



**Board of Zoning Appeals
Kiawah Island Municipal Center
September 22, 2025; 1:00PM**

AGENDA

- I. **Call to Order**
- II. **Roll Call**
- III. **Briefing to the Public on Procedures of the BZA**
- IV. **Administer the Oath to Those Presenting Testimony**
- V. **New Business:**
Review of the following applications:
 - 1) **Case #BZA25-000011**
1031 Warbler Court – Kiawah Island, SC | TMS# 207-06-00-032
Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition.
 - 2) **Case #BZA25-000013**
1031 Warbler Court – Kiawah Island, SC | TMS# 207-06-00-032
Variance request for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition.
 - 3) **Case #BZA25-000014**
138 Blue Heron Pond – Kiawah Island, SC | TMS# 265-02-00-064
Variance request for the reduction of the required 30' side setback for approximately 42 square feet for a proposed HVAC stand.
- VI. **Additional Business**
- VII. **Adjournment**



Case #BZA25-000011
Kiawah Island BZA Meeting of September 22, 2025

Applicant/Property Owner: GISH DAVID L & GISH CATHERINE E

Representative: Ken Dukes

Property Location: 1031 Warbler Court

TMS#: 207-06-00-032

Lot Size: Total: 4,112.33 sqft (0.09 acres)

Zoning District: R-2-O, Residential Zoning Overlay District

Request: Variance request for the increase in maximum lot coverage by approximately .64% for a proposed addition

Requirement:

Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-80. - R-2-O, Residential Overlay Zoning District.

Required setbacks: 20' (Front); 5' (Side); 10' (Rear)

Maximum 50% Lot Coverage

The Ordinance defines Lot coverage as "the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director."

legally nonconforming in regards to setbacks & lot coverage

TURNBERRY LANE (DEVELOPED LANDS) cont.

125-127	25 (Turnberry)	15	30 (golf) 30 (lagoon)
128-133	25 (Turnberry)	15 (lots)	30 (golf)
134	25 (Turnberry)	15 (lot 133) 25 (Pleasant Valley)	30 (golf)

TURTLE BEACH LANE (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
1-18	10	7.5	30
<i>Note: 10' Rear deck encroachment</i>			

VETCH COURT (OCEANWOODS) (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
456	20	7	15
457-460	15	*	10
461	20	7	15
462-463	15	*	10
464	15	*	10
465	25	15	20
466	15	*	10
467	25	15	20

*Zero lot line homes may be built with no setback on one side of the property, but must have at least a 14 foot separation between buildings.

VIRGINIA RAIL ROAD (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
720	25 (Glossy Ibis) 25 (Virginia Rail)	15 (lot 721)	20 (easement)
721	25 (Virginia Rail)	15 30 (marsh)	30 (marsh)
722-723	25 (Virginia Rail)	15	30 (marsh)
724	25 (Virginia Rail)	15 (lot 723)	30 (marsh)
725	25 (Virginia Rail)	20	30
726	20 (lot 727)	20 (lot 725) 30 (golf course)	30 (marsh)
727-731	25 (Virginia Rail)	15	30
732-734	25 (Virginia Rail)	20	30
735	25 (Virginia Rail)	15	30
736 A & B	25 (Virginia Rail)	15	30 (lagoon)

VIRGINIA RAIL ROAD (DEVELOPED LANDS) cont.

736 C	25 (Virginia Rail)	20 (Virginia Rail) 15 (lot 736b)	30
737	25 (Virginia Rail)	20 (lot 738)	30 (lagoon)
738	25 (Virginia Rail)	20	30 (golf/lagoon)
739	25 (Virginia Rail)	20	20
740	25 (Virginia Rail) 25 (Glossy Ibis)	20	20 (lot 741)

WALKER CUP LANE (SEE GRAPHICS ALSO) (UNDEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
346-350	25	See Graphics	See Graphics

WARBLER COURT (SPARROW POND COTTAGES) (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
1030	20	7	15
1031-1032	15	5	10
1033	20	7	15
1034-1035	15	5	10
1036	20	7	15
1037-1038	15	5	10
1039	20	7	15

WAX MYRTLE COURT - PATIO LOTS (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
77 (Not a patio lot)	25 (Wax Myrtle Ct)	15 (lot 76) 25 (Gov. Dr)	20 (lot 78)
78	25 (Wax Myrtle Ct)	25 (Wax Myrtle Ct) 3 (r. side w/wall)	20 (lot 77)
79-82	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (lots)
83	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (lots 72, 73) 20 (open space)
84	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (open space)
85	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (open space) 30 (marsh)
86-91	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	30 (marsh)

Sec. 12-66. R-2, Residential District.

- (a) *Purpose and intent.* The purpose of the R-2 zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to the R-2 zoning district:
 - (1) The maximum density for this district is six dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) There shall be no more than four dwelling units in any building within this district;
 - (5) 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 2C following subsection (b)(8) of this section;
 - (6) Lot standards (setbacks, lot coverage, etc.) for patio homes, 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 2D following subsection (b)(8) of this section;
 - (7) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (b)(6) of this section are listed in table 2D following subsection (b)(8) of this section;
 - (8) Authorized uses are listed in table 3A in section 12-102(c).

Table 2C. Lot Standards for R-2 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (Feet) ⁽¹⁾	Minimum Yard Setbacks ⁽²⁾			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾	Rear ⁽⁴⁾	(stories)	(feet)
6,000—7,999	50 percent	85	55	20	7	20	2.5	40
8,000—11,999	40 percent	100	60	25	15	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ 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.								
⁽²⁾ 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.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								

Table 2D. Lot Standards for R-2 (Patio Homes, Duplexes and Townhouses)

Housing Type	Minimum Lot Size (sq. ft.)	Minimum Yard Setbacks (feet)			Maximum Height		Maximum Lot Coverage
		Front	Side ⁽¹⁾	Rear	(stories)	(feet)	
Patio homes, zero lot line homes	4,000	20	0/10 ⁽²⁾	20	2.5	35	50 percent
Duplex	6,500	15	7	20	2.5	40	40 percent
Townhouse	2,000	10	See note ⁽³⁾	20	2.5	40	60 percent
⁽¹⁾ 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.							
⁽²⁾ A total distance of 15 feet is required between buildings with ten feet minimum setback being required on one side of each lot.							
⁽³⁾ Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.							

(Code 1993, § 12A-206; Ord. No. 2005-08, § 12A-206, 10-12-2005; Ord. No. 2007-05, § 2(12A-206), 7-10-2007)

Sec. 12-80. R-2-O, Residential Overlay Zoning District.

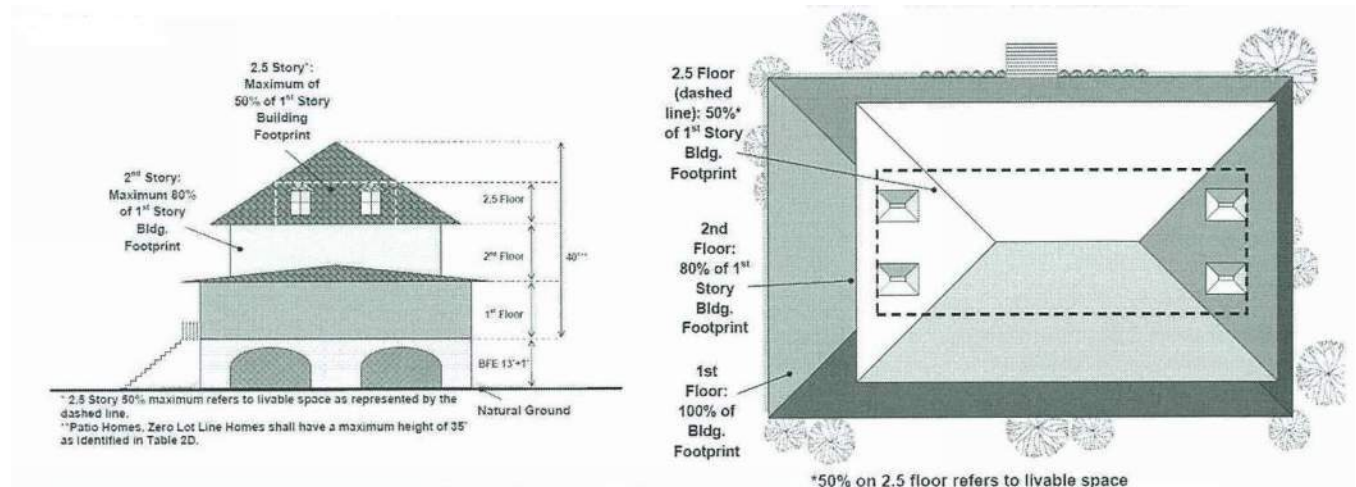
- (a) *Definition.* For purposes of this section, the term "major renovations" means costs of repair or restoration that exceed 50 percent of the appraised value of the structure at the time of zoning and building permit application. Refer to sections 12-192 and 12-193.
- (b) *Purpose and intent.* The purpose and intent of the R-2-O Residential Overlay Zoning District is to promote stable residential neighborhoods consisting of medium density single-family detached residences and patio homes surrounded by parks, golf courses and open spaces. Additionally the purpose and intent is to ensure that new dwelling units and major renovations to existing dwelling units are compatible with the character of existing neighborhoods located within the overlay by permitting consistent dwelling types through the implementation of the R-2-O development standards. Activities and endeavors which might serve to mitigate against this purpose and intent shall be prohibited or strictly regulated.
- (c) *Effect of overlay zoning district.* The R-2-O, Residential Overlay Zoning District regulations of this section apply in addition to the underlying (base) zoning district regulations to impose different development rules for properties within the R-2-O district. In case of conflict between the regulations of this section and other regulations in this article, the regulations of this section shall control.
- (d) *Applicability.* The R-2-O, Residential Overlay Zoning District is illustrated on the attached map. The standards of this section shall apply to all development within the R-2-O district.
- (e) *Development standards.* The following apply to the R-2-O, Residential Overlay Zoning District:
 - (1) The maximum density for this district is six 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 VI of this chapter, the Kiawah Island Property Setback Requirements

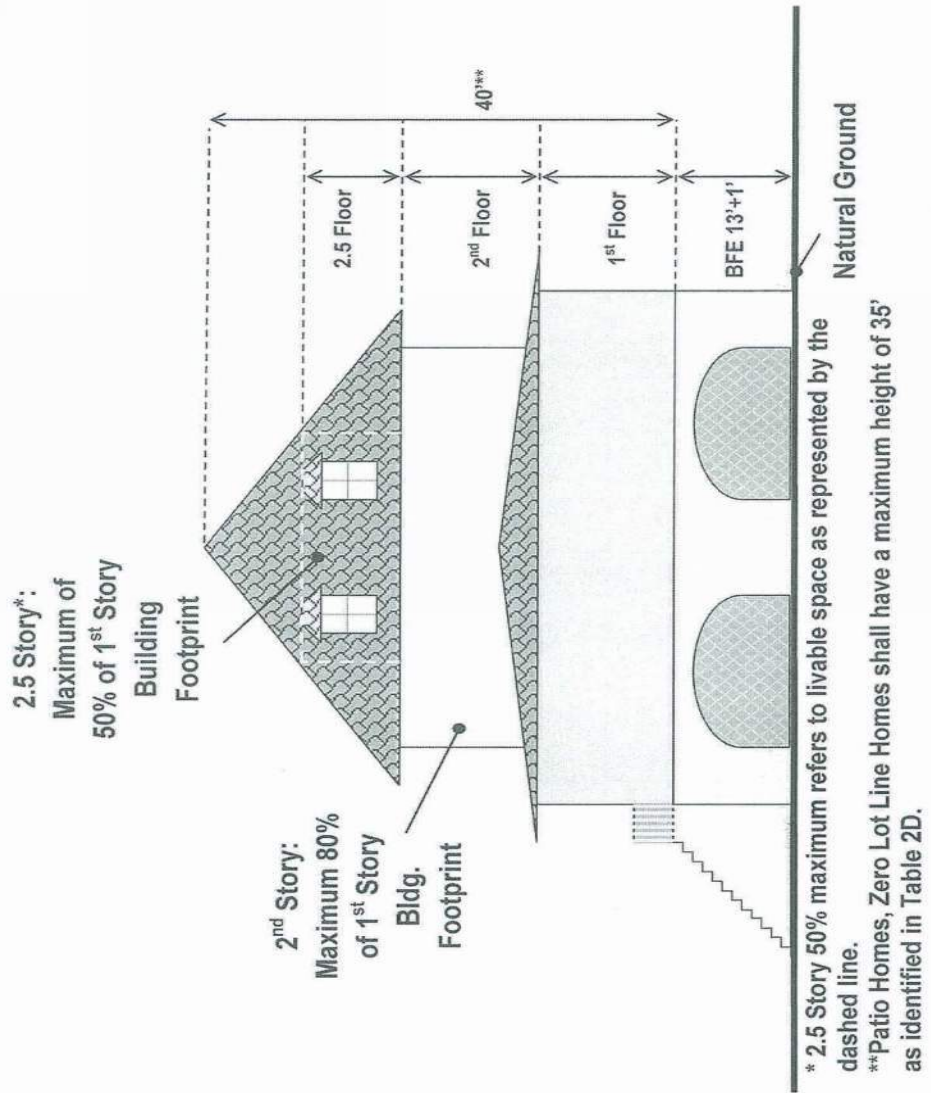
Appendix dated July 10, 2007, incorporated herein by reference and adopted hereto as article VI of this chapter shall apply in lieu of the setback requirements in table 2C, section 12-66;

- (5) Lot standards (setbacks, lot coverage, etc.) for patio homes, on existing platted lots that are included in the Kiawah Island Property Setback Requirements Appendix dated July 10, 2007, incorporated herein by reference and adopted hereto as article VI of this chapter shall apply in lieu of the setback requirements in table 2D, section 12-66;
- (6) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (e)(5) of this section are listed in table 2D, section 12-66, excluding duplexes and townhouses;
- (7) Authorized uses are listed in table 3A in section 12-102(c) except that townhouses and duplexes shall not be permitted uses in the R-2-O, Residential Overlay Zoning District;
- (8) Nonconforming structures and nonconforming uses that were lawfully erected within this overlay district prior to adoption of the R-2-O, Residential Overlay Zoning District, shall comply with sections 12-192 and 12-193; and
- (9) The term "height" means the elevation from ground floor level as measured in feet and stories to the highest point of the roof. The term "building height" does not include chimneys, antennas or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story;
- (10) The second story floor area shall not exceed 80 percent of the first story building footprint area. If there is a half story above the second story, it shall not exceed 50 percent of the first story floor area. Graphic 2A and graphic 2B set forth in this subsection illustrate the maximum floor area percentages for single-family detached dwellings.

Graphic 2A, elevation and graphic 2B, plan view: single-family detached maximum height in stories/feet: 2.5/40, illustrating 80 percent maximum second story floor area and 50 percent maximum 2½ story floor area.

⁽¹⁾ Note. Patio homes, zero lot line homes shall have a maximum height of 35 feet as identified in table 2D.





(Ord. No. 2011-06, § 2(12A-221), 10-4-2011)

Staff Review:

The property owners, David L. and Catherine E. Gish, represented by the applicant Ken Dukes, are requesting a variance to increase the maximum allowable lot coverage by approximately 0.64% (26 square feet) for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS #207-06-00-032).

The subject property is approximately 4,112.33 square feet (0.09 acres) in size. According to Charleston County records, the existing home on the site was constructed in 1976. The property was acquired by David and Catherine Gish in 2014.

The subject property is located in the R-2-O, Residential Zoning Overlay District. Adjacent properties to the north, south, east, and west are also zoned R-2-O, Residential Overlay. The surrounding neighborhood is developed primarily with single-family residential homes. The property is subject to review by the Kiawah Island Architectural Review Board (KIARB).

The Town of Kiawah Island Land Use Planning and Zoning Ordinance requires a front setback of twenty feet (20'), side yard setbacks of five feet (5'), and a rear setback of ten feet (10'). The maximum allowable lot coverage for the property is 50%. The current lot coverage is legally nonconforming regarding lot coverage and setbacks. The existing lot coverage is approximately 54.33%. The proposed addition will increase coverage by approximately 0.64%, resulting in a total lot coverage of approximately 54.97%.

The Ordinance defines Lot Coverage as "the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director."

The applicant's proposed plans include an addition to the existing structure located in the rear of the structure. The size of the new addition is approximately 64 square feet. The applicant's plans also include replacing the existing boardwalk landing located in the front yard. The applicant will replace the boardwalk with a pervious surface, resulting in an offset in primary lot coverage of approximately 38 square feet, or about 0.92% lot coverage. The total proposed increase in primary lot coverage is approximately 54.97%. The total secondary lot coverage is approximately 0.92%. The total lot coverage is approximately 55.89%.

The applicant has submitted to the Kiawah Island Architectural Review Board (KIARB) on for review. The KIARB granted approval on September 4 stating, *"The setback and lot coverage variances are approved as the design is one that is in keeping with patterns present in the neighborhood and the resulting whole is well composed. As designed, the two bedrooms frame the porch in a simple and straightforward manner. Minimal adjustments to meet metrics would negatively impact the appearance of the house and it is preferable as shown. Regarding the setback encroachment, board members considered that if originally proposed, this would have been approved as the area of setback encroachment is in line with what is already over the setback on that side. Regarding the lot coverage variance, other than reducing the area of addition, as*

discussed above, the alternative is to reduce the area of the existing deck. In this neighborhood, the deck extending to the lot line is a well-established pattern and board members found it preferable to leave this undisturbed.”

A site visit was conducted on July 30, 2025. The following findings relate to the variance approval criteria in Chapter 12, Article II, Division 5, Section 12-163(4) of the Town of Kiawah Island Land Use Planning and Zoning Ordinance:

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: **There may be extraordinary and exceptional conditions pertaining to the property due to the small size of the lot, the total lot size is approximately 4,112 square feet. Per the applicant’s letter of intent, “*The unusual condition regarding this property is the lot size related to other properties in the community.*”**

§ 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 subject property is located in the R-2-O, Residential Overlay Zoning District. Adjacent properties and properties across Warbler Court are also located in the R-2-O, Residential Overlay 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, “*This condition would not apply to other properties in the vicinity which exceeded the lot coverage restrictions when lot lines were established. Many of the existing properties with similar lot size are smaller two-bedroom cottages which may not exceed lot coverage restrictions.*”**

§ 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 1031 Warbler Court would prohibit the construction of the proposed addition as the proposed structure will increase the lot coverage over the allowable maximum of 50%; However, it does not unreasonably**

restrict the utilization of the property.

§ 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 addition is positioned in the rear of the home and does not stretch farther than the existing portion of the rear of the home. Per the applicant's letter of intent, "The addition will only be visible by one of the adjacent properties. That neighbor has voiced non-objection to the planned addition."**

§ 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. Per the applicant's letter of intent, "The planned addition would add approximately 64 sf. to the lot coverage calculation. However, this will be reduced to 26 sf by replacing the front boardwalk with pervious pavers. The lot coverage percentage will slightly increase from 54.33% to 54.97%. "**

§ 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, "The addition being planned is not for profitability."**

§ 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 not be the result of the applicant's own actions. The existing structure is legally nonconforming. The home was constructed in 1976.**

§ 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: **The proposed lot coverage increase is minimal. The applicant is also partially offsetting the new lot coverage by replacing the existing entrance walkway with pervious pavers. Per the applicant's letter of intent, "The planned addition would add**

approximately 64 sf. to the lot coverage calculation. However, this will be reduced to 26 sf by replacing the front boardwalk with pervious pavers. The lot coverage percentage will slightly increase from 54.33% to 54.97%.”

§ 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.

Board of Zoning Appeals' Action:

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000011 (Variance request to increase the maximum allowable lot coverage by approximately 0.64% for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS #207-06-00-032)) based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision.

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# BZA25-000011 & 13

Applicant/Property Owner:	GISH DAVID L & GISH CATHERINE E
Representative:	Ken Dukes
Property Location:	1031 Warbler Court
TMS#:	207-06-00-032
Lot Size:	Total: 4,112.33 sqft (0.09 acres)
Zoning District:	R-2-O, Residential Zoning Overlay District
Requests:	<p>1) Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition.</p> <p>2) Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition.</p>

CASE# BZA24-000011 & 13

Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-80. - R-2-O, Residential Overlay Zoning District.

Required setbacks: 20' (Front); 5' (Side); 10' (Rear)

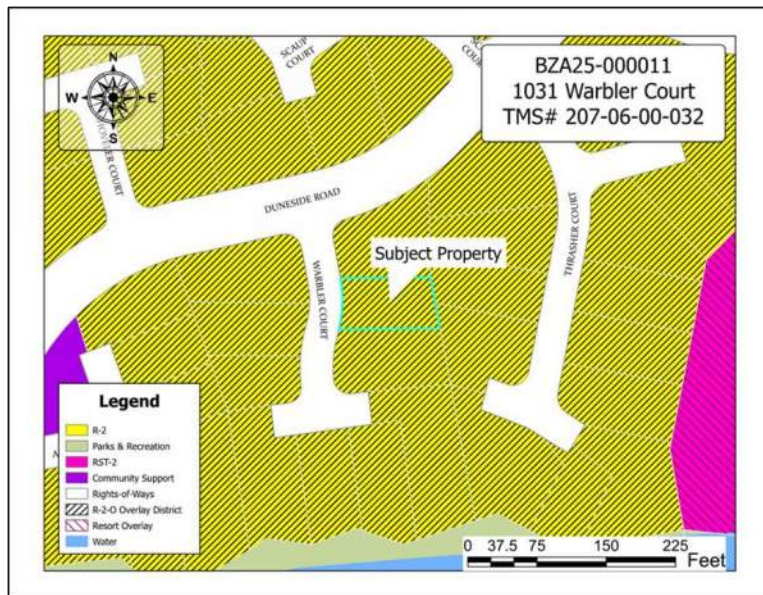
Maximum 50% Lot Coverage

The Ordinance defines Lot coverage as “the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director.”

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

Subject Property is legally nonconforming in regards to setbacks & lot coverage.

3



4



5

Case # BZA25-000011 & 13
BZA Meeting of September 22, 2025
Subject Property: 1031 Warbler Court- Kiawah Island

Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032)
 Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition.



6

Property Front



Adjacent Properties



Adjacent Properties



Property Rear

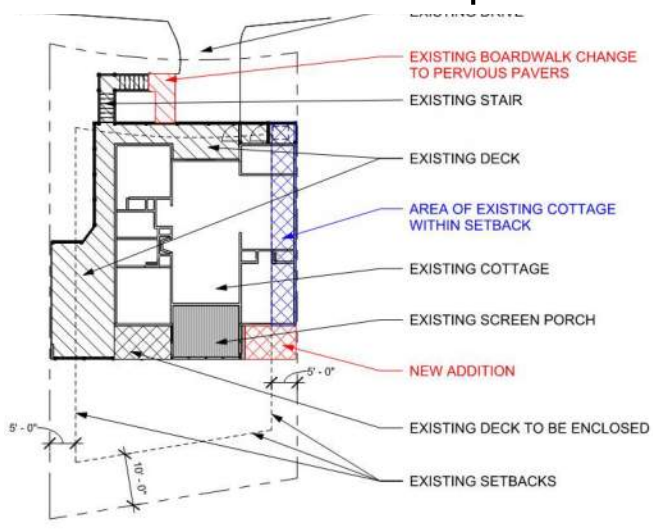


Subject Property



11

Proposed Site Plan



SQUARE FOOTAGE LEGEND	
PROPERTY	4,112.33 SF
EXISTING COVERAGE	
MAIN HOUSE	1,158.93 SF
SCREENED PORCH	145.38 SF
DECK	627.40 SF
HVAC AREA	24.02 SF
STAIR & LANDING	57.76 SF
DRIVE & BOARDWALK	220.92 SF
EXISTING TOTAL	2,234.41 SF
EXISTING LOT COVERAGE 54.33%	
NEW ADDITION	64.02 SF
CHANGE TO PERVIOUS BOARDWALK	-38.00 SF
TOTAL COVERAGE WITH ADDITION	2,260.43 SF

AREA OF EXISTING COTTAGE CURRENTLY WITHIN THE SIDE SETBACK 185.29 SF
 AREA OF NEW ADDITION WITHIN THE SIDE SETBACK 30.65 SF

1 Site Plan 1/16" = 1'-0" SPARROW POND

12

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;

13

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.

14

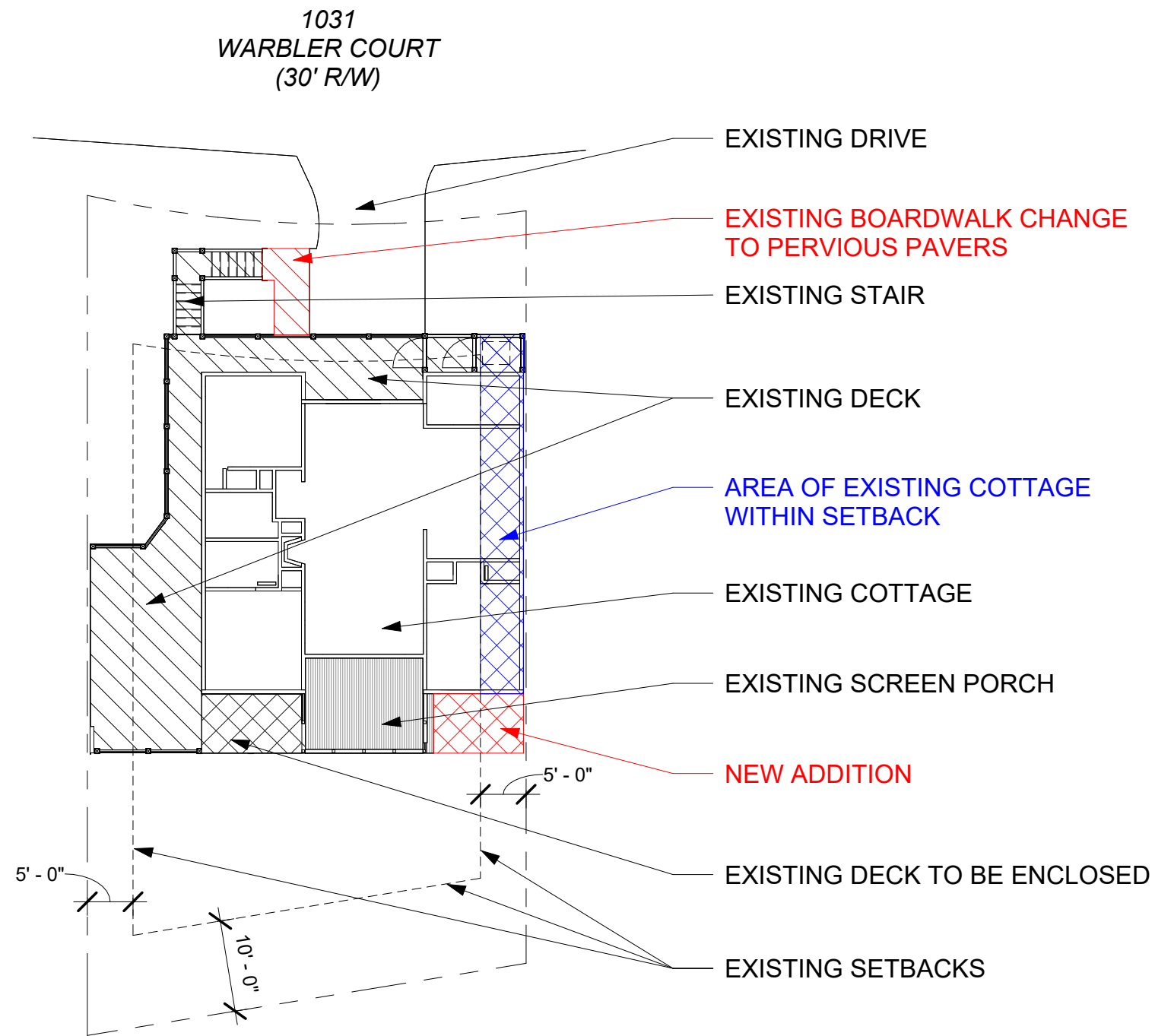
Board of Zoning Appeals Action

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000011 (Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032) & Case #BZA25-000013 (Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032) 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.

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 corresponding to the proposed additions which provides buffering to the street and adjacent property.



SQUARE FOOTAGE LEGEND	
PROPERTY	4,112.33 SF
EXISTING COVERAGE	
MAIN HOUSE	1,158.93 SF
SCREENED PORCH	145.38 SF
DECK	627.40 SF
HVAC AREA	24.02 SF
STAIR & LANDING	57.76 SF
DRIVE & BOARDWALK	220.92 SF
EXISTING TOTAL	2,234.41 SF
EXISTING LOT COVERAGE 54.33%	
NEW ADDITION	
NEW ADDITION	64.02 SF
CHANGE TO PERVIOUS BOARDWALK	-38.00 SF
TOTAL COVERAGE WITH ADDITION	2,260.43 SF
NEW LOT COVERAGE 54.97%	
AREA OF EXISTING COTTAGE CURRENTLY WITHIN THE SIDE SETBACK 185.29 SF	
AREA OF NEW ADDITION WITHIN THE SIDE SETBACK 30.65 SF	

1 Site Plan
1/16" = 1'-0"
SPARROW POND

1031 Warbler Ct
Kiawah Island SC

Gish Residence
HOUSE OF BARTLETT
ARCHITECTS PA

No.	Description	Date
1	Added New Side Setback	07/23/2025

Site Plan		S2
Project number	-	
Date	07/11/25	
Drawn by	HOB	
Checked by	HOB	
Scale 1/16" = 1'-0"		

CERTIFICATION

I HEREBY CERTIFY THAT THE BEST OF MY KNOWLEDGE AND INFORMATION AS FURNISHED TO ME BY THE CLIENT WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF SOUTH CAROLINA AND THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN.

LEGEND

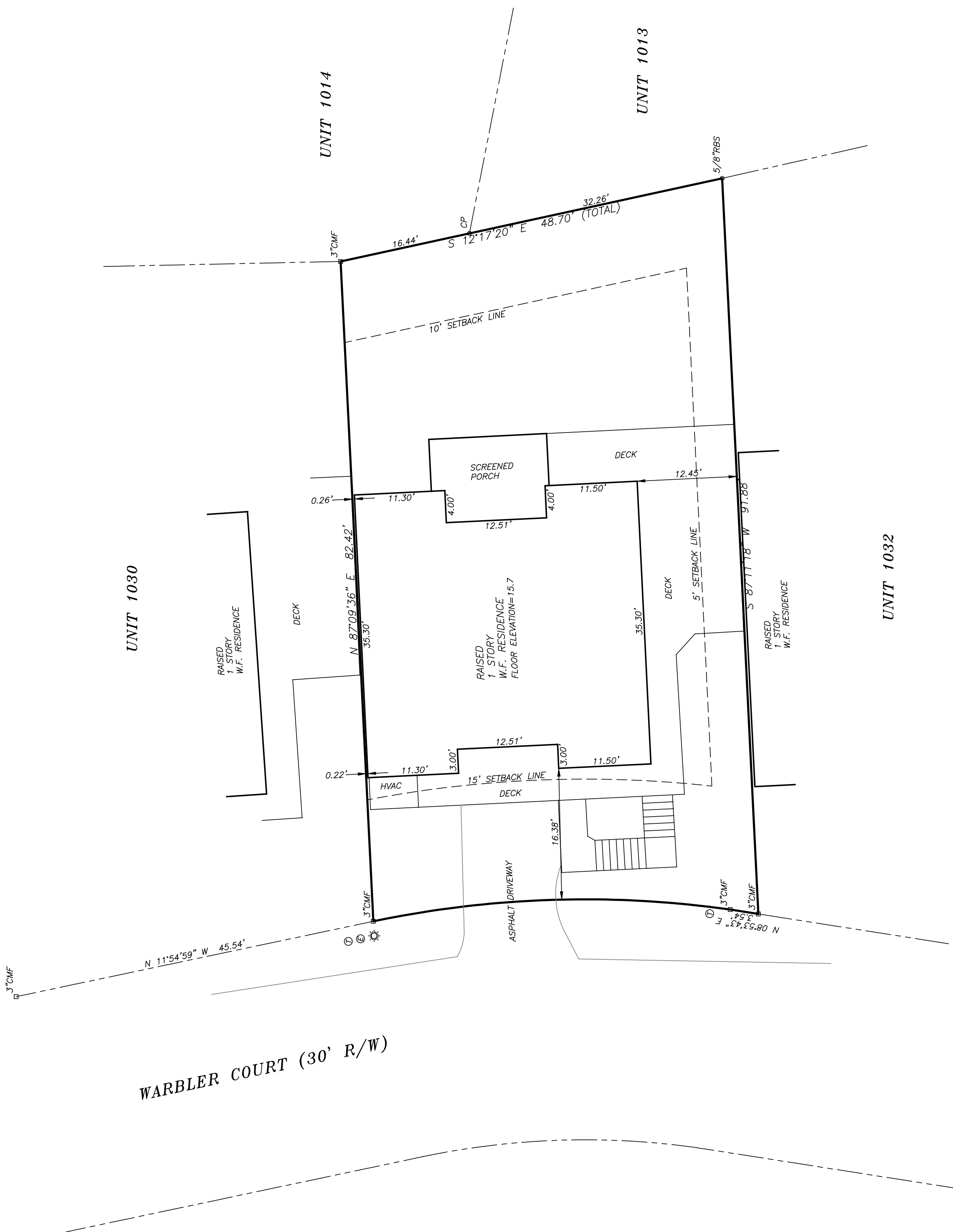
- RBS = REBAR (SET)
- CMF = CONCRETE MONUMENT (FOUND)
- CP = CALCULATED POINT
- ☉ = LIGHT POLE
- ⊕ = ELECTRIC PEDESTAL
- ⊙ = TELEPHONE PEDESTAL

NOTES

1. REF.: PLAT BOOK AG, PAGE 128 REED BOOK 0393, PAGE 821
2. PROPERTY OWNERS: DAVID GISH AND CATHERINE E. GISH
3. T.M.S. NO. 207-06-00-032
4. THE ADDRESS IS: 1031 WARBLER COURT KIAWAH ISLAND, SC 29455.
5. LOT AREA = 4112.33 SqFt (0.09 AC)
6. THE PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE-10, AS SHOWN ON MAP 45019C 0785 K, DATED JAN.29.2021.
7. ELEVATIONS SHOWN HEREON ARE IN THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)
8. SEE REFERENCE PLAT FOR ALL OTHER GENERAL NOTES AND ANY SPECIAL NOTES.
9. SETBACK INFORMATION SHOULD BE CONFIRMED BY THE TOWN OF KIAWAH ISLAND.

LOT COVERAGE

FIRST FLOOR	= 1156.83 Sq. Feet
SCREENED PORCH	= 82.42 Sq. Feet
DECK	= 82.42 Sq. Feet
HVAC	= 24.02 Sq. Feet
STEPS & LANDINGS	= 57.76 Sq. Feet
DRIVEWAY & SIDEWALKS	= 220.92 Sq. Feet
TOTAL COVERAGE ON LOT	= 2234.41 SQ.FT.
LOT AREA	= 4112.33 SQ.FT.
LOT COVERAGE	= 54.33%



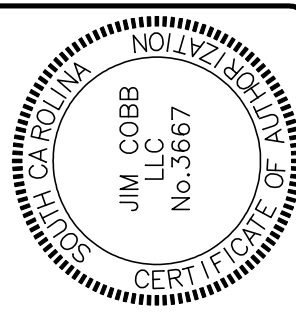
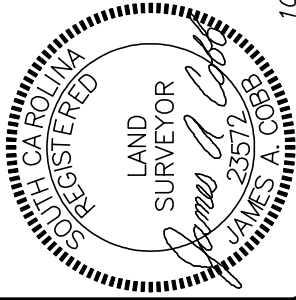
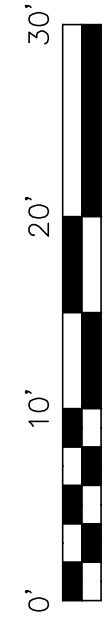
WARBLER COURT (30' R/W)

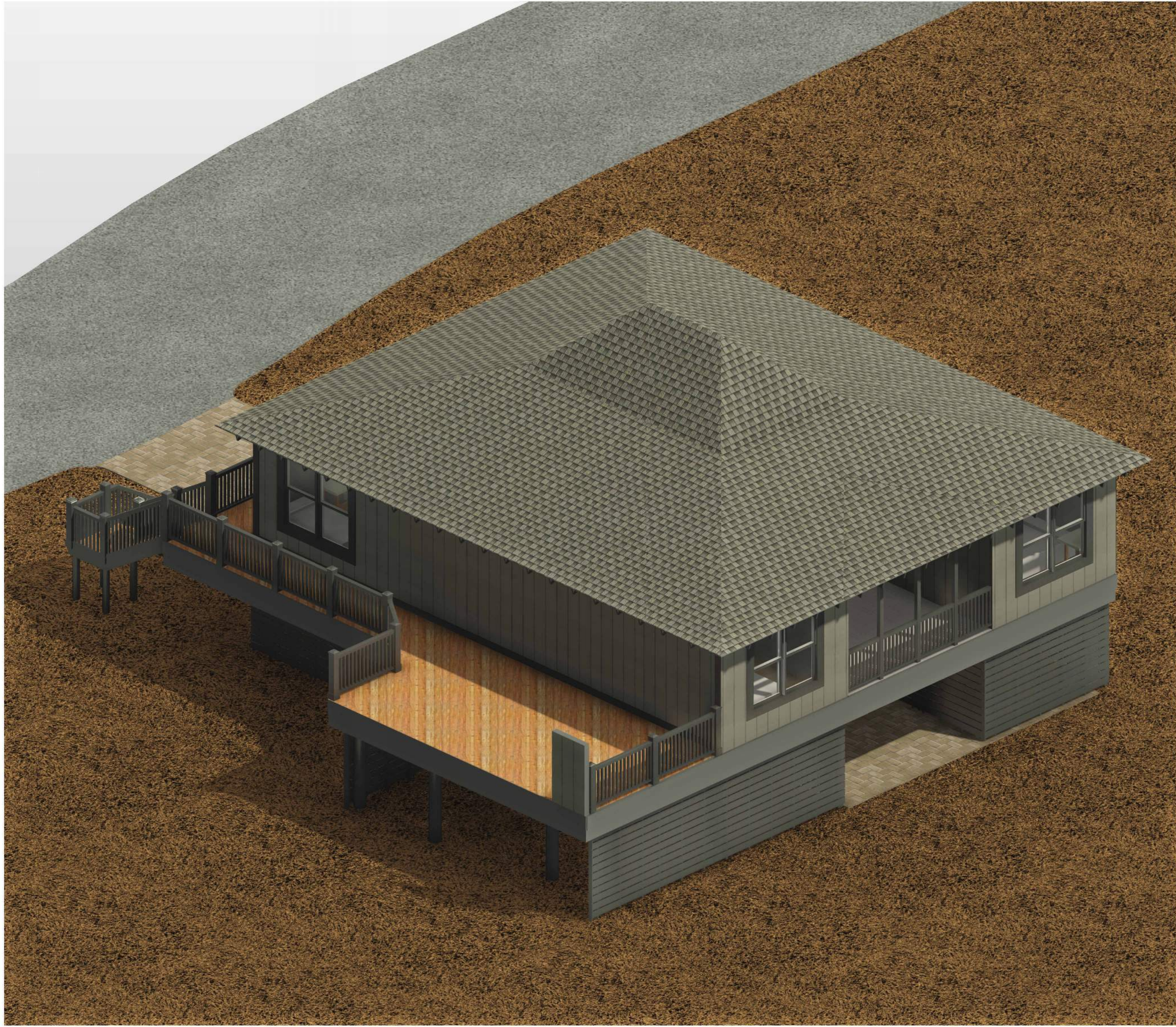
AS-BUILT SURVEY
 UNIT 1031
 SPARROW POND COTTAGES
 THE TOWN OF KIAWAH ISLAND

CHARLESTON COUNTY
 SOUTH CAROLINA

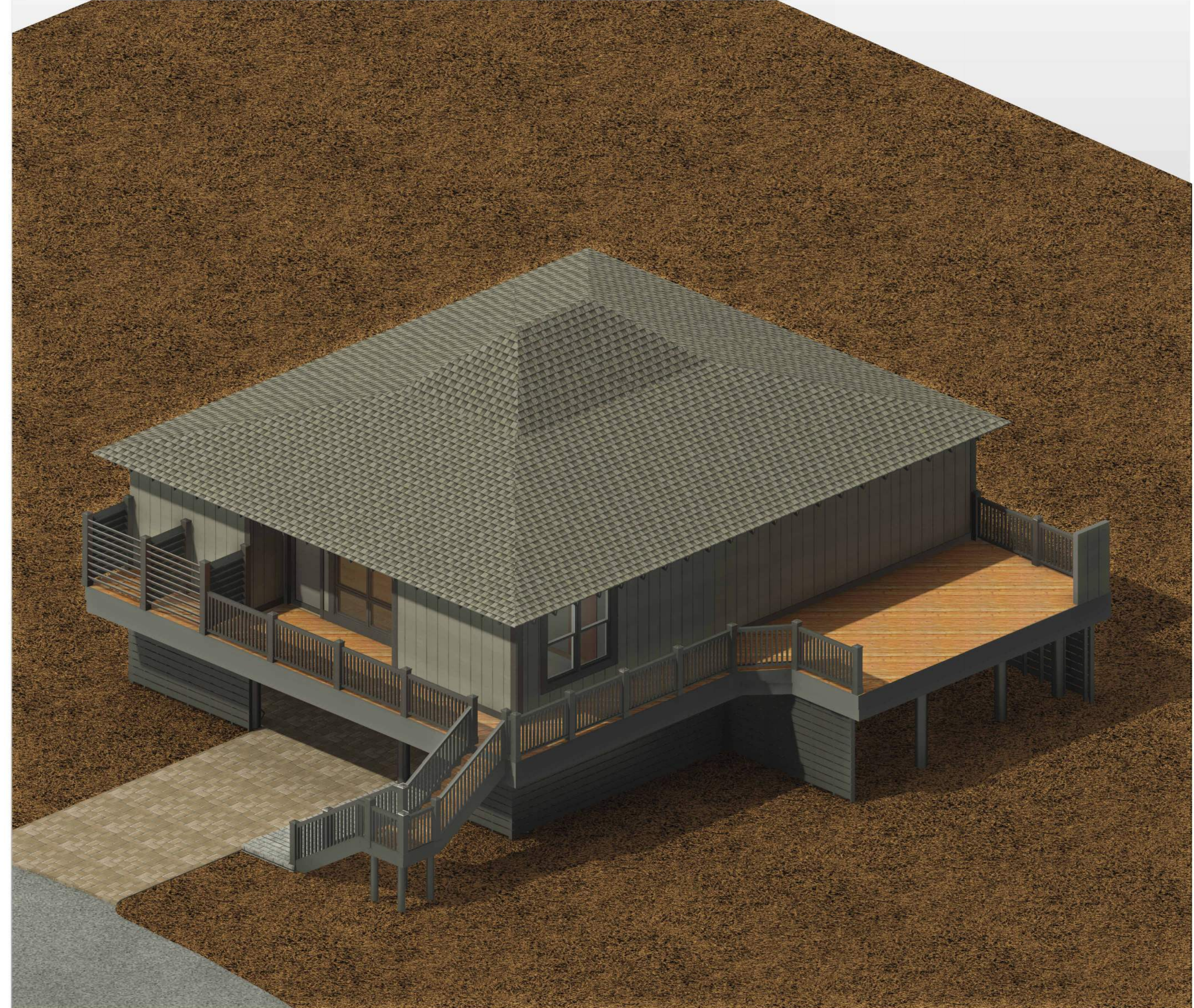
JIM COBB L.L.C.
 LAND SURVEYING
 420 PRIESTLY ST., CHARLESTON, SC 29412
 PHONE (843) 303-6678

DATE: JULY 10, 2025
 SCALE: 1"=10'





① Rear View



② Front View

1031 WARBLER COURT

1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

No.	Issuance / Revision	Date

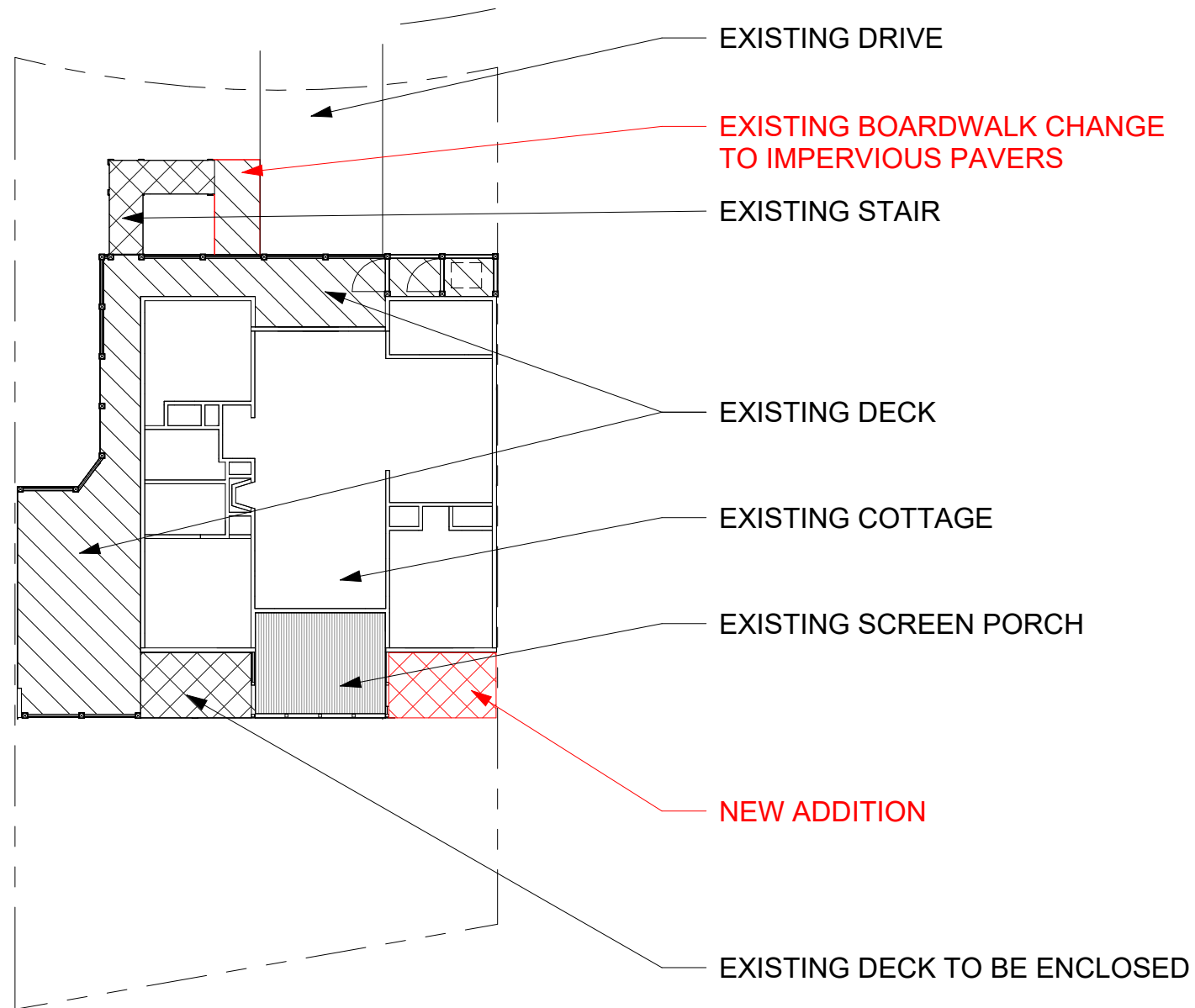
SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Cover

Drawing Date: 07/09/2025

000

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1031
WARBLER COURT
(30' R/W)



SQUARE FOOTAGE LEGEND	
PROPERTY	4,110 SF
EXISTING COVERAGE	
HOUSE	1,136 SF
SCREENED PORCH	137 SF
DECK	559 SF
STAIR	55 SF
BOARDWALK	35 SF
DRIVE	198 SF
EXISTING TOTAL	2,120 SF
EXISTING LOT COVERAGE	52%
NEW ADDITION	
NEW ADDITION	69 SF
CHANGE TO IMPERVIOUS BOARDWALK	-35 SF
TOTAL COVERAGE WITH ADDITION	2,154 SF
NEW LOT COVERAGE	52%

1 Site Plan
1/16" = 1'-0"

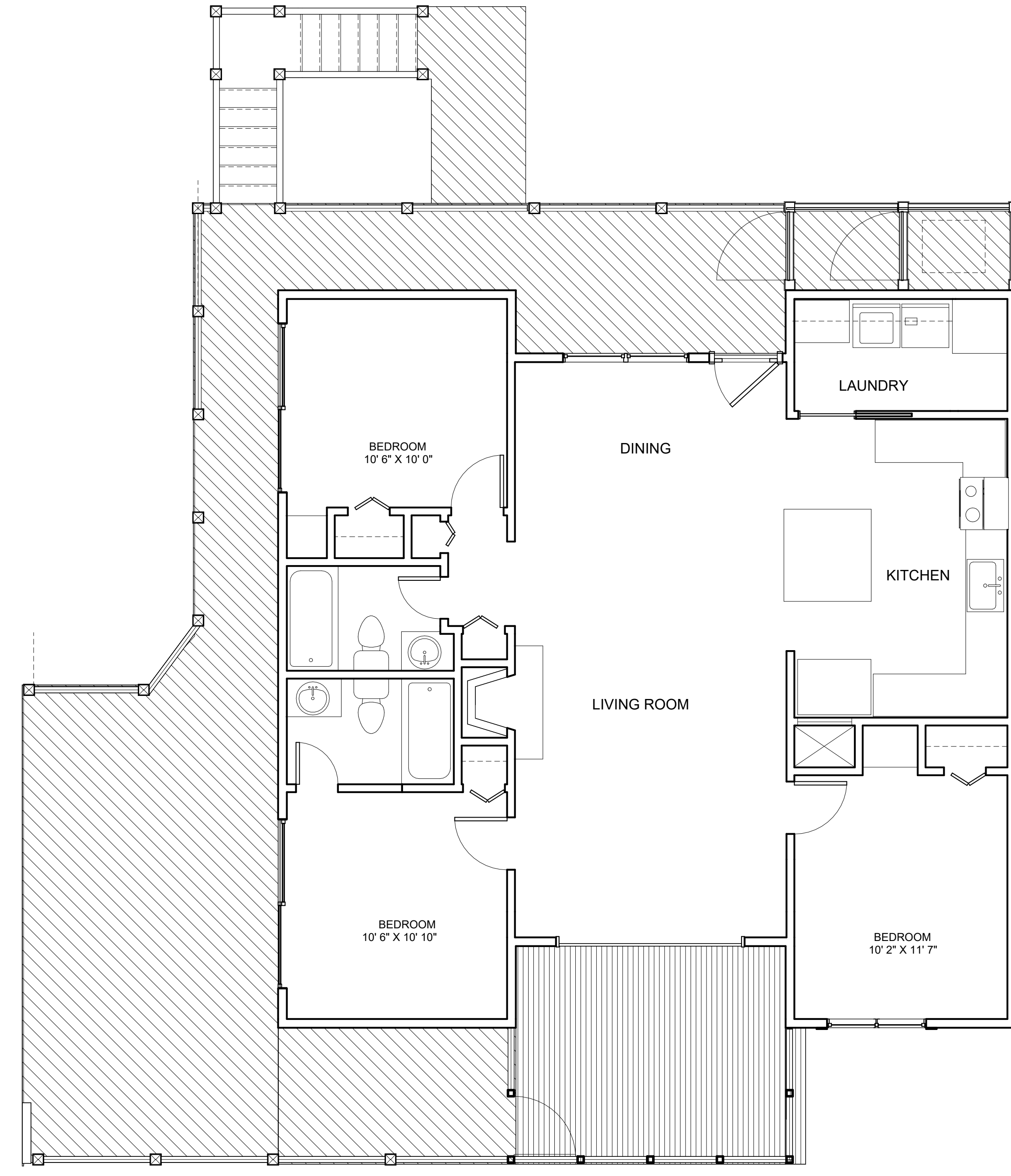
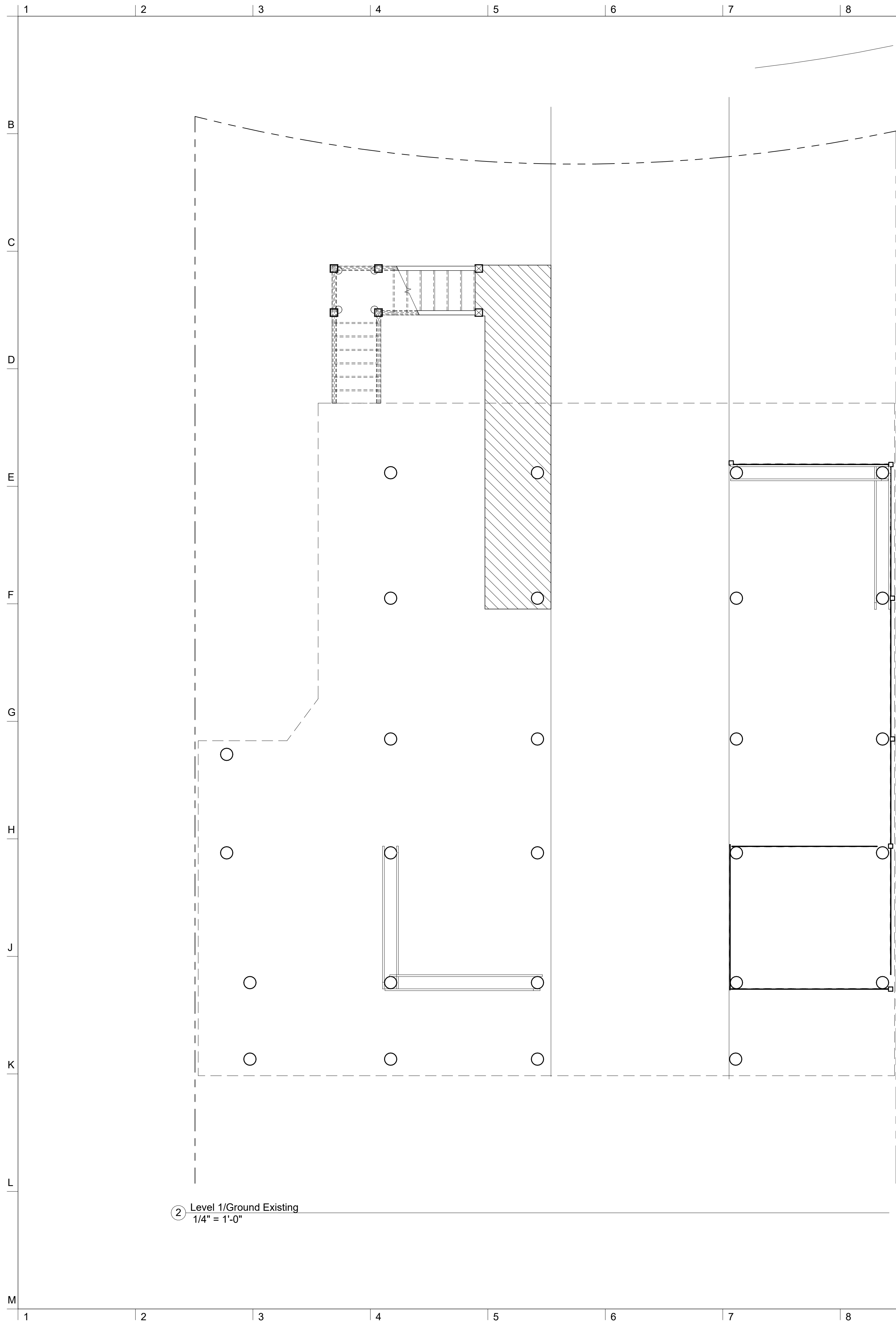
SPARROW POND

1031 Warbler Ct
Kiawah Island SC

Gish Residence
Sparrow Pond Cottage

No.	Description	Date

Site Plan	
Project number	-
Date	07/09/2025
Drawn by	HOB
Checked by	HOB
S2	
Scale 1/16" = 1'-0"	



1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

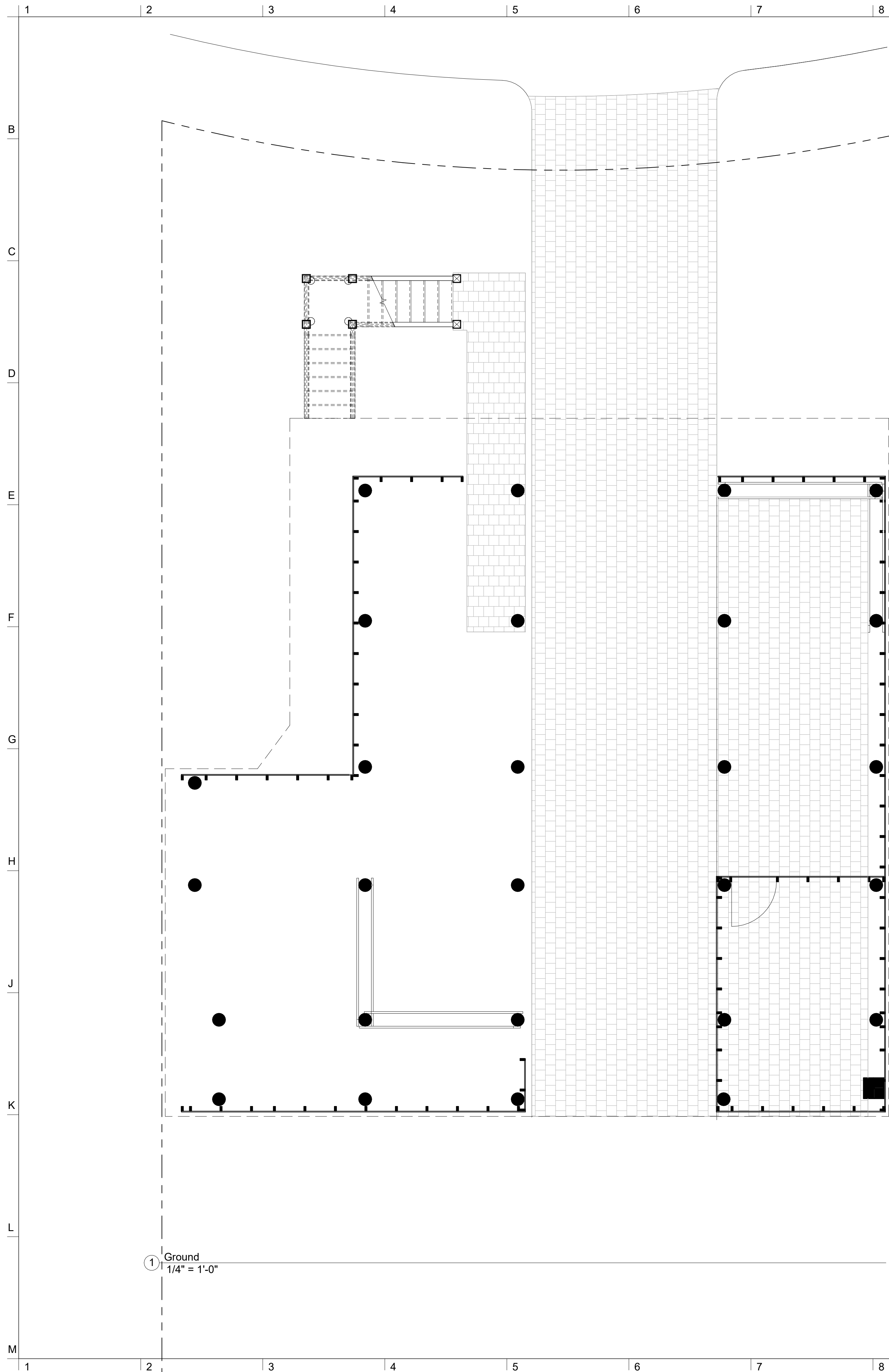
No.	Description/Revision	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Existing Floor Plans

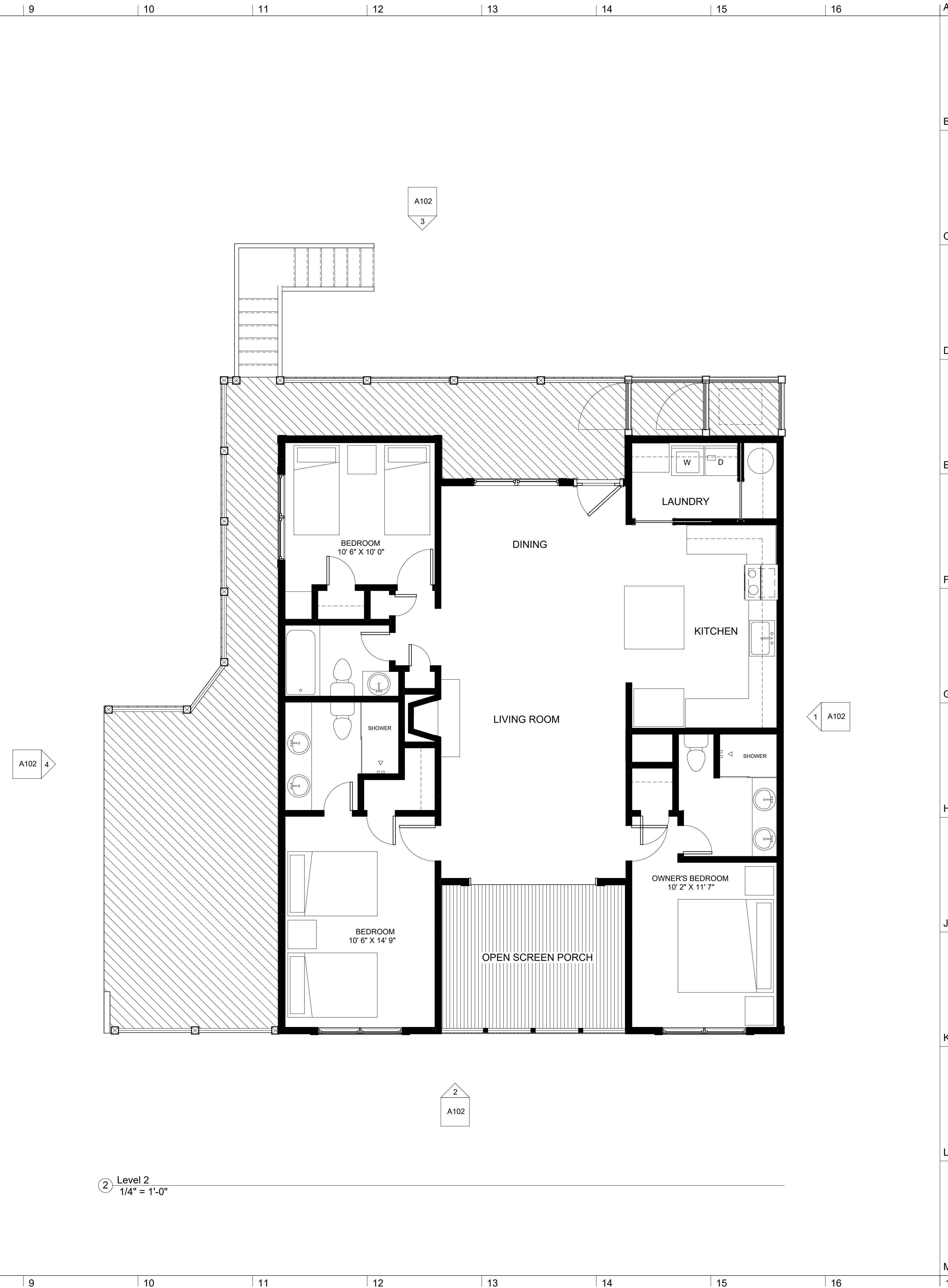
Drawing Date:
07/09/2025

EX101

7/9/2025 6:26:55 PM



① Ground
1/4" = 1'-0"



② Level 2
1/4" = 1'-0"

1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

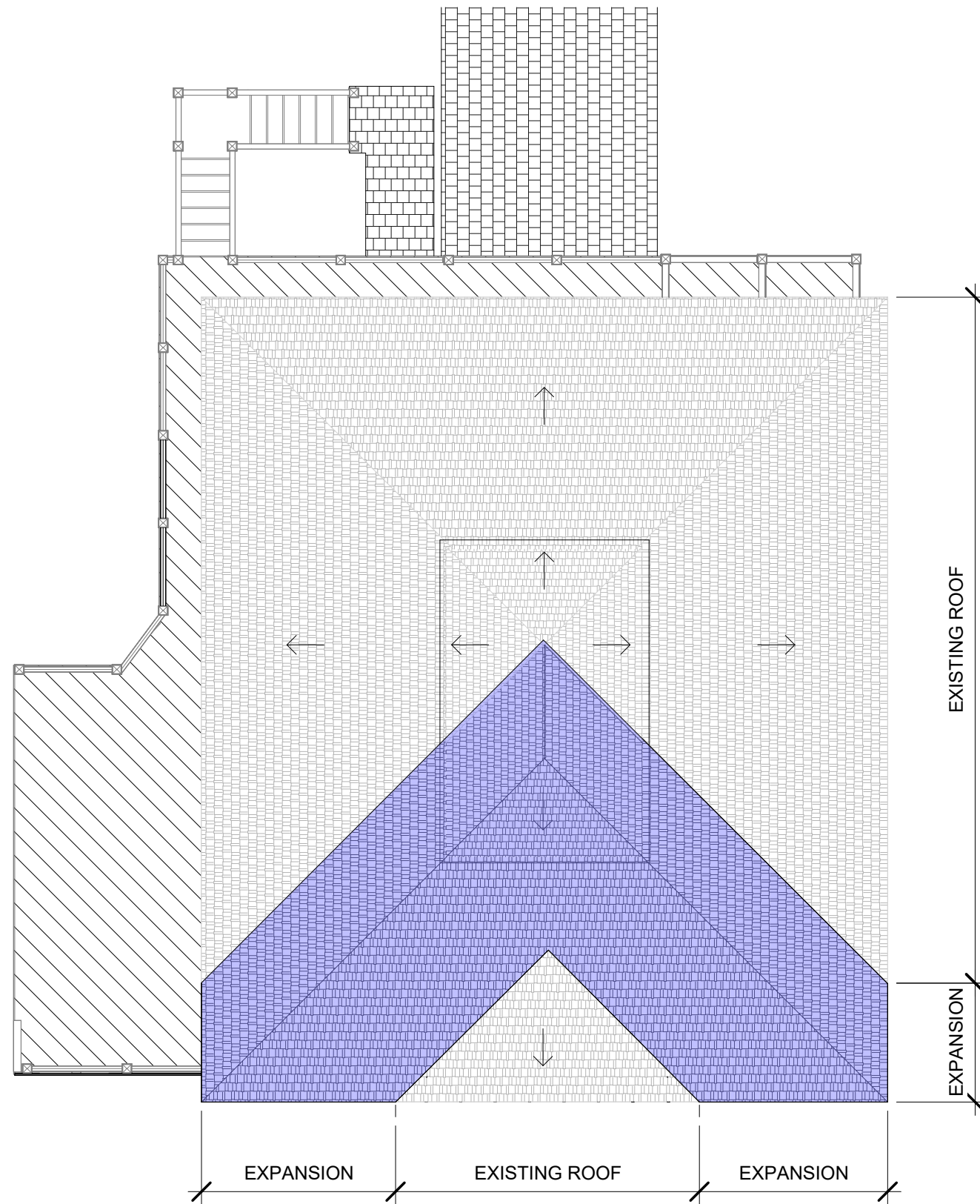
No.	Revisions/Description	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Floor Plans

Drawing Date:
07/09/2025

A101

7/9/2025 6:26:41 PM



1 Roof Plan
1/8" = 1'-0"

1031 Warbler Ct
Kiawah Island SC

Gish Residence
Sparrow Pond Cottage

No.	Description	Date

Roof Plan

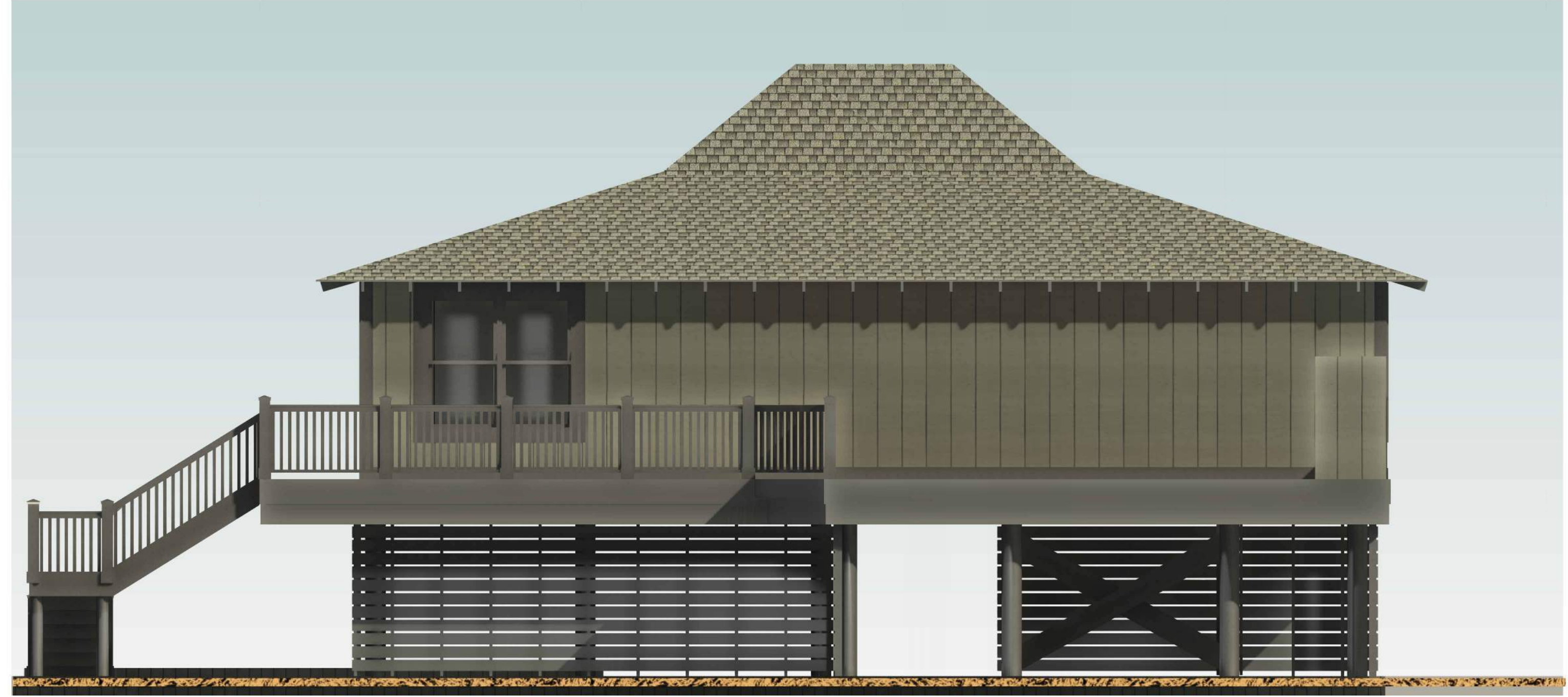
Project number -
Date 07/09/2025
Drawn by -
Checked by -

A108

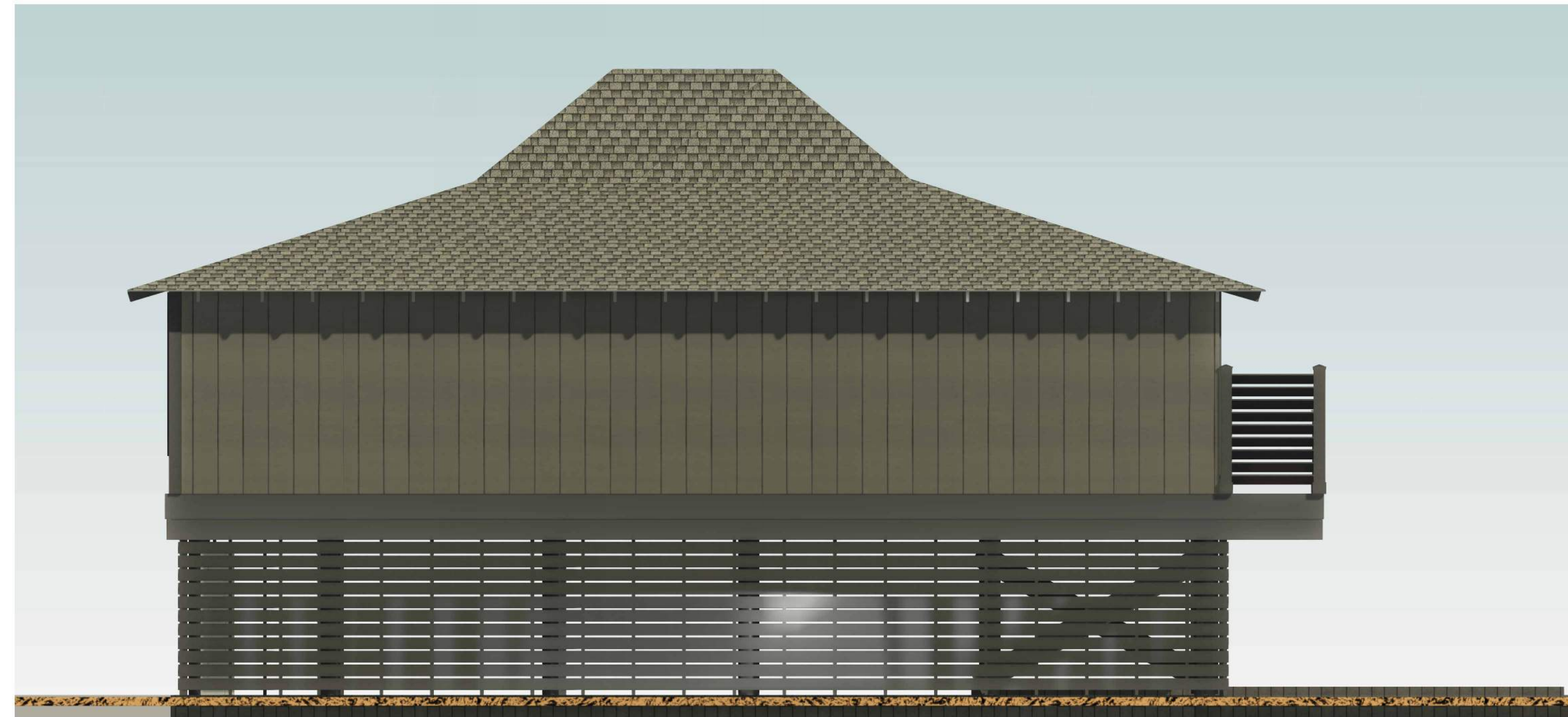
Scale 1/8" = 1'-0"



3 Front Elevation
1/4" = 1'-0"



4 Right Side Elevation
1/4" = 1'-0"



1 Left Side Elevation
1/4" = 1'-0"



2 Rear Elevation
1/4" = 1'-0"

1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

No.	Issuance / Revision	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Elevations

Drawing Date:
07/09/2025

A102

7/9/2025 6:26:49 PM

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 A7

B

C

D

E

F

G

H

J

K

L

M



1 3D View 1



2 3D View 3

A7

B

C

D

E

F

G

H

J

K

L

M

1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

No.	Revisions / Revision	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
3D Views

Drawing Date:
07/09/2025

A103

7/9/2025 6:26:55 PM

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17

1031 THRASHER CT – SPARROW POND COTTAGES

LETTER OF INTENT

This project is for an addition and remodel of the cottage at 1031 Warbler Ct. in the Sparrow Pond cottages. The intent is to make an addition adjacent to the screened porch at the rear of the cottage. The addition will bring the left side of the cottage out even with the screened porch and allow space on the interior for an additional bathroom. The addition will involve an encroachment into the current 5' setback on this side of the cottage. This is the reason for this Variance Application.

a. There are extraordinary and exceptional conditions pertaining to this property.

The setback lines for the property were established years after the cottage was built. Since the property has zero lot lines on both sides with the adjacent properties, the existing setback lines show the house to be invading the setback areas on both sides. The planned addition will simply extend this by approximately 6 feet on the left side.

b. These conditions do not generally apply to other properties in the vicinity.

Since other properties in the vicinity generally have at least one side of the house that is not a zero lot line, the condition of having both sides of the house encroaching setback areas is unique.

c. Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The ability to have an additional bathroom greatly increases the livability of the cottage. There is no bathroom on the left side of the house.

d. The authorization of the variance will not be of substantial detriment to adjacent properties or the public good, and the character of the zoning district will not be harmed by granting of the variance.

A large percentage of the cottages in Sparrow Pond have made this addition. The addition is located at the rear of the cottage and is not visible from the street. The addition fits well into the overall design of the cottage and matches existing colors and roof.

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

nonconforming use of land, or to change the zoning district boundaries shown of the official zoning map.

No zoning boundaries will change as a result of this project. The use of the property will continue to be that of a vacation home with periodic rentals.

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

The sole reason for the variance is to make the property more livable and to enhance its comfort and appearance. It will also add to the appearance of the community by upgrading windows, doors, and walkways.

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

The need for this variance is the result of the setbacks that were established after the property was built upon and placed the house structure inside the setbacks.

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.

Granting the variance will allow significant improvement in the appearance of a property built approximately 45 years ago and continue to foster the improvements that have been made and are being made in the Sparrow Pond community.

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

This variance has been granted several times where the setbacks previously established several years ago in the Sparrow Pond cottages conflict with the overall enhancement of the community and do not seem logical. The approval of the Kiawah Island Cottage Owners Association has been given.

EXHIBIT A

ALL that certain piece, parcel or lot of land with the buildings and improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, and known and designated as Unit 1031, on a plat by Coastal Surveying Co., Inc., dated May 5, 1976, and revised May 14, 1976, and September 2, 1976, entitled "PLAT OF A PORTION OF SPARROW POND COTTAGES LOCATED ON KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA, OWNED BY KIAWAH ISLAND COMPANY, INC., 67 BROAD STREET, CHARLESTON, SC 29401", recorded in Plat Book AG, at page 128, in the RMC Office for Charleston County, SC and having such location, buttings, boundings, dimensions, courses and distances as will by reference to said plat more fully appear.

This conveyance is made subject to the following:

- (a) All covenants, obligations, restrictions and limitations as contained in the Declaration of Covenants and Restrictions of the Kiawah Island Community Associates, Inc., recorded in Book T-108, page 337, in the RMC Office for Charleston County, SC.
- (b) All covenants, obligations, restrictions, and limitations applicable to Kiawah Island Company, Inc. properties as contained in the Declaration of Rights, Restrictions, Affirmative Obligations and Conditions recorded in Book T-108, page 338, in the RMC Office for Charleston County, SC;
- (c) All covenants, obligations, restrictions and limitations applicable to Class "A" Residential Areas of Kiawah Island, all as contained in the Declaration of the Kiawah Island Company, Inc., recorded in Book T-108 at Page 339, in the RMC Office for Charleston County, SC;
- (d) Declaration of Covenants and Restrictions for Kiawah Island Cottages, Kiawah Island, S.C. dated October 29, 1976, and Provisions for the Kiawah Island Cottage Owners' Association, Inc., and By-Laws therefore, recorded in Book V-110 at Page 117, in the RMC Office for Charleston County, SC, as amended in Book Y-183 at Page 346;
- (e) All easements as shown on the aforesaid plat by Coastal Surveying Co., Inc.
- (f) The Zoning Ordinances of the Town of Kiawah Island, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

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

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred is located at 1031 Warbler Court, Kiawah Island bearing Charleston, County Tax Map Number 207-06-00-032, was transferred by **Michael Houghton and Leigh S. Houghton** to **David L. Gish and Catherine E. Gish** on March 14, 2014.
3. Check one of the following: The deed is
 - (a) subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) 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.
 - (c) exempt from the deed recording fee because (See Information section of affidavit): _____ (If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See information section of this affidavit.):
 - (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$427,500.00
 - (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 \$_____.

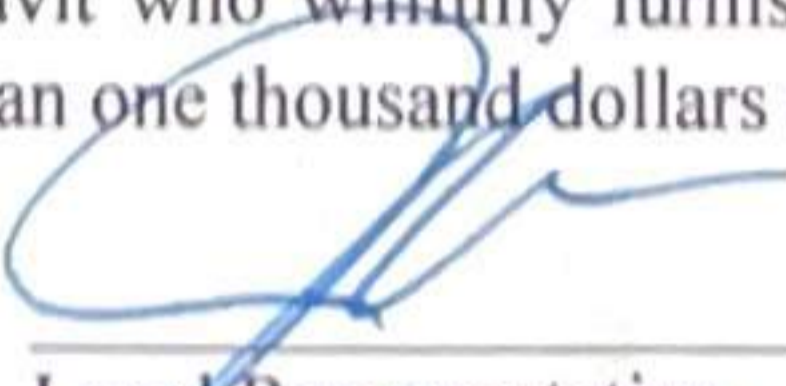
5. Check YES ___ or NO to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If YES, the amount of the outstanding balance of this lien or encumbrance is \$_.

6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: 427,500.00
 - (b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
 - (c) Subtract line 6(b) from Line 6(a) and place result here: 427,500.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$1,581.75.

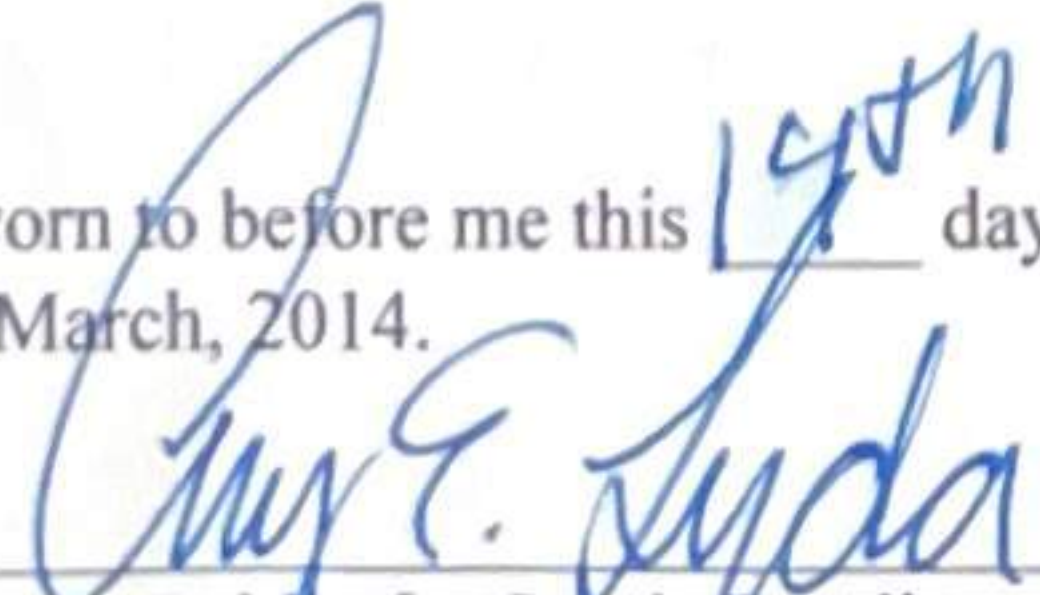
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as : Legal Representative

9. I understand that a person required to furnish this affidavit who willfully 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.



Legal Representative
Burt Byars & Taylor, LLC
Print Name

Sworn to before me this 14th day
of March, 2014.



Notary Public for South Carolina
My Commission Expires: _____

AMY E. LYDA
Notary Public, South Carolina
My Commission Expires
August 17, 2021

RECORDER'S PAGE



NOTE: This page MUST remain with the original document

abi

Filed By:

BUIST, BYARS, & TAYLOR, LLC
 FRESHFIELDS VILLAGE
 130 GARDNER'S CR PMB 138
 JOHNS ISLAND SC 29455 (BOX)

RECORDED		
Date:	March 17, 2014	
Time:	10:44:04 AM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
0393	821	Deed
Charlie Lybrand, Register Charleston County, SC		

GMT

MAKER:

HOUGHTON MICHAEL AL

Note:

RECIPIENT:

GISH DAVID L AL

of Pages:

Recording Fee	\$ 10.00
State Fee	\$ 1,111.50
County Fee	\$ 470.25
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 1,591.75

Original Book:

Original Page:

DRAWER
 CLERK

AUDITOR STAMP HERE

RECEIVED FROM RMC

MAR 18 2014

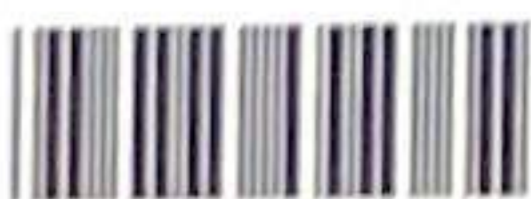
PETER J. TECKLENBURG
 CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP *PKJ*

DATE *3/19/14*

4



0393
Book



821
Page



03/17/2014
Recorded Date



5
Pgs



Original Book



Original Page



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10:44:04
Recorded Time



September 4, 2025

Mr. and Mrs. David Gish
1031 Warbler Court
Kiawah Island, SC 29455

PHYSICAL ADDRESS
253 Gardeners Circle, Suite 200
Johns Island, SC 29455

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

Re: **MAJOR IMPROVEMENT REVIEW and VARIANCE**
Address: 1031 Warbler Court
ARB Action: Approved

Dear Mr. and Mrs. Gish,

Thank you for your submittal to the Kiawah Island Architectural Review Board for review of Improvements to your home at 1031 Warbler Court. The additions to your home are approved to continue to the permit submittal with the following comments and conditions in keeping with the guidelines:

- L1. A proposed landscape plan, showing revegetation of areas impacted by construction and new plantings as needed to meet current ARB Standards and Guidelines, should be submitted for review and approval 60 days prior to landscape installation. Please review the landscape requirements of the Design Guidelines.
- L2. Please note that if you propose tree removals or major impact to trees, this should be submitted for review by the ARB.
- L3. Due to the proposed change in footprint, please be reminded that an as-built survey will be required for the final inspection at the conclusion of construction.

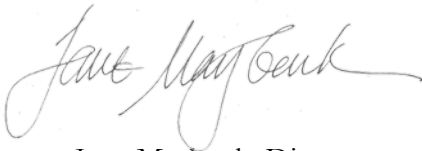
- A1. The setback and lot coverage variances are approved as the design is one that is in keeping with patterns present in the neighborhood and the resulting whole is well composed. As designed, the two bedrooms frame the porch in a simple and straightforward manner. Minimal adjustments to meet metrics would negatively impact the appearance of the house and it is preferable as shown. Regarding the setback encroachment, board members considered that if originally proposed, this would have been approved as the area of setback encroachment is in line with what is already over the setback on that side. Regarding the lot coverage variance, other than reducing the area of addition, as discussed above, the alternative is to reduce the area of the existing deck. In this neighborhood, the deck extending to the lot line is a well-established pattern and board members found it preferable to leave this undisturbed.
- A2. Please note that floodlights are discouraged on homes at Kiawah Island. Please limit the use of flood lights to no more than two fixtures, located in areas of pedestrian traffic. Alternate exterior lighting may be more appropriate at some existing floodlight locations.
- A3. Please note that exterior light fixtures other than flood lights are required to screen any direct view of light bulbs. Fixtures designed to display light bulbs should not be used. All new and existing exterior fixtures at your property should conform to this requirement. Please submit cut sheets for proposed new and replacement fixtures.

- A4. All exterior materials, colors, and other finishes should match those of the existing house. If different materials or colors are proposed, please note that the neighborhood uses a pre-approved color palette and be sure to submit any change to your regime board for approval prior to repaint.
- A5. Please refer to your neighborhood's approved colors when making color selections.
- A6. Bandboards must be painted to match either the foundation or the siding color and are not permitted to be the trim color. Additionally, corner boards must be painted out in the siding color and HVAC stand and any downspouts must be painted out in the color of the material to which they are adjacent.
- A7. HVAC equipment, tankless water heaters and propane tanks, if any, are required to be architecturally screened or located in an area where they are not visible.

For the Permit Submittal, please submit one (1) digital copy of sealed drawings including a Tree Protection Plan, a completed Construction Application Deposit & Agreement Form, construction deposits, the Review Fee, and a KICA Encroachment Permit to this office at ARB@Kiawah.com. Tree Protection fencing must be installed at time of Permit Submittal. When these items are received and Tree Protection fencing is verified, an ARB approval stamp and Building Permit will be issued for the project.

Thank you again for your submittal to the Kiawah Island Architectural Review Board. Please contact the ARB office if we can be of any assistance during the Permit Process for your home improvements.

Sincerely,



Jane Maybank, Director
On behalf of the KIARB

cc: Property File
encl: Construction Application and Deposit Form



Case #BZA25-000013
Kiawah Island BZA Meeting of September 22, 2025

Applicant/Property Owner: GISH DAVID L & GISH CATHERINE E

Representative: Ken Dukes

Property Location: 1031 Warbler Court

TMS#: 207-06-00-032

Lot Size: Total: 4,112.33 sqft (0.09 acres)

Zoning District: R-2-O, Residential Zoning Overlay District

Request: Variance request for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition

Requirement:

Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-80. - R-2-O, Residential Overlay Zoning District.

Required setbacks: 20' (Front); 5' (Side); 10' (Rear)

Maximum 50% 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 Rear Setback as, "the setback measured from the rear lot line." The Ordinance defines Side Setback as, "any setback other than a rear or front setback."

legally nonconforming in regards to setbacks & lot coverage

TURNBERRY LANE (DEVELOPED LANDS) cont.

125-127	25 (Turnberry)	15	30 (golf) 30 (lagoon)
128-133	25 (Turnberry)	15 (lots)	30 (golf)
134	25 (Turnberry)	15 (lot 133) 25 (Pleasant Valley)	30 (golf)

TURTLE BEACH LANE (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
1-18	10	7.5	30
<i>Note: 10' Rear deck encroachment</i>			

VETCH COURT (OCEANWOODS) (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
456	20	7	15
457-460	15	*	10
461	20	7	15
462-463	15	*	10
464	15	*	10
465	25	15	20
466	15	*	10
467	25	15	20

*Zero lot line homes may be built with no setback on one side of the property, but must have at least a 14 foot separation between buildings.

VIRGINIA RAIL ROAD (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
720	25 (Glossy Ibis) 25 (Virginia Rail)	15 (lot 721)	20 (easement)
721	25 (Virginia Rail)	15 30 (marsh)	30 (marsh)
722-723	25 (Virginia Rail)	15	30 (marsh)
724	25 (Virginia Rail)	15 (lot 723)	30 (marsh)
725	25 (Virginia Rail)	20	30
726	20 (lot 727)	20 (lot 725) 30 (golf course)	30 (marsh)
727-731	25 (Virginia Rail)	15	30
732-734	25 (Virginia Rail)	20	30
735	25 (Virginia Rail)	15	30
736 A & B	25 (Virginia Rail)	15	30 (lagoon)

VIRGINIA RAIL ROAD (DEVELOPED LANDS) cont.

736 C	25 (Virginia Rail)	20 (Virginia Rail) 15 (lot 736b)	30
737	25 (Virginia Rail)	20 (lot 738)	30 (lagoon)
738	25 (Virginia Rail)	20	30 (golf/lagoon)
739	25 (Virginia Rail)	20	20
740	25 (Virginia Rail) 25 (Glossy Ibis)	20	20 (lot 741)

WALKER CUP LANE (SEE GRAPHICS ALSO) (UNDEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
346-350	25	See Graphics	See Graphics

WARBLER COURT (SPARROW POND COTTAGES) (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
1030	20	7	15
1031-1032	15	5	10
1033	20	7	15
1034-1035	15	5	10
1036	20	7	15
1037-1038	15	5	10
1039	20	7	15

WAX MYRTLE COURT - PATIO LOTS (DEVELOPED LANDS)

<u>Lot</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
77 (Not a patio lot)	25 (Wax Myrtle Ct)	15 (lot 76) 25 (Gov. Dr)	20 (lot 78)
78	25 (Wax Myrtle Ct)	25 (Wax Myrtle Ct) 3 (r. side w/wall)	20 (lot 77)
79-82	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (lots)
83	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (lots 72, 73) 20 (open space)
84	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (open space)
85	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	20 (open space) 30 (marsh)
86-91	25 (Wax Myrtle Ct)	12 3 (r. side w/wall)	30 (marsh)

Sec. 12-66. R-2, Residential District.

- (a) *Purpose and intent.* The purpose of the R-2 zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to the R-2 zoning district:
 - (1) The maximum density for this district is six dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) There shall be no more than four dwelling units in any building within this district;
 - (5) 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 2C following subsection (b)(8) of this section;
 - (6) Lot standards (setbacks, lot coverage, etc.) for patio homes, 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 2D following subsection (b)(8) of this section;
 - (7) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (b)(6) of this section are listed in table 2D following subsection (b)(8) of this section;
 - (8) Authorized uses are listed in table 3A in section 12-102(c).

Table 2C. Lot Standards for R-2 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (Feet) ⁽¹⁾	Minimum Yard Setbacks ⁽²⁾			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾	Rear ⁽⁴⁾	(stories)	(feet)
6,000—7,999	50 percent	85	55	20	7	20	2.5	40
8,000—11,999	40 percent	100	60	25	15	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ 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.								
⁽²⁾ 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.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								

Table 2D. Lot Standards for R-2 (Patio Homes, Duplexes and Townhouses)

Housing Type	Minimum Lot Size (sq. ft.)	Minimum Yard Setbacks (feet)			Maximum Height		Maximum Lot Coverage
		Front	Side ⁽¹⁾	Rear	(stories)	(feet)	
Patio homes, zero lot line homes	4,000	20	0/10 ⁽²⁾	20	2.5	35	50 percent
Duplex	6,500	15	7	20	2.5	40	40 percent
Townhouse	2,000	10	See note ⁽³⁾	20	2.5	40	60 percent
⁽¹⁾ 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.							
⁽²⁾ A total distance of 15 feet is required between buildings with ten feet minimum setback being required on one side of each lot.							
⁽³⁾ Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.							

(Code 1993, § 12A-206; Ord. No. 2005-08, § 12A-206, 10-12-2005; Ord. No. 2007-05, § 2(12A-206), 7-10-2007)

Sec. 12-80. R-2-O, Residential Overlay Zoning District.

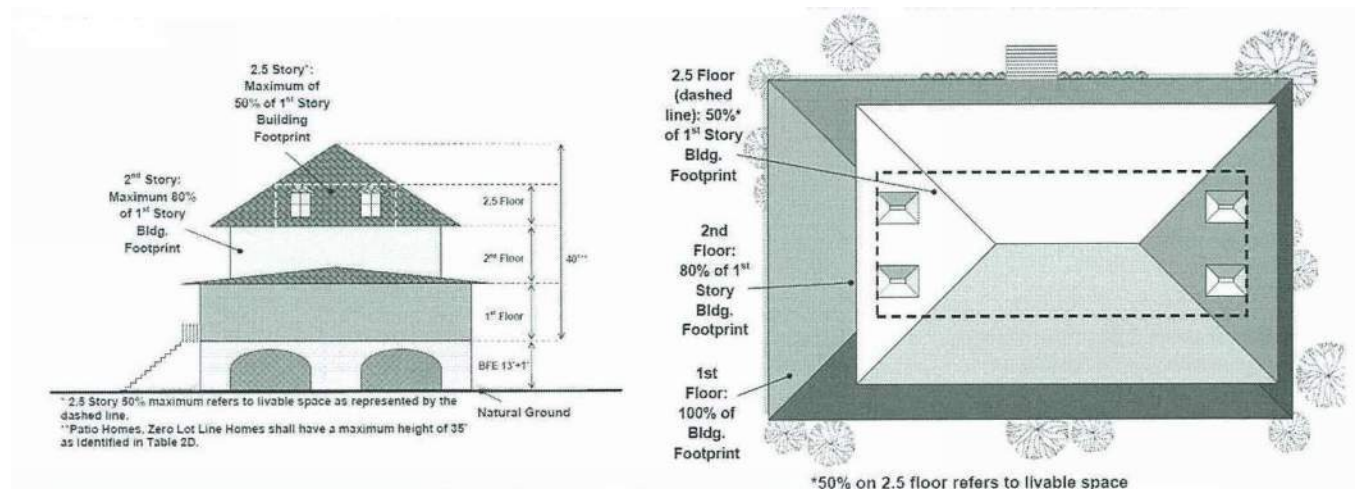
- (a) *Definition.* For purposes of this section, the term "major renovations" means costs of repair or restoration that exceed 50 percent of the appraised value of the structure at the time of zoning and building permit application. Refer to sections 12-192 and 12-193.
- (b) *Purpose and intent.* The purpose and intent of the R-2-O Residential Overlay Zoning District is to promote stable residential neighborhoods consisting of medium density single-family detached residences and patio homes surrounded by parks, golf courses and open spaces. Additionally the purpose and intent is to ensure that new dwelling units and major renovations to existing dwelling units are compatible with the character of existing neighborhoods located within the overlay by permitting consistent dwelling types through the implementation of the R-2-O development standards. Activities and endeavors which might serve to mitigate against this purpose and intent shall be prohibited or strictly regulated.
- (c) *Effect of overlay zoning district.* The R-2-O, Residential Overlay Zoning District regulations of this section apply in addition to the underlying (base) zoning district regulations to impose different development rules for properties within the R-2-O district. In case of conflict between the regulations of this section and other regulations in this article, the regulations of this section shall control.
- (d) *Applicability.* The R-2-O, Residential Overlay Zoning District is illustrated on the attached map. The standards of this section shall apply to all development within the R-2-O district.
- (e) *Development standards.* The following apply to the R-2-O, Residential Overlay Zoning District:
 - (1) The maximum density for this district is six 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 VI of this chapter, the Kiawah Island Property Setback Requirements

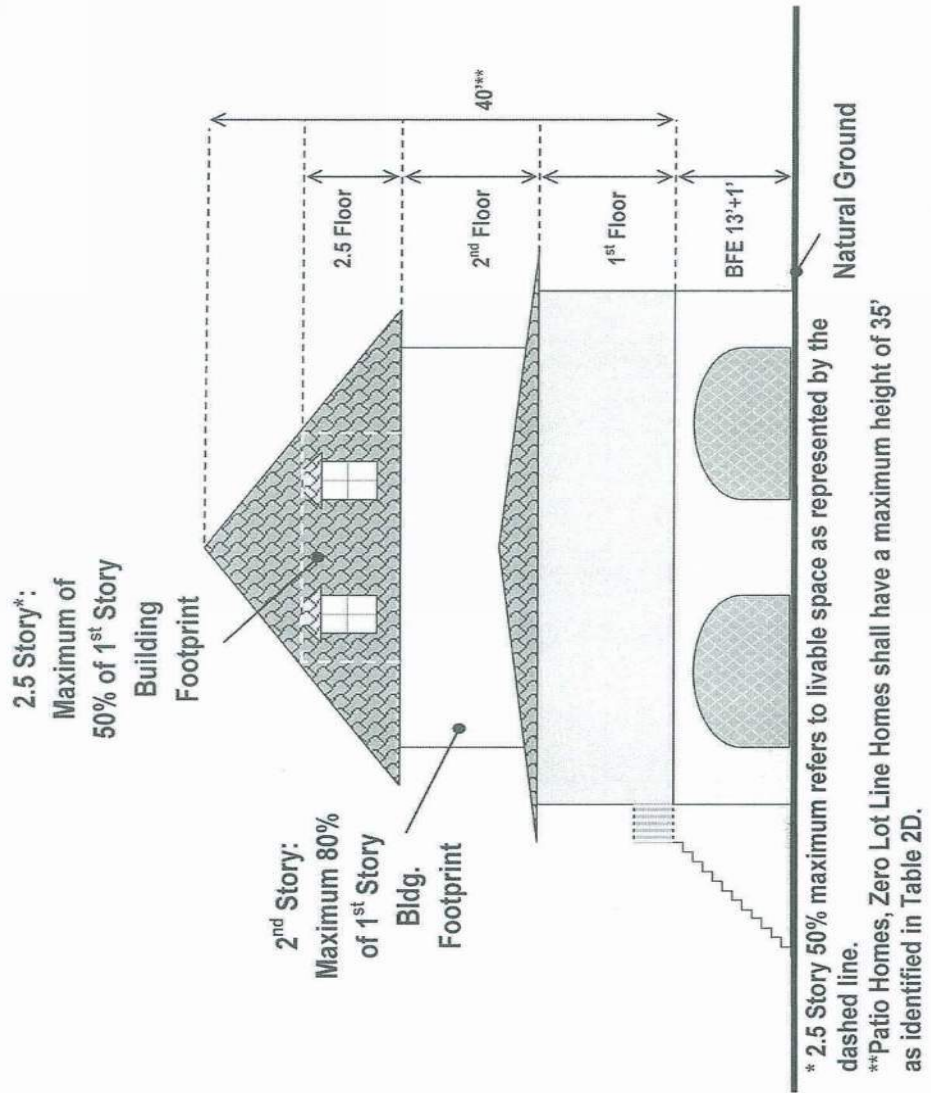
Appendix dated July 10, 2007, incorporated herein by reference and adopted hereto as article VI of this chapter shall apply in lieu of the setback requirements in table 2C, section 12-66;

- (5) Lot standards (setbacks, lot coverage, etc.) for patio homes, on existing platted lots that are included in the Kiawah Island Property Setback Requirements Appendix dated July 10, 2007, incorporated herein by reference and adopted hereto as article VI of this chapter shall apply in lieu of the setback requirements in table 2D, section 12-66;
- (6) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (e)(5) of this section are listed in table 2D, section 12-66, excluding duplexes and townhouses;
- (7) Authorized uses are listed in table 3A in section 12-102(c) except that townhouses and duplexes shall not be permitted uses in the R-2-O, Residential Overlay Zoning District;
- (8) Nonconforming structures and nonconforming uses that were lawfully erected within this overlay district prior to adoption of the R-2-O, Residential Overlay Zoning District, shall comply with sections 12-192 and 12-193; and
- (9) The term "height" means the elevation from ground floor level as measured in feet and stories to the highest point of the roof. The term "building height" does not include chimneys, antennas or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story;
- (10) The second story floor area shall not exceed 80 percent of the first story building footprint area. If there is a half story above the second story, it shall not exceed 50 percent of the first story floor area. Graphic 2A and graphic 2B set forth in this subsection illustrate the maximum floor area percentages for single-family detached dwellings.

Graphic 2A, elevation and graphic 2B, plan view: single-family detached maximum height in stories/feet: 2.5/40, illustrating 80 percent maximum second story floor area and 50 percent maximum 2½ story floor area.

⁽¹⁾ Note. Patio homes, zero lot line homes shall have a maximum height of 35 feet as identified in table 2D.





(Ord. No. 2011-06, § 2(12A-221), 10-4-2011)

Staff Review:

The property owners, David L. and Catherine E. Gish, represented by the applicant Ken Dukes, are requesting a variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS #207-06-00-032).

The subject property is approximately 4,112.33 square feet (0.09 acres) in size. According to Charleston County records, the existing home on the site was constructed in 1976. The property was acquired by David and Catherine Gish in 2014.

The subject property is located in the R-2-O, Residential Zoning Overlay District. Adjacent properties to the north, south, east, and west are also zoned R-2-O, Residential. The surrounding neighborhood is developed with single-family residential homes. The property is subject to review by the Kiawah Island Architectural Review Board (KIARB).

The Town of Kiawah Island Land Use Planning and Zoning Ordinance requires a front setback of twenty feet (20'), side yard setbacks of five feet (5'), and a rear setback of ten feet (10'). The maximum allowable lot coverage for the property is 50%. The current lot coverage is legally nonconforming regarding lot coverage and setbacks. Portions of the existing home encroach into the required 5' side yard setbacks by approximately 4.7 feet. The maximum encroachment is approximately 5 feet. The existing lot coverage is approximately 54.33%. The proposed addition will increase the coverage by approximately 0.64%.

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 applicant's proposed plans include an addition to the existing structure located in the rear of the structure. The size of the new addition is approximately 64 square feet. Portions of the new addition will encroach into the side setback by approximately 31 square feet. At its furthest point of encroachment, the proposed structure encroaches 4.7 feet into the required 5 foot side yard setback. The applicant's plans also include replacing the existing landing located in the front yard. The applicant will replace the boardwalk with a pervious surface, resulting in an offset in primary lot coverage of about 38 square feet, or about .92% lot coverage. The total proposed increase in primary lot coverage is approximately 54.97%. The total secondary lot coverage is approximately .92%. The total lot coverage is approximately 55.89%.

The applicant has submitted to the Kiawah Island Architectural Review Board (KIARB) on for review. The KIARB granted approval on September 4 stating, *"The setback and lot coverage variances are approved as the design is one that is in keeping with patterns present in the neighborhood and the resulting whole is well composed. As designed, the two bedrooms frame the porch in a simple and straightforward manner. Minimal adjustments to meet metrics would negatively impact the appearance of the house and it is preferable as shown. Regarding the setback encroachment, board members*

considered that if originally proposed, this would have been approved as the area of setback encroachment is in line with what is already over the setback on that side. Regarding the lot coverage variance, other than reducing the area of addition, as discussed above, the alternative is to reduce the area of the existing deck. In this neighborhood, the deck extending to the lot line is a well-established pattern and board members found it preferable to leave this undisturbed.”

A site visit was conducted on September 5, 2025. The following findings relate to the variance approval criteria in Chapter 12, Article II, Division 5, Section 12-163(4) of the Town of Kiawah Island Land Use Planning and Zoning Ordinance:

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: **There may be extraordinary and exceptional conditions pertaining to the property due to the setback lines of the property being established after construction of the property. The residence was constructed in 1976, and the recorded plat dated June 2, 1976, indicates a zero-lot line on the left side of the property. Under current regulations, the Kiawah Island Property Setbacks Appendix requires 5-foot side setbacks on both sides. Per the applicant’s letter of intent, “*The setback lines for the property were established years after the cottage was built. Since the property has zero lot lines on both sides with the adjacent properties, the existing setback lines show the house to be invading the setback areas on both sides.*”**

§ 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. While all currently developed lots on Warbler Court are subject to either a 5-foot or 7-foot side yard setback requirement, the recorded plat reflects a zero-lot line condition on one side of each lot. The majority of developed lots on Warbler Court utilize one side as a zero-lot line. The subject parcel is zoned R-2-O, Residential Overlay District, consistent with adjacent properties. 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 condition of having both sides of the house encroaching setback areas is***

unique.”

§ 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: **Application of the Ordinance to the subject property would prohibit the construction of the proposed addition due to the encroachment into the required 5-foot side yard setback. However, such application does not appear to unreasonably restrict the overall use of the property. Per the applicant’s letter of intent, “The ability to have an additional bathroom greatly increases the livability of the cottage. There is no bathroom on the left side of the house.”**

§ 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 addition is located at the rear of the structure and does not extend beyond the existing rear building line of the existing home. Per the applicant’s letter of intent, “A large percentage of the cottages in Sparrow Pond have made this addition. The addition is located at the rear of the cottage and is not visible from the street. The addition fits well into the overall design of the cottage and matches existing colors and roof.”**

§ 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 result in the establishment of a use not otherwise permitted in the R-2-O zoning district, would not physically extend a nonconforming use of land, nor alter any zoning district boundaries. Per the applicant’s letter of intent, “No zoning boundaries will change as a result of this project. The use of the property will continue to be that of a vacation home with periodic rentals.”**

§ 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 potential for increased profitability shall not be considered grounds for granting a variance. Per the applicant’s letter of intent, “The sole reason for the variance is to make the property more livable and to enhance its comfort and appearance.”**

§ 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 not be directly attributable to the applicant's own actions. The structure was built prior to the implementation of the current setback regulations and is considered legally nonconforming. Per the applicant's letter of intent, "*The need for this variance is the result of the setbacks that were established after the property was built upon and placed the house structure inside the setbacks.*"**

§ 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: **The requested variance does not appear to adversely affect neighboring properties, nor does it conflict with the intent or purpose of the applicable regulations. The proposed side setback encroachment does not exceed the extent of the existing structure. Per the applicant's letter of intent, "*Granting the variance will allow significant improvement in the appearance of a property built approximately 45 years ago and continue to foster the improvements that have been made and are being made in the Sparrow Pond community.*"**

§ 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*.**

Board of Zoning Appeals' Action:

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000013 (Variance request for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032)) 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

Kiawah BZA Meeting of August 18, 2025

Staff Review, Case # BZA25-000011

enhanced landscaping corresponding to the proposed additions which provides buffering to the street and adjacent property.

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# BZA25-000011 & 13

Applicant/Property Owner:	GISH DAVID L & GISH CATHERINE E
Representative:	Ken Dukes
Property Location:	1031 Warbler Court
TMS#:	207-06-00-032
Lot Size:	Total: 4,112.33 sqft (0.09 acres)
Zoning District:	R-2-O, Residential Zoning Overlay District
Requests:	<p>1) Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition.</p> <p>2) Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition.</p>

CASE# BZA24-000011 & 13

Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-80. - R-2-O, Residential Overlay Zoning District.

Required setbacks: 20' (Front); 5' (Side); 10' (Rear)

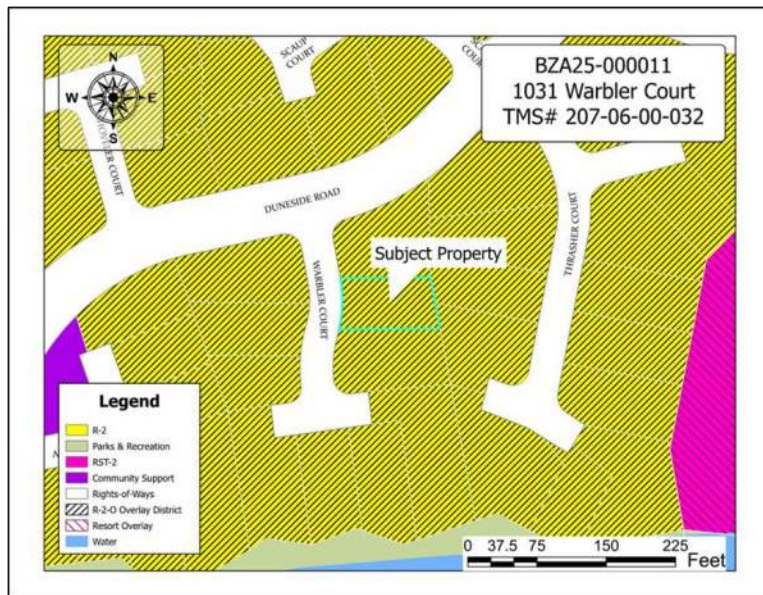
Maximum 50% Lot Coverage

The Ordinance defines Lot coverage as “the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director.”

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

Subject Property is legally nonconforming in regards to setbacks & lot coverage.

3



4



5

Case # BZA25-000011 & 13
BZA Meeting of September 22, 2025
Subject Property: 1031 Warbler Court- Kiawah Island

Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032)
 Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition.



6

Property Front



Adjacent Properties



Adjacent Properties



Property Rear

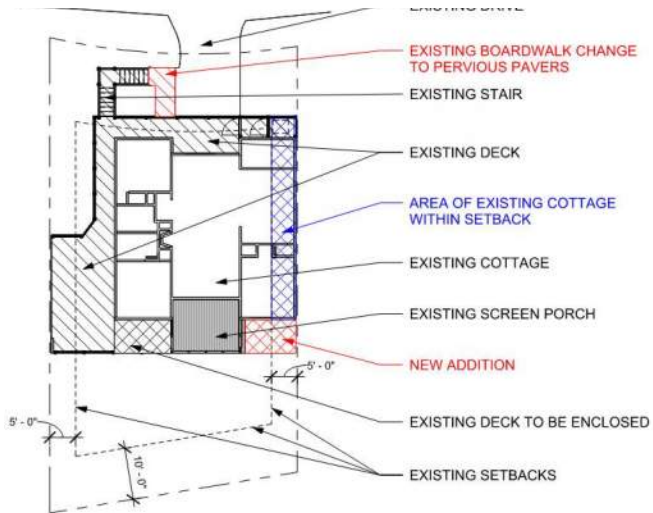


Subject Property



11

Proposed Site Plan



SQUARE FOOTAGE LEGEND	
PROPERTY	4,112.33 SF
EXISTING COVERAGE	
MAIN HOUSE	1,158.93 SF
SCREENED PORCH	145.38 SF
DECK	627.40 SF
HVAC AREA	24.02 SF
STAIR & LANDING	57.76 SF
DRIVE & BOARDWALK	220.92 SF
EXISTING TOTAL	2,234.41 SF
EXISTING LOT COVERAGE 54.33%	
NEW ADDITION	64.02 SF
CHANGE TO PERVIOUS BOARDWALK	-38.00 SF
TOTAL COVERAGE WITH ADDITION	2,260.43 SF

AREA OF EXISTING COTTAGE CURRENTLY WITHIN THE SIDE SETBACK 185.29 SF

AREA OF NEW ADDITION WITHIN THE SIDE SETBACK 30.65 SF

1 Site Plan 1/16" = 1'-0" SPARROW POND

12

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;

13

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.

14

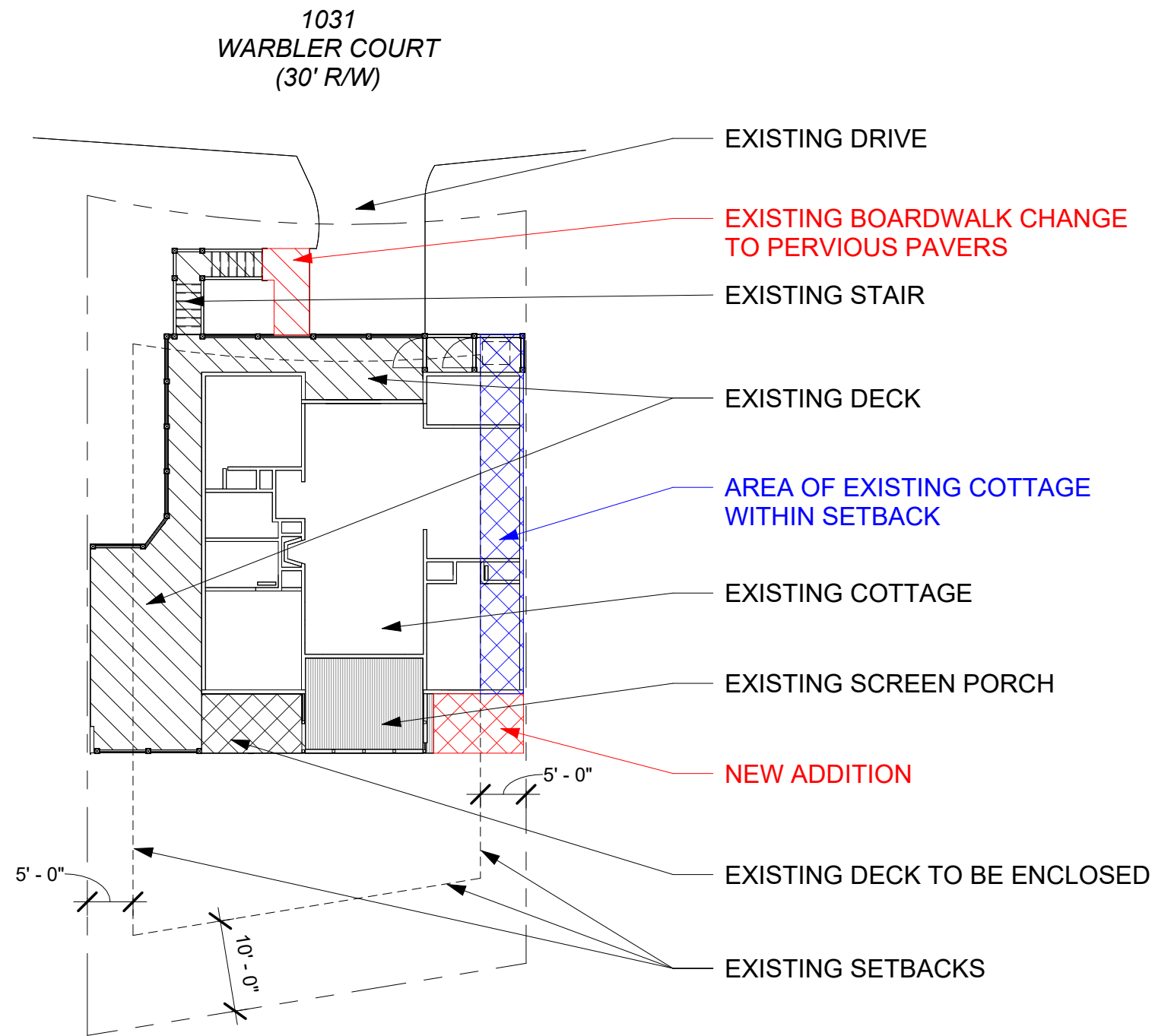
Board of Zoning Appeals Action

The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZA25-000011 (Variance request for the increase in maximum lot coverage by approximately .64% (26 square feet) for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032) & Case #BZA25-000013 (Variance for the reduction of the required 5' side setback for approximately 31 square feet for a proposed addition located at 1031 Warbler Court, Kiawah Island, SC (TMS # 207-06-00-032) 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.

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 corresponding to the proposed additions which provides buffering to the street and adjacent property.



SQUARE FOOTAGE LEGEND	
PROPERTY	4,112.33 SF
EXISTING COVERAGE	
MAIN HOUSE	1,158.93 SF
SCREENED PORCH	145.38 SF
DECK	627.40 SF
HVAC AREA	24.02 SF
STAIR & LANDING	57.76 SF
DRIVE & BOARDWALK	220.92 SF
EXISTING TOTAL	2,234.41 SF
EXISTING LOT COVERAGE 54.33%	
NEW ADDITION	
NEW ADDITION	64.02 SF
CHANGE TO PERVIOUS BOARDWALK	-38.00 SF
TOTAL COVERAGE WITH ADDITION	2,260.43 SF
NEW LOT COVERAGE 54.97%	
AREA OF EXISTING COTTAGE CURRENTLY WITHIN THE SIDE SETBACK 185.29 SF	
AREA OF NEW ADDITION WITHIN THE SIDE SETBACK 30.65 SF	

1 Site Plan
1/16" = 1'-0"
SPARROW POND

1031 Warbler Ct
Kiawah Island SC

Gish Residence
HOUSE OF BARTLETT
ARCHITECTS PA

No.	Description	Date
1	Added New Side Setback	07/23/2025

Site Plan		S2
Project number	-	
Date	07/11/25	
Drawn by	HOB	
Checked by	HOB	
Scale 1/16" = 1'-0"		

CERTIFICATION

I HEREBY CERTIFY THAT THE BEST OF MY KNOWLEDGE AND INFORMATION AS FURNISHED TO ME BY THE CLIENT WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF SOUTH CAROLINA AND THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN.

LEGEND

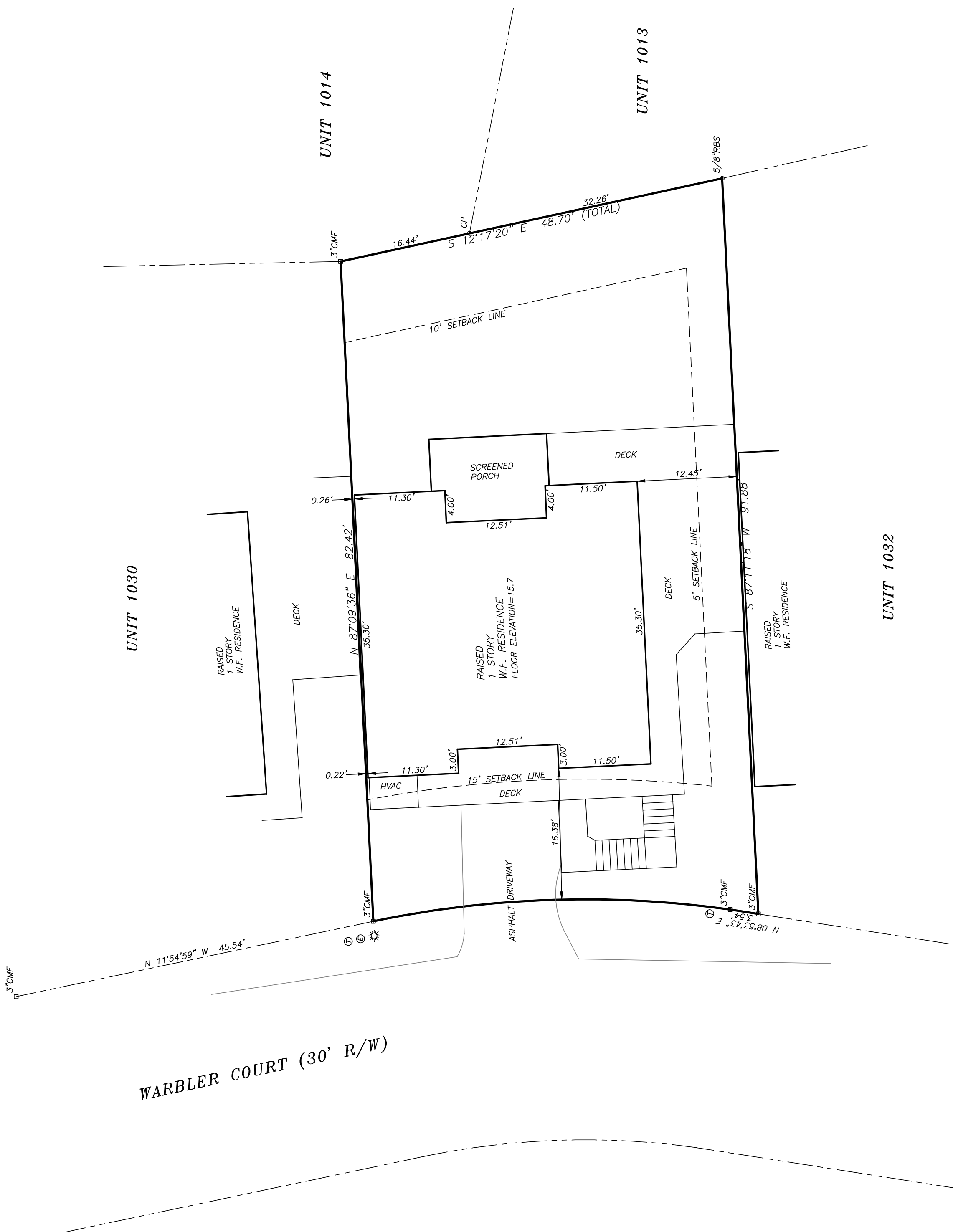
- RBS = REBAR (SET)
- CMF = CONCRETE MONUMENT (FOUND)
- CP = CALCULATED POINT
- ☉ = LIGHT POLE
- ⊕ = ELECTRIC PEDESTAL
- ⊙ = TELEPHONE PEDESTAL

NOTES

1. REF.: PLAT BOOK AG, PAGE 128 REED BOOK 0393, PAGE 821
2. PROPERTY OWNERS: DAVID GISH AND CATHERINE E. GISH
3. T.M.S. NO. 207-06-00-032
4. THE ADDRESS IS: 1031 WARBLER COURT KIAWAH ISLAND, SC 29455.
5. LOT AREA = 4112.33 SqFt (0.09 AC)
6. THE PROPERTY APPEARS TO BE LOCATED IN FLOOD ZONE AE-10, AS SHOWN ON MAP 45019C 0785 K, DATED JAN.29.2021.
7. ELEVATIONS SHOWN HEREON ARE IN THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD'88)
8. SEE REFERENCE PLAT FOR ALL OTHER GENERAL NOTES AND ANY SPECIAL NOTES.
9. SETBACK INFORMATION SHOULD BE CONFIRMED BY THE TOWN OF KIAWAH ISLAND.

LOT COVERAGE

FIRST FLOOR	= 1156.83 Sq. Feet
SCREENED PORCH	= 852.46 Sq. Feet
DECK	= 202.40 Sq. Feet
HVAC	= 24.02 Sq. Feet
STEPS & LANDINGS	= 57.76 Sq. Feet
DRIVEWAY & SIDEWALKS	= 220.92 Sq. Feet
TOTAL COVERAGE ON LOT	= 2234.41 SQ.FT.
LOT AREA	= 4112.33 SQ.FT.
LOT COVERAGE	= 54.33%



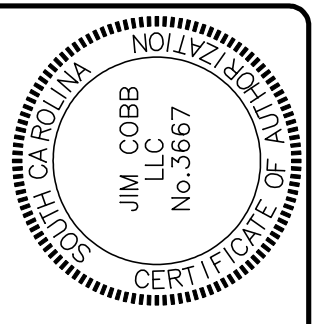
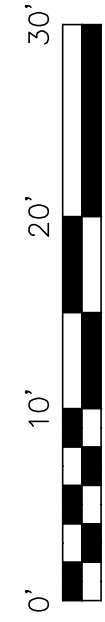
WARBLER COURT (30' R/W)

AS-BUILT SURVEY
 UNIT 1031
 SPARROW POND COTTAGES
 THE TOWN OF KIAWAH ISLAND

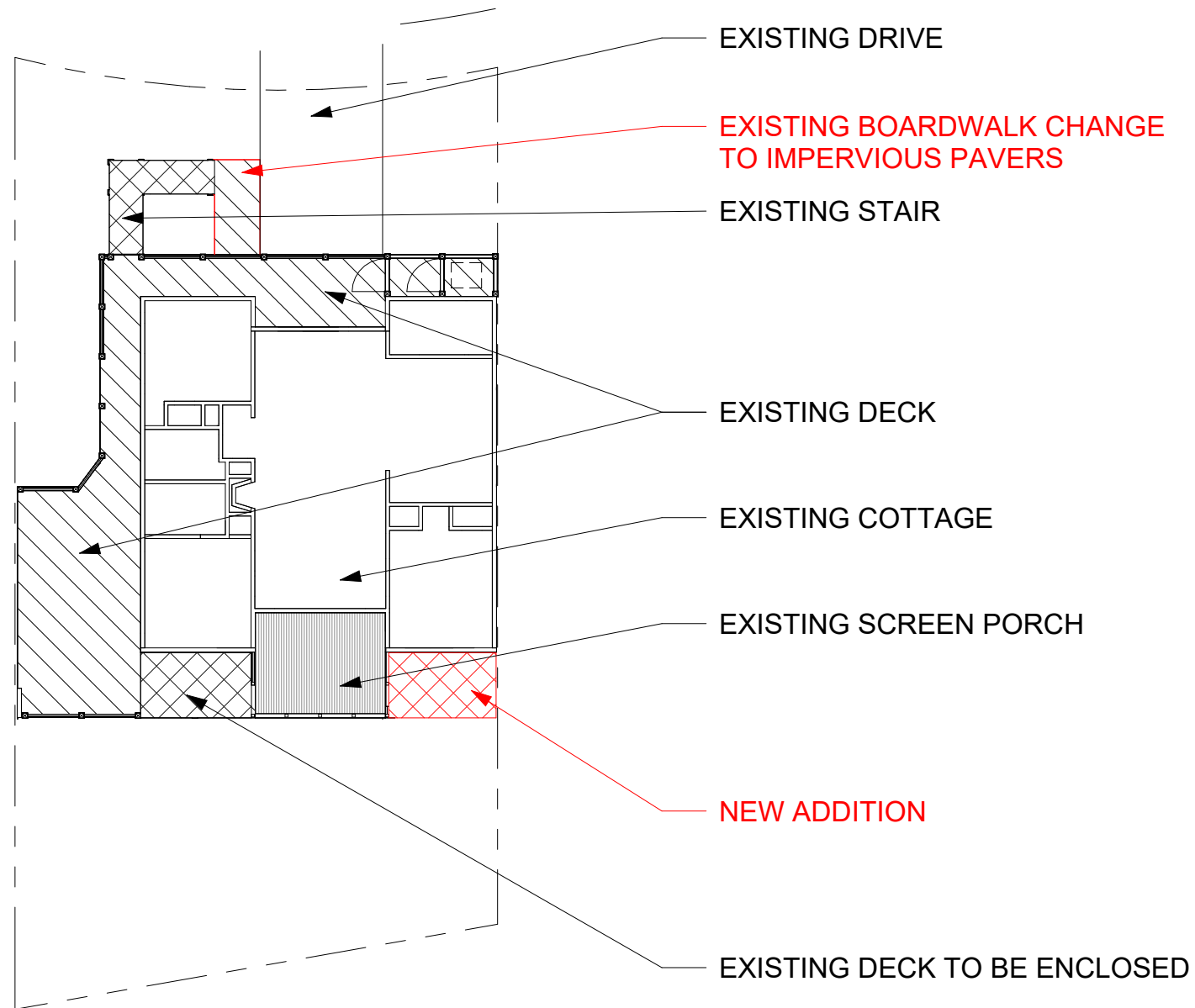
CHARLESTON COUNTY
 SOUTH CAROLINA

JIM COBB L.L.C.
 LAND SURVEYING
 420 PRIESTLY ST., CHARLESTON, SC 29412
 PHONE (843) 303-6678

DATE: JULY 10, 2025
 SCALE: 1"=10'



1031
WARBLER COURT
(30' R/W)



SQUARE FOOTAGE LEGEND	
PROPERTY	4,110 SF
EXISTING COVERAGE	
HOUSE	1,136 SF
SCREENED PORCH	137 SF
DECK	559 SF
STAIR	55 SF
BOARDWALK	35 SF
DRIVE	198 SF
EXISTING TOTAL	2,120 SF
EXISTING LOT COVERAGE	52%
NEW ADDITION	
NEW ADDITION	69 SF
CHANGE TO IMPERVIOUS BOARDWALK	-35 SF
TOTAL COVERAGE WITH ADDITION	2,154 SF
NEW LOT COVERAGE	52%

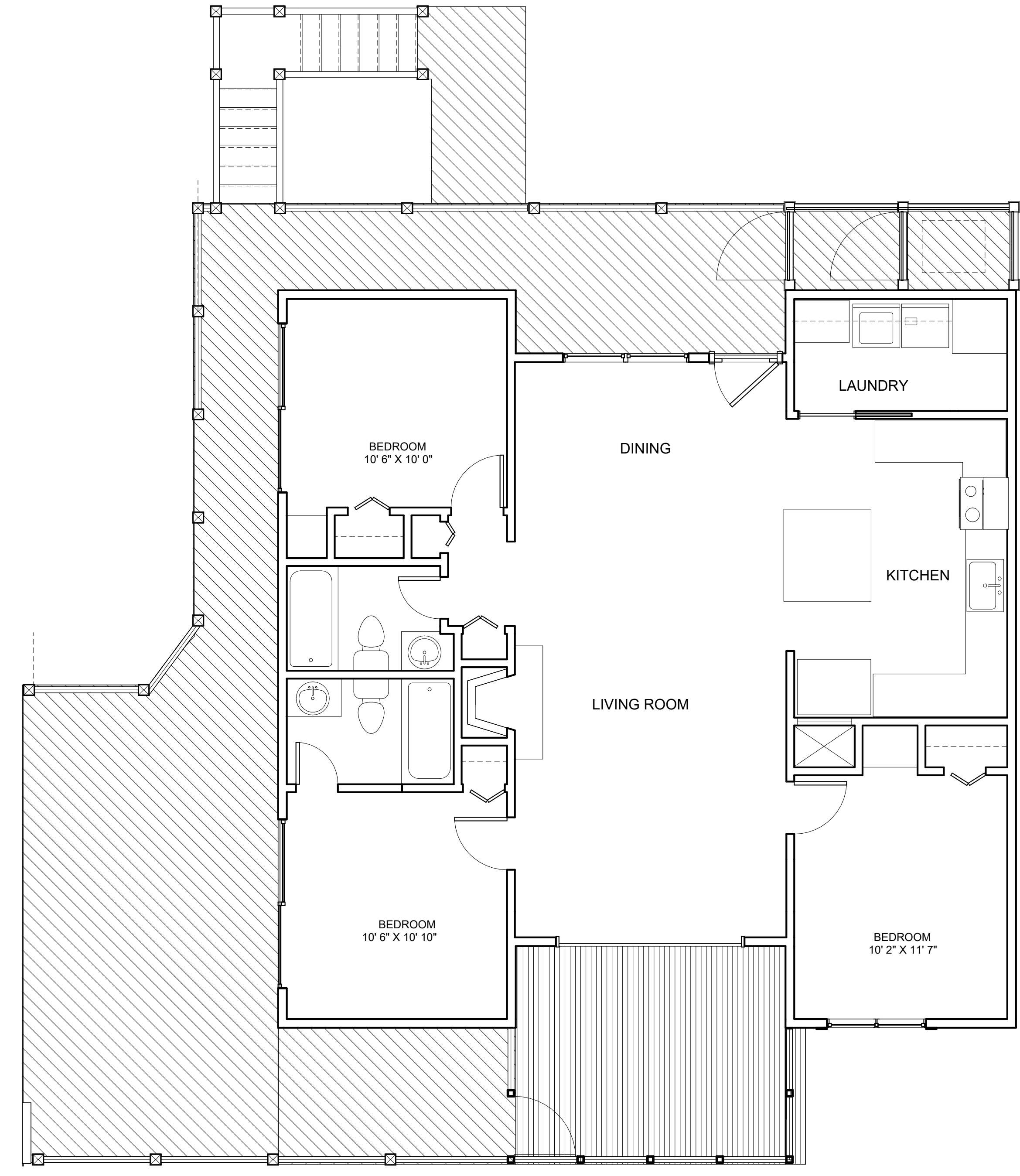
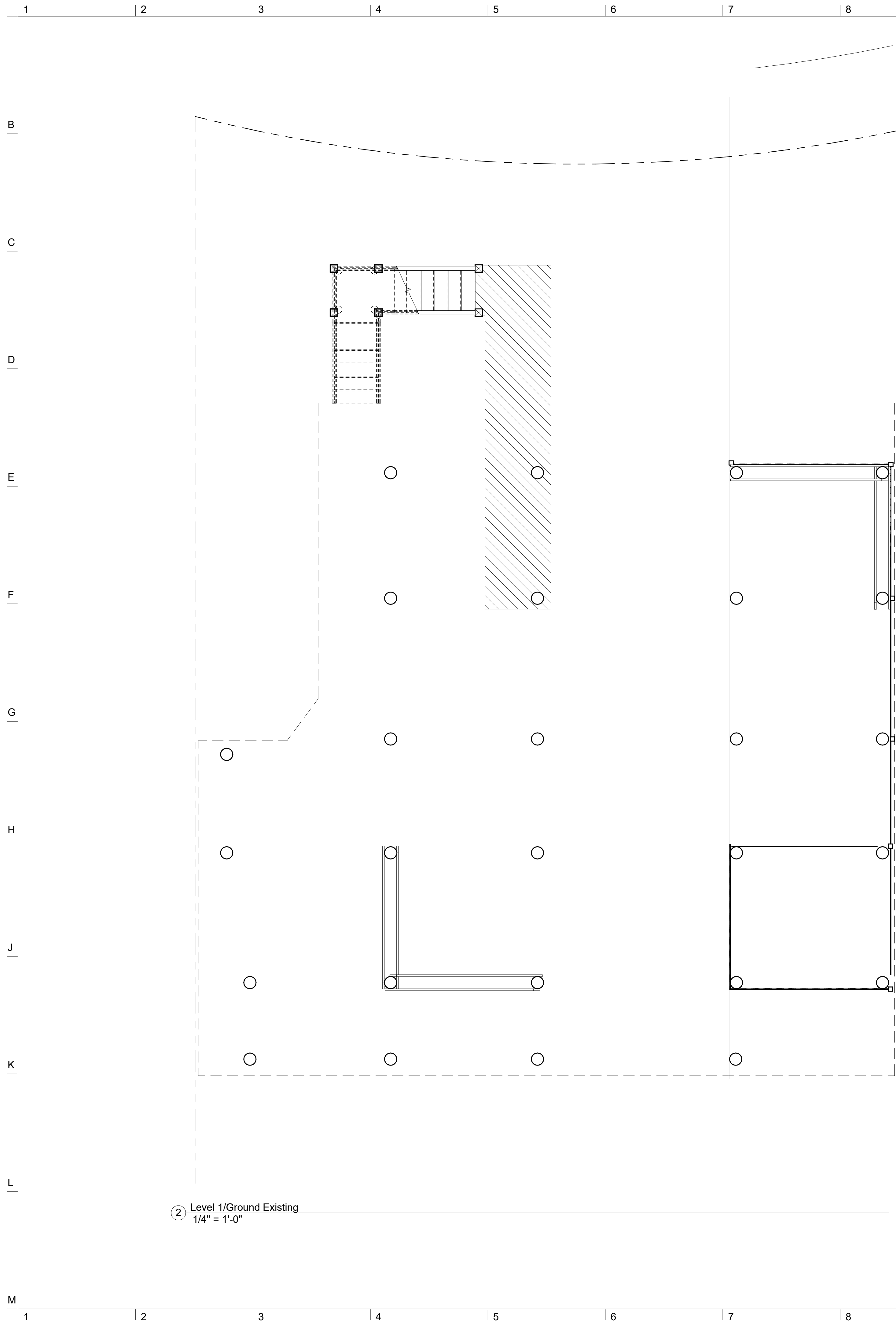
1 Site Plan
1/16" = 1'-0"
SPARROW POND

1031 Warbler Ct
Kiawah Island SC

Gish Residence
Sparrow Pond Cottage

No.	Description	Date

Site Plan	
Project number	-
Date	07/09/2025
Drawn by	HOB
Checked by	HOB
S2	
Scale 1/16" = 1'-0"	



1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

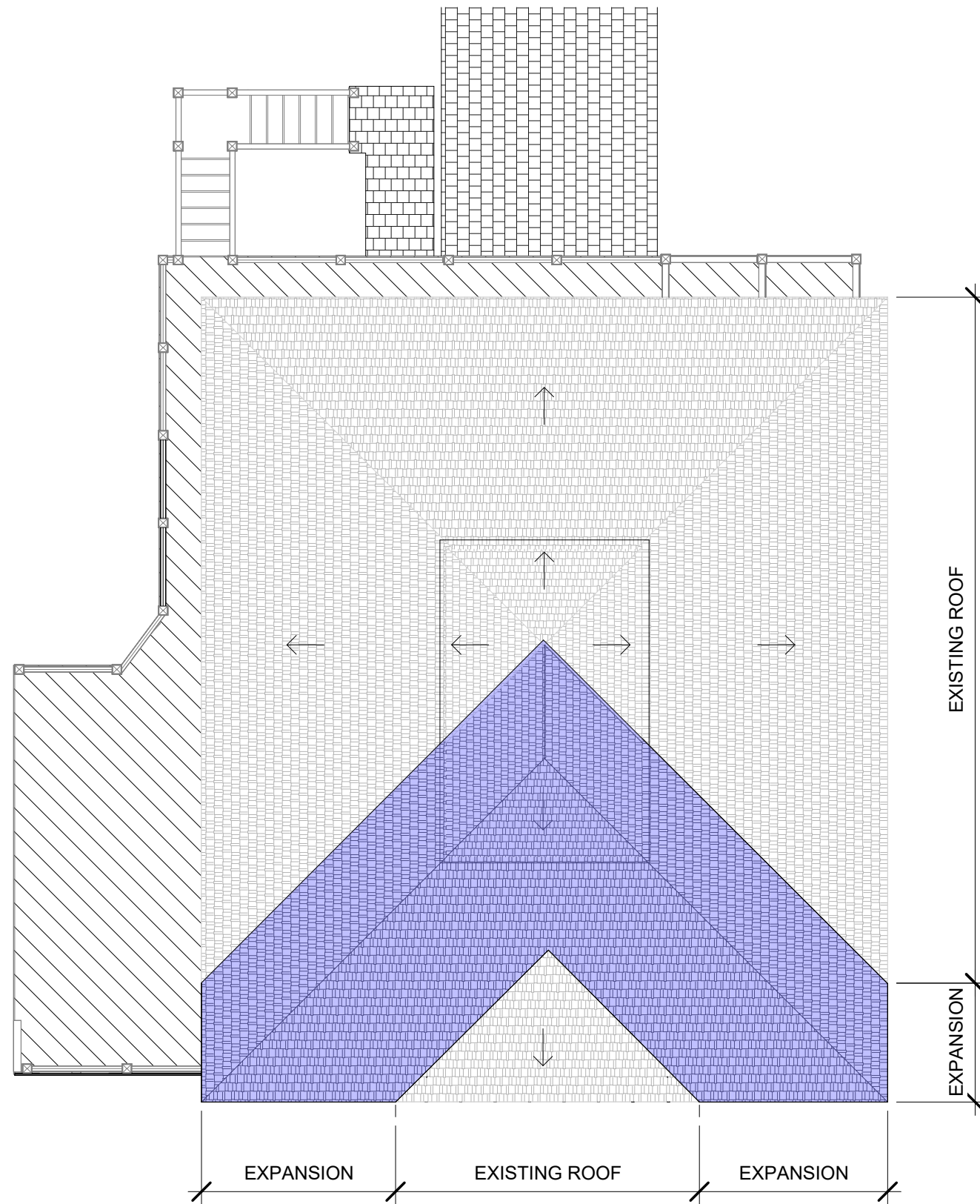
No.	Description/Revision	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Existing Floor Plans

Drawing Date:
07/09/2025

EX101

7/9/2025 6:26:55 PM



1 Roof Plan
1/8" = 1'-0"

1031 Warbler Ct
Kiawah Island SC

Gish Residence
Sparrow Pond Cottage

No.	Description	Date

Roof Plan

Project number -
Date 07/09/2025
Drawn by -
Checked by -

A108

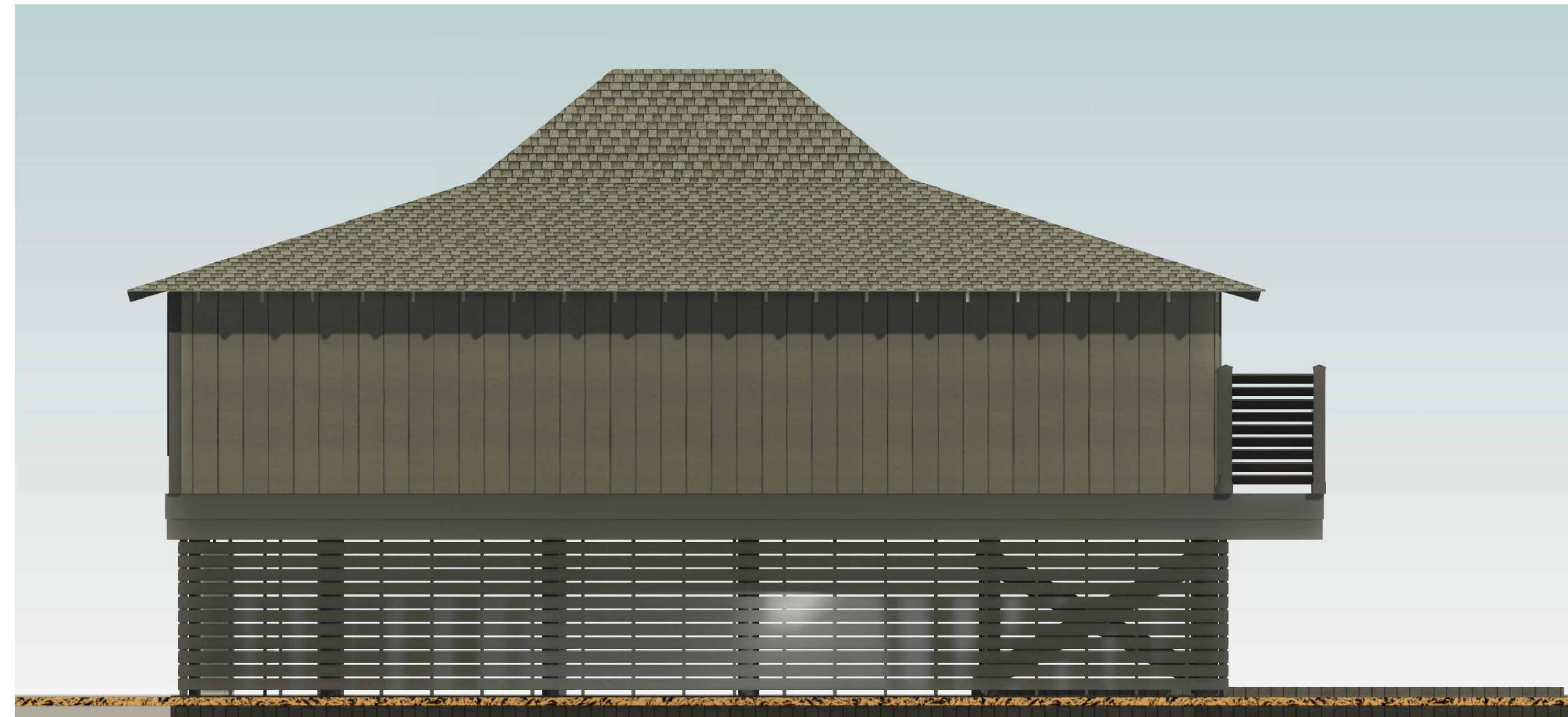
Scale 1/8" = 1'-0"



3 Front Elevation
1/4" = 1'-0"



4 Right Side Elevation
1/4" = 1'-0"



1 Left Side Elevation
1/4" = 1'-0"



2 Rear Elevation
1/4" = 1'-0"

1031
WARBLER COURT
Kiawah Island SC

**PRELIMINARY
NOT FOR CONSTRUCTION**

No.	Issuance / Revision	Date

SPARROW POND COTTAGES
1031 Warbler Court Kiawah Island, SC
29455
Elevations

Drawing Date:
07/09/2025

A102

7/9/2025 6:26:49 PM

Ken Dukes

14 Harleston Pl, Charleston, SC 29401

krdukes@gmail.com

843-670-2566

July 7, 2025

Kiawah Island Planning and Zoning Department

Daniel Vincent

Planner

4475 Betsy Kerrison

Kiawah Island, SC 29455

Subject: Letter of Intent

Dear Mr. Vincent,

I am writing to express my intent to represent the homeowners of the property in a proposed project at 1031 Warbler Ct. in the Sparrow Pond Cottages which results in an application for a variance to the lot coverage restriction included in the Land Use Planning and Zoning Ordinance. The proposal is to make two additions at the rear of the cottage. The additions will bring the right and left side of the cottage out even with the screened porch. The addition on the right side will replace the existing deck in that area and does not impact the percent of lot coverage. The addition on the left side will be new construction. Each addition will be identical in size and appearance. The new area on the left side adds approximately 64 sf of coverage. This will be reduced by 38 sf by replacing the front boardwalk with pervious pavers making the additional coverage 26 sf. The existing lot coverage for the property is 54.33% which exceeds the 50% coverage restriction. This lot coverage is a result of how the original lot boundary lines were established. The increase

in lot coverage is the reason for requesting a variance to the lot coverage restriction. The new lot coverage will slightly increase to 54.97%.

Background

-The unusual condition regarding this property is the lot size related to other properties in the community. The area lot size is 4112 sf. The lot coverage for the property exceeded restrictions when the lot lines were originally established.

-This condition would not apply to other properties in the vicinity which exceeded the lot coverage restrictions when lot lines were established. Many of the existing properties with similar lot size are smaller two-bedroom cottages which may not exceed lot coverage restrictions.

-The planned addition will allow a third bathroom to be installed, allowing much improved livability. The addition has been made on many of the Sparrow Pond Cottages.

- The sole purpose for the addition is to enhance the livability of the property by having a the use of a third bath adjacent to the existing third bedroom.

- The addition will only be visible by one of the adjacent properties. That neighbor has voiced non-objection to the planned addition.

-The addition being planned is not for profitability.

-The planned addition would add approximately 64 sf. to the lot coverage calculation. However, this will be reduced to 26 sf by replacing the front boardwalk with pervious pavers. The lot coverage percentage will slightly increase from 54.33% to 54.97%.

Conclusion

As requested, I am including this Letter of Intent in the Formal Application Submittal for the variance. Thank you for your time and attention. Please do not hesitate to contact me should you require additional information or wish to discuss this matter further.

Yours sincerely,

Ken Dukes

You may reach me at 843-670-2566 or krdukes@gmail.com at your convenience. I am available for further discussion and am open to arranging a meeting at a time that suits your schedule.

1031 THRASHER CT – SPARROW POND COTTAGES

LETTER OF INTENT

This project is for an addition and remodel of the cottage at 1031 Warbler Ct. in the Sparrow Pond cottages. The intent is to make an addition adjacent to the screened porch at the rear of the cottage. The addition will bring the left side of the cottage out even with the screened porch and allow space on the interior for an additional bathroom. The addition will involve an encroachment into the current 5' setback on this side of the cottage. This is the reason for this Variance Application.

a. There are extraordinary and exceptional conditions pertaining to this property.

The setback lines for the property were established years after the cottage was built. Since the property has zero lot lines on both sides with the adjacent properties, the existing setback lines show the house to be invading the setback areas on both sides. The planned addition will simply extend this by approximately 6 feet on the left side.

b. These conditions do not generally apply to other properties in the vicinity.

Since other properties in the vicinity generally have at least one side of the house that is not a zero lot line, the condition of having both sides of the house encroaching setback areas is unique.

c. Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The ability to have an additional bathroom greatly increases the livability of the cottage. There is no bathroom on the left side of the house.

d. The authorization of the variance will not be of substantial detriment to adjacent properties or the public good, and the character of the zoning district will not be harmed by granting of the variance.

A large percentage of the cottages in Sparrow Pond have made this addition. The addition is located at the rear of the cottage and is not visible from the street. The addition fits well into the overall design of the cottage and matches existing colors and roof.

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

nonconforming use of land, or to change the zoning district boundaries shown of the official zoning map.

No zoning boundaries will change as a result of this project. The use of the property will continue to be that of a vacation home with periodic rentals.

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

The sole reason for the variance is to make the property more livable and to enhance its comfort and appearance. It will also add to the appearance of the community by upgrading windows, doors, and walkways.

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

The need for this variance is the result of the setbacks that were established after the property was built upon and placed the house structure inside the setbacks.

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.

Granting the variance will allow significant improvement in the appearance of a property built approximately 45 years ago and continue to foster the improvements that have been made and are being made in the Sparrow Pond community.

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

This variance has been granted several times where the setbacks previously established several years ago in the Sparrow Pond cottages conflict with the overall enhancement of the community and do not seem logical. The approval of the Kiawah Island Cottage Owners Association has been given.

EXHIBIT A

ALL that certain piece, parcel or lot of land with the buildings and improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, and known and designated as Unit 1031, on a plat by Coastal Surveying Co., Inc., dated May 5, 1976, and revised May 14, 1976, and September 2, 1976, entitled "PLAT OF A PORTION OF SPARROW POND COTTAGES LOCATED ON KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA, OWNED BY KIAWAH ISLAND COMPANY, INC., 67 BROAD STREET, CHARLESTON, SC 29401", recorded in Plat Book AG, at page 128, in the RMC Office for Charleston County, SC and having such location, buttings, boundings, dimensions, courses and distances as will by reference to said plat more fully appear.

This conveyance is made subject to the following:

- (a) All covenants, obligations, restrictions and limitations as contained in the Declaration of Covenants and Restrictions of the Kiawah Island Community Associates, Inc., recorded in Book T-108, page 337, in the RMC Office for Charleston County, SC.
- (b) All covenants, obligations, restrictions, and limitations applicable to Kiawah Island Company, Inc. properties as contained in the Declaration of Rights, Restrictions, Affirmative Obligations and Conditions recorded in Book T-108, page 338, in the RMC Office for Charleston County, SC;
- (c) All covenants, obligations, restrictions and limitations applicable to Class "A" Residential Areas of Kiawah Island, all as contained in the Declaration of the Kiawah Island Company, Inc., recorded in Book T-108 at Page 339, in the RMC Office for Charleston County, SC;
- (d) Declaration of Covenants and Restrictions for Kiawah Island Cottages, Kiawah Island, S.C. dated October 29, 1976, and Provisions for the Kiawah Island Cottage Owners' Association, Inc., and By-Laws therefore, recorded in Book V-110 at Page 117, in the RMC Office for Charleston County, SC, as amended in Book Y-183 at Page 346;
- (e) All easements as shown on the aforesaid plat by Coastal Surveying Co., Inc.
- (f) The Zoning Ordinances of the Town of Kiawah Island, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

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

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred is located at 1031 Warbler Court, Kiawah Island bearing Charleston, County Tax Map Number 207-06-00-032, was transferred by **Michael Houghton and Leigh S. Houghton** to **David L. Gish and Catherine E. Gish** on March 14, 2014.
3. Check one of the following: The deed is
 - (a) subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) 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.
 - (c) exempt from the deed recording fee because (See Information section of affidavit): _____ (If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

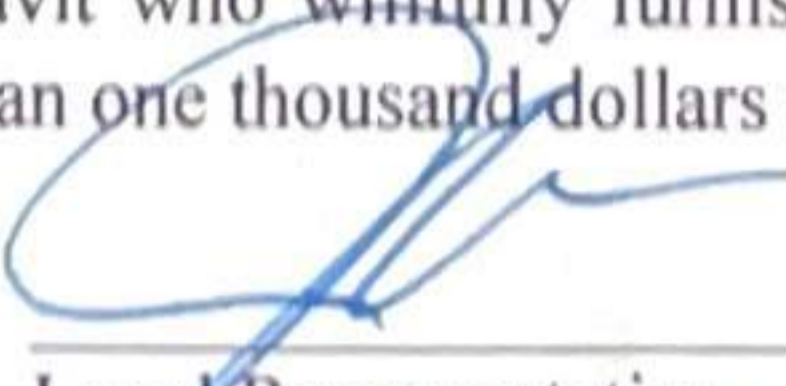
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See information section of this affidavit.):
 - (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$427,500.00
 - (b) The fee is computed on the fair market 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) Place the amount listed in item 4 above here: 427,500.00
 - (b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
 - (c) Subtract line 6(b) from Line 6(a) and place result here: 427,500.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$1,581.75.

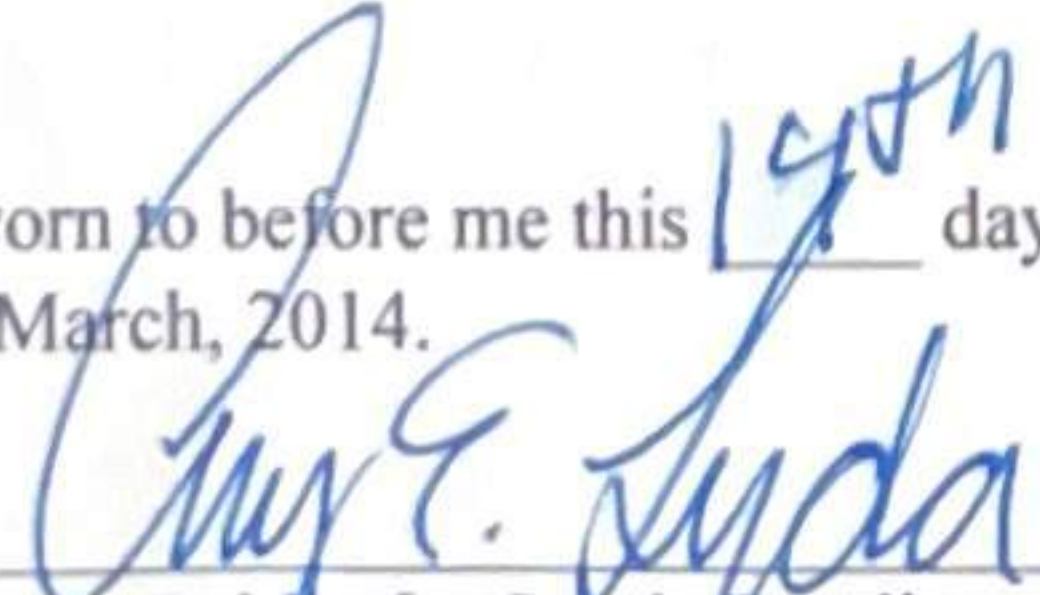
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as : Legal Representative

9. I understand that a person required to furnish this affidavit who willfully 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.



Legal Representative
Burt Byars & Taylor, LLC
Print Name

Sworn to before me this 14th day
of March, 2014.



Notary Public for South Carolina
My Commission Expires: _____

AMY E. LYDA
Notary Public, South Carolina
My Commission Expires
August 17, 2021

RECORDER'S PAGE



NOTE: This page MUST remain with the original document

abi

Filed By:

BUIST, BYARS, & TAYLOR, LLC
 FRESHFIELDS VILLAGE
 130 GARDNER'S CR PMB 138
 JOHNS ISLAND SC 29455 (BOX)

RECORDED		
Date:	March 17, 2014	
Time:	10:44:04 AM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
0393	821	Deed
Charlie Lybrand, Register Charleston County, SC		

GMT

MAKER:

HOUGHTON MICHAEL AL

Note:

RECIPIENT:

GISH DAVID L AL

of Pages:

Original Book:

Original Page:

Recording Fee	\$ 10.00
State Fee	\$ 1,111.50
County Fee	\$ 470.25
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 1,591.75

DRAWER
 CLERK

AUDITOR STAMP HERE

RECEIVED FROM RMC

MAR 18 2014

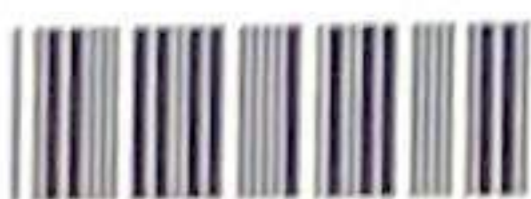
PETER J. TECKLENBURG
 CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP *PKJ*

DATE *3/19/14*

4



0393
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September 4, 2025

Mr. and Mrs. David Gish
1031 Warbler Court
Kiawah Island, SC 29455

PHYSICAL ADDRESS
253 Gardeners Circle, Suite 200
Johns Island, SC 29455

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

Re: **MAJOR IMPROVEMENT REVIEW and VARIANCE**
Address: 1031 Warbler Court
ARB Action: Approved

Dear Mr. and Mrs. Gish,

Thank you for your submittal to the Kiawah Island Architectural Review Board for review of Improvements to your home at 1031 Warbler Court. The additions to your home are approved to continue to the permit submittal with the following comments and conditions in keeping with the guidelines:

- L1. A proposed landscape plan, showing revegetation of areas impacted by construction and new plantings as needed to meet current ARB Standards and Guidelines, should be submitted for review and approval 60 days prior to landscape installation. Please review the landscape requirements of the Design Guidelines.
- L2. Please note that if you propose tree removals or major impact to trees, this should be submitted for review by the ARB.
- L3. Due to the proposed change in footprint, please be reminded that an as-built survey will be required for the final inspection at the conclusion of construction.

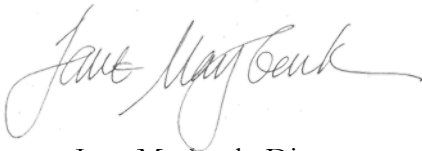
- A1. The setback and lot coverage variances are approved as the design is one that is in keeping with patterns present in the neighborhood and the resulting whole is well composed. As designed, the two bedrooms frame the porch in a simple and straightforward manner. Minimal adjustments to meet metrics would negatively impact the appearance of the house and it is preferable as shown. Regarding the setback encroachment, board members considered that if originally proposed, this would have been approved as the area of setback encroachment is in line with what is already over the setback on that side. Regarding the lot coverage variance, other than reducing the area of addition, as discussed above, the alternative is to reduce the area of the existing deck. In this neighborhood, the deck extending to the lot line is a well-established pattern and board members found it preferable to leave this undisturbed.
- A2. Please note that floodlights are discouraged on homes at Kiawah Island. Please limit the use of flood lights to no more than two fixtures, located in areas of pedestrian traffic. Alternate exterior lighting may be more appropriate at some existing floodlight locations.
- A3. Please note that exterior light fixtures other than flood lights are required to screen any direct view of light bulbs. Fixtures designed to display light bulbs should not be used. All new and existing exterior fixtures at your property should conform to this requirement. Please submit cut sheets for proposed new and replacement fixtures.

- A4. All exterior materials, colors, and other finishes should match those of the existing house. If different materials or colors are proposed, please note that the neighborhood uses a pre-approved color palette and be sure to submit any change to your regime board for approval prior to repaint.
- A5. Please refer to your neighborhood's approved colors when making color selections.
- A6. Bandboards must be painted to match either the foundation or the siding color and are not permitted to be the trim color. Additionally, corner boards must be painted out in the siding color and HVAC stand and any downspouts must be painted out in the color of the material to which they are adjacent.
- A7. HVAC equipment, tankless water heaters and propane tanks, if any, are required to be architecturally screened or located in an area where they are not visible.

For the Permit Submittal, please submit one (1) digital copy of sealed drawings including a Tree Protection Plan, a completed Construction Application Deposit & Agreement Form, construction deposits, the Review Fee, and a KICA Encroachment Permit to this office at ARB@Kiawah.com. Tree Protection fencing must be installed at time of Permit Submittal. When these items are received and Tree Protection fencing is verified, an ARB approval stamp and Building Permit will be issued for the project.

Thank you again for your submittal to the Kiawah Island Architectural Review Board. Please contact the ARB office if we can be of any assistance during the Permit Process for your home improvements.

Sincerely,



Jane Maybank, Director
On behalf of the KIARB

cc: Property File
encl: Construction Application and Deposit Form



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).

Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (feet) ⁽¹⁾	Minimum Yard Setbacks (feet)			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾⁽⁵⁾	Rear ⁽⁴⁾	(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

⁽¹⁾ 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.

⁽²⁾ 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.

⁽³⁾ A minimum of 15 feet must be provided between structures.

⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.

⁽⁵⁾ 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:
 PLAT BY: MARK S BUSSEY
 DATED: JUNE 15, 1999
 BOOK: ED PAGE: 377
 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
 KAWAH ISLAND

SB022-000003
 APPLICATION #

2/19/2022
 DATE

MCKENZIE O'CONNOR
 SIGNATURE

12-22-2021
 DATE

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 KAWAH ISLAND ARCHITECTURAL REVIEW BOARD. THE ARCHITECTURAL REVIEW BOARD RESERVES THE RIGHT TO GRANT VARIANCES EXPANDING 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.
 PANEL NO. 43019C, 0868K
 DATED: JANUARY 29, 2021
 COMMUNITY NO. 450257

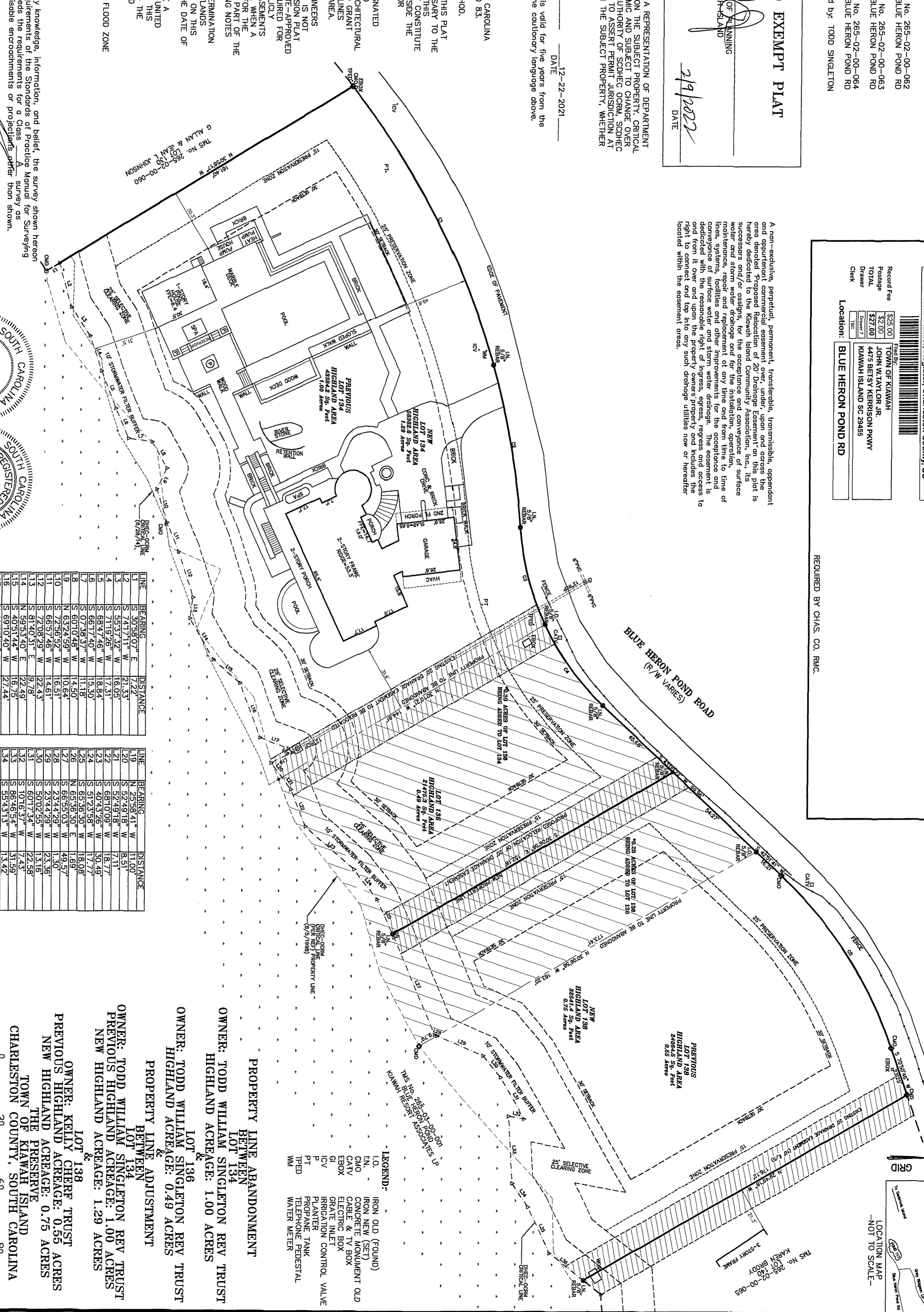
A non-exclusive, perpetual, permanent, transferable, transmissible, appurtenant and opportunity conveyed easement is hereby granted to the Kawah Island Community Association, Inc. its successors and/or assigns, for the installation, operation, maintenance, repair and replacement of any time and from 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 owner's property and includes the right to install, repair and replace any such drainage utilities now or hereafter located within the easement areas.

RECORDED

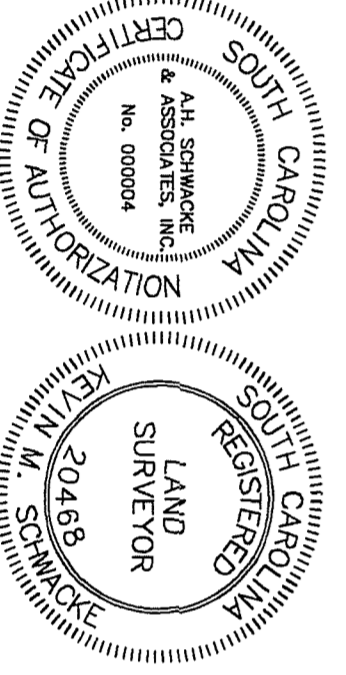
DATE: 3/18/2022 TIME: 1:44:38 PM
 Book-Page: L22 0108 DocType: Large Plat
 Michael Miller, Register, Charleston County, SC

Record Fee: \$25.00
 Postage: \$2.00
 TOTAL: \$27.00
 Filed By: TOWN OF KAWAH
 JOHN W. TAYLOR JR.
 4475 BETSY KERRISON PKWY
 KAWAH 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.
 KIM21 / 21055 SD



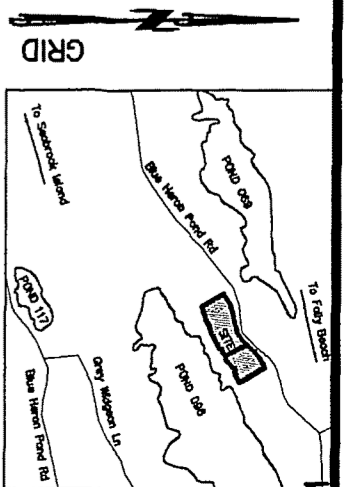
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
1	S 30°58'07" E	7.22	19	N 63°38'41" W	11.00
2	S 74°17'11" W	21.33	20	N 62°48'18" W	8.31
3	S 55°33'32" W	16.05	21	S 62°48'18" W	7.11
4	S 71°19'26" W	17.31	22	S 61°10'09" W	18.77
5	S 68°47'46" W	18.84	23	S 61°43'26" W	30.49
6	S 66°17'40" W	15.36	24	S 61°43'26" W	17.77
7	S 07°56'37" W	11.18	25	S 61°38'30" W	18.05
8	S 60°10'48" W	11.58	26	N 63°38'30" E	18.05
9	N 63°24'59" W	10.64	27	S 66°35'03" W	19.57
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 33°44'29" W	23.36
12	S 72°08'29" W	22.43	30	S 60°17'55" W	13.16
13	S 81°40'31" E	92.49	31	S 101°6'57" W	22.58
14	N 59°53'40" E	92.49	32	S 101°6'57" W	7.43
15	S 40°51'44" E	16.49	33	S 86°46'54" W	51.59
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	367.76'	147.34'	146.36'	S 62°40'57" W	22°57'19"
C2	367.76'	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
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 CHEREF TRUST
 PREVIOUS HIGHLAND ACREAGE: 0.55 ACRES
 NEW HIGHLAND ACREAGE: 0.75 ACRES

TOWN OF KAWAH 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)



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

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

CASE# BZA25-000014

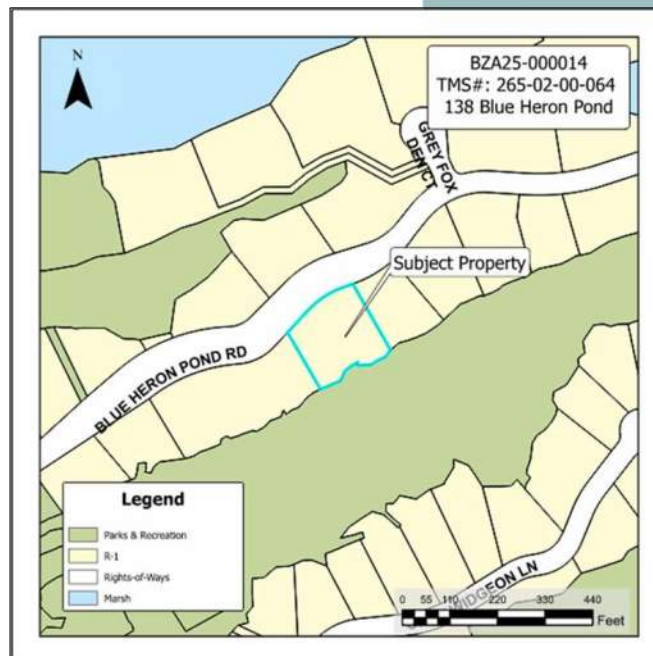
Chapter 12. Land Use Planning and Zoning, Art. II. Zoning, Div. 2. Zoning Map/Districts, Sec. 12-65. - R-1, Residential District.

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



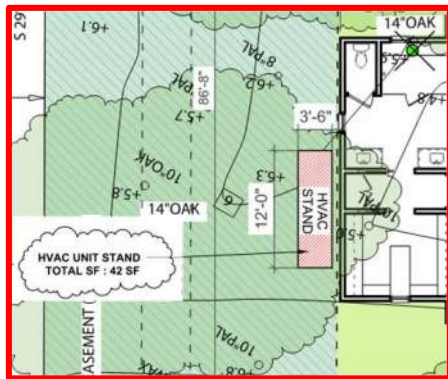
Property Rear



Subject Property



Proposed Site Plan



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.



p: 843-768-3419
f: 843-768-0517
e: ARB@kiawah.com

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,

A handwritten signature in cursive script that reads "Jane Maybank".

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

cc: Property file
ARB Members

Encl. Proposal Drawing



GENERAL NOTES:

- REFERENCE PLAT BOOK ED. PAGE 375
- ELEVATIONS AND CONTOURS REFER TO MEAN SEA LEVEL.
- TMS NUMBER #265-02-00-064
- TOTAL HIGHLAND AREA OF PROPERTY IS 33,580 SF OR .77 ACRES.
- 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

BUILDING FOOTPRINT:	2,998 SF
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: (WALL MOUNTED):	75 SF
GENERATOR: (THEORETICAL):	50 SF

TOTAL LOT COVERAGE:	8,628 SF
HIGHLAND AREA:	33,580 SF
LOT COVERAGE %:	25.7%
SECONDARY ELEMENTS SF:	308 SF
PRIMARY + SECONDARY TOTAL %:	26.4% (not to exceed 30.67%)

A1 LOT COVERAGE DIAGRAM + CALCULATIONS

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

ARCHITECT SEAL & SIGNATURE

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

STATE OF SOUTH CAROLINA
ROBERT DENTON
Charleston, SC
No. 10517

HVAC STAND : SIDE ELEