b) from Line 6(a) and place the result.
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$495.80.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.
9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to and Subscribed before me  
this 14 day of March, 2022.

  
\_\_\_\_\_  
Grantor, Grantee, or Attorney who prepared this form

  
\_\_\_\_\_  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 10/8/30



Kate Hinson Lewis  
\_\_\_\_\_  
Print or Type Name Here

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain with the original document

**Filed By:**

SHUMAKER LOOP & KENDRICK  
176 CROGHAN SPUR RD  
SUITE 400  
CHARLESTON SC 29407 (BOX)

RECORDED		
Date:	March 21, 2022	
Time:	12:25:50 PM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
1091	355	Deed
Michael Miller, Register Charleston County, SC		

**MAKER:**

SINGLETON TODD W TR AL

# of Pages: 5

**RECIPIENT:**

CHERF JOHN TR AL

Note:

Recording Fee	\$ 15.00
State Fee	\$ 348.40
County Fee	\$ 147.40
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 510.80</b>

**Original Book:**

**Original Page:**

**DRAWER** Drawer 8  
**CLERK** ANF

AUDITOR STAMP HERE  
RECEIVED From ROD  
May 25, 2022  
Peter J. Tecklenburg  
Charleston County Auditor

PID VERIFIED BY ASSESSOR  
JBA  
REP \_\_\_\_\_  
DATE 05/26/2022  
TO MAPPING



1091  
Book



355  
Page



03/21/2022  
Recorded Date



5  
# Pgs



Original Book



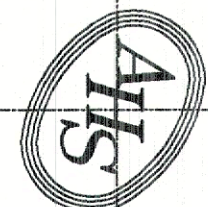
Original Page



D  
Doc Type



12:25:50  
Recorded Time



**REFERENCE:**

PLAT BY: MARK S. BUSEY  
 DATED: JUNE 15, 1999  
 BOOK: ED PAGE: 375  
 RMC CHAS. CO.

TAX MAP No. 285-02-00-084  
 No. 138 BLUE HERON POND ROAD  
 Requested by: JEDD MCLUEN

**HIGHLAND AREA**  
 38580.5 Sq. Feet  
 0.77 Acres

**PRIMARY COVERAGE:**  
 BUILDING: 2979.3 Sq. Ft.  
 PRIMARY DRIVE: 2193.1 Sq. Ft.  
 DRIVE: 904.3 Sq. Ft.  
 SCREEN PORCH: 490.4 Sq. Ft.  
 POOL: 399.2 Sq. Ft.  
 PLANTERS: 701.8 Sq. Ft.  
 PRIMARY WALK: 196.7 Sq. Ft.  
 STEPS: 275.7 Sq. Ft.  
 FRONT PORCH: 190.7 Sq. Ft.  
 CANTILEVERS: 179.6 Sq. Ft.  
 SHOWER: 10.8 Sq. Ft.  
 TOTAL: 8521.6 Sq. Ft.  
 25.3% COVERAGE

**SECONDARY COVERAGE:**  
 SECONDARY WALKS: 285.91 Sq. Ft.  
 0.80% COVERAGE

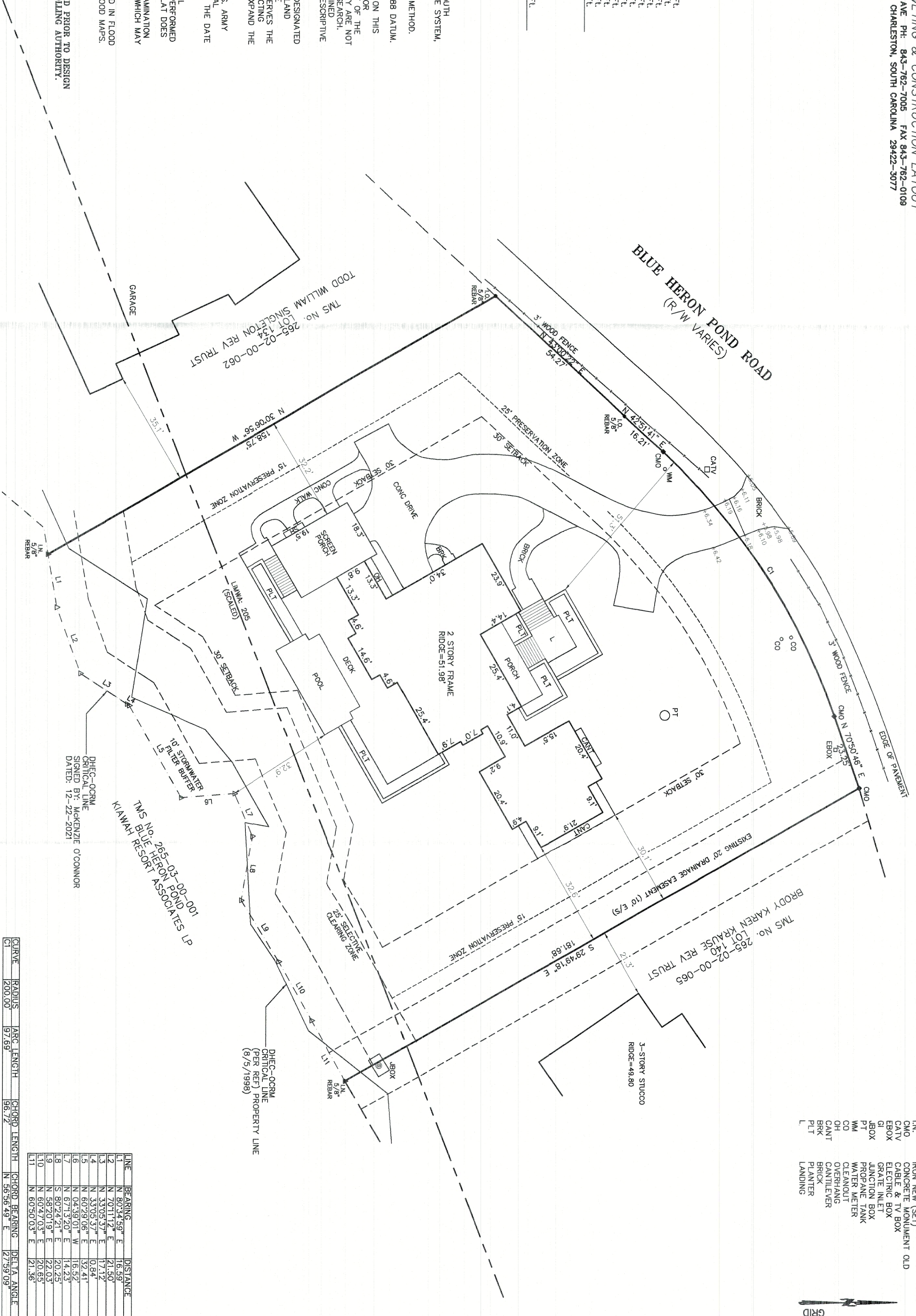
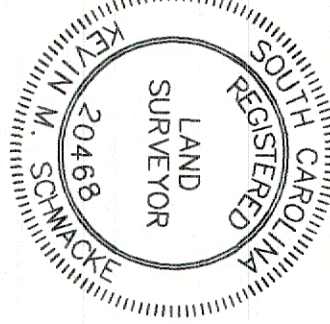
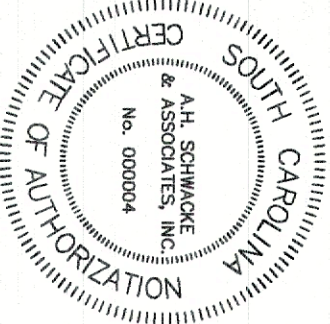
**NOTES:**  
 BEARING SHOWN ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM, NAD 83.  
 AREA DETERMINED BY COORDINATE METHOD.  
 ELEVATIONS ARE BASED ON NGVD '88 DATUM.  
 THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.

THE REQUIRED SETBACKS MAY BE DESIGNATED AND/OR VARIED BY THE KIAWAH ISLAND ARCHITECTURAL REVIEW BOARD. THE ARCHITECTURAL REVIEW BOARD RESERVES THE RIGHT TO GRANT VARIANCES RESPECTING SETBACK GUIDELINES AND/OR TO EXPAND THE "BUILDABLE" AREA.  
 THE PRESENCE OR ABSENCE OF U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS IS UNDETERMINED AS OF THE DATE OF THIS SURVEY.  
 NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR SAMPLES WERE PERFORMED FOR THIS PLAT. THEREFORE THIS PLAT DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS CONTAMINATION, OR OTHER NONVISIBLE CONDITIONS WHICH MAY AFFECT THIS PROPERTY.  
 PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE (EL. 11') AS PER FEMA FLOOD MAPS. PANEL No. 45019C 0686R DATED: JANUARY 28, 2021  
 \* SETBACKS SHOULD BE VERIFIED PRIOR TO DESIGN OR CONSTRUCTION BY CONTROLLING AUTHORITY.

**SURVEYOR'S CERTIFICATION**

I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Standards of Practice Manual for Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein. Also there are no visible encroachments or projections other than shown.

KEVIN M. SCHWACKE, SR., PLS  
 S.C. Registration Number 20468



- LEGEND:**
- 1.0. IRON OLD (FOUND)
  - 1.1. IRON NEW (SET)
  - 1.2. CONCRETE MONUMENT OLD
  - 1.3. CABLE & TV BOX
  - 1.4. CATV
  - 1.5. ELECTRIC BOX
  - 1.6. GRATE INLET
  - 1.7. JUNCTION BOX
  - 1.8. PROPANE TANK
  - 1.9. WATER METER
  - 1.10. CLEANOUT
  - 1.11. OVERHANG
  - 1.12. CANTILEVER
  - 1.13. BRNK
  - 1.14. PLANTER
  - 1.15. LANDING

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	200.00'	97.69'	96.72'	N 56°56'49" E	27°59'09"

LINE	BEARING	DISTANCE
1	N 60°14'57" E	14.50'
2	N 70°11'27" E	17.50'
3	N 3°05'47" E	17.12'
4	N 3°05'37" E	0.64'
5	N 82°29'07" E	13.41'
6	N 67°43'09" E	16.52'
7	N 67°43'20" W	14.23'
8	N 67°12'29" E	10.23'
9	S 88°24'49" E	20.23'
10	N 88°40'03" E	20.93'
11	N 80°50'03" E	21.36'

ASBUILT SURVEY  
 LOT 138  
 THE PRESERVE  
 TOWN OF KIAWAH ISLAND  
 CHARLESTON COUNTY, SOUTH CAROLINA  
 DATE: JULY 17, 2025 SCALE: 1" = 20'

**BENNETT-McLUEN HOMES, LLC**  
**2231 SHOW BASKET WAY ◊ MOUNT PLEASANT, SC 29466**

**August 14, 2025**

**Letter of Intent**

**Re: 138 Blue Heron Pond Road – Board of Zoning Appeals**

**Town of Kiawah Island – Board of Zoning Appeals / John Taylor**

I am writing to you on behalf of my clients John and Kelly Cherf to request the board's consideration and approval of a side setback variance of approximately 42.5 sqft for an HVAC stand to be located on their property at 138 Blue Heron Pond Road.

We are seeking this variance to locate the HVAC stand on the east side of the home as it is the best location to preserve the unique architecture of the home and to protect the beauty of the neighborhood.

The home was originally designed to have a geothermal HVAC system, but after thorough research of the HVAC options for the property, we found the Mitsubishi VRF systems to be the best option. These systems operate at about half the energy consumption of the geothermal systems available. This was an important decision for our clients as being good stewards of the environment and available resources was a high priority. The systems are leading technology in the sector in a variety of areas (footprint size, operating decibels, and energy efficiency).

Since the property is located in a Limited Wave Action Zone which requires breakaway foundation walls, there is only 1 permanent "utility" wall, and it is located on the northeast corner of the building. It is being utilized for other utilities (Electric, Communications, Condensate Lines, etc.) and doesn't present enough height or width to mount the HVAC units allowing them to meet the flood height requirements. This condition necessitates a stand for the 3 compressors.

With the hardscapes, planters, and pool that are on the front, rear, and right side of the home, there are only 3 feasible locations for HVAC equipment which are all on the eastern wing of the home. We considered locating the equipment on the southeast corner of the home, but visually this was most impactful to the Cherfs - from their pool deck, primary suite balcony, and great room window. This also located the equipment closest to our neighbor's outdoor living space at 140 BHP. Lastly, we felt the equipment stand could be potentially detrimental to the 15" Oak tree that is on that corner of the building.

We then considered locating the equipment on the northeast corner of the home, but we felt this was the least desirable spot on the property because it was on the front of the home. An equipment stand in this location would detract from the architectural details of the Primary wing and would be visible from the Primary Office and Front Stair Entry of the home. Preserving the architectural integrity of the building from the street elevation is very important to the Cherfs, the ARB, and the adjacent neighbors. This sentiment is supported by the Kiawah Island ARB Variance Approval and the Support Letters of several of the adjacent neighbors.

**BENNETT-McLUEN HOMES, LLC**  
**2231 SHOW BASKET WAY ◊ MOUNT PLEASANT, SC 29466**

The eastern side of the home presents the best opportunity to conceal the equipment (including the electric meter, communication junction boxes, HVAC drain lines, etc.) The existing vegetation on this side of the home is very dense and conceals this end of the home from the street elevation and from the neighboring property. The lot has 30' side setbacks which are 10' more restrictive than the typical R1 Table Zoning Designation and we are requesting relief for 3.5' of encroachment (less than 12%).

**Responses to BZA Approval Criteria**

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- The property is located in a LIMWA zone which provides limited opportunities for utility services to the home. The side setbacks are somewhat more restrictive at 30' for a residential property (adjacent eastern neighboring property at 140 Blue Heron Pond Road is 20').
- b. These conditions do not generally apply to other property in the vicinity;
- The LIMWA designation is a fairly new flood designation that didn't apply to neighboring properties when built. There are multiple properties in close proximity that have 20' side setbacks.
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
- These conditions don't prohibit the utilization, but would require an aesthetic location that isn't supported by neighbors.
- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;
- The adjacent homeowner is in full agreement with the proposed variance along with other neighboring properties and the Kiawah Island ARB (see attached support letters). The character of the zoning district isn't harmed because the proposition is only for a mechanical stand that if implemented would only add 42.5 sqft to the total lot coverage. The home is well under the max allowable lot coverage at less than 26%. The requested variance isn't to allow a larger home or more building, but simply to service the home with air conditioning.
- e. The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;
- An approved variance would not allow the establishment of a use not otherwise permitted, or extend existing nonconforming use, or change the boundaries on the zoning map.

**BENNETT-McLUEN HOMES, LLC**  
2231 SHOW BASKET WAY ◊ MOUNT PLEASANT, SC 29466

f. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;

- Financial basis is not a motive for the variance request.

g. The need for the variance shall not be the result of the applicant's own actions;

- The applicant has not acted in a way to cause the request for the variance.

h. Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent and purpose of these regulations;

- This would not be contrary to the public or neighborhood interest and would not interfere with the purpose of the regulations. The letters of approval from the ARB and also from adjacent neighbors indicate a majority agreement in the variance request.

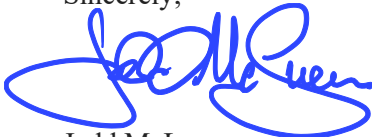
i. Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

- This would not conflict with the comprehensive plan as there is plenty of available lot coverage and the approved variance would not allow another building or habitable structure.

It seems the intent of the zoning ordinance and subsequent more restrictive ARB setback guidelines is to limit the number of homes that could be built in a certain amount of acreage and to also maintain a somewhat consistent spacing from home to home. The Cherfs purchased 40% of the adjacent vacant western lot (136 Blue Heron Pond Road) that they combined with a neighbor to effectively reduce the number of homes on the street and give more privacy to the neighborhood. They have worked closely with the ARB to design and construct a home that nestles into the lot, completely fits within the setbacks, and doesn't approach the max allowable lot coverage. We believe that granting the variance will still be consistent with the overall goals of the TOKI Zoning Department and also the aesthetic goals of the ARB and our neighbors. Therefore, we respectfully ask the Board of Zoning Appeals to approve the variance as outlined above and approved by the Kiawah Island ARB.

Thank you for your time and consideration. On behalf of John and Kelly Cherf and our Design and Construction Team.

Sincerely,



Jedd McLuen  
Bennett-McLuen Homes, LLC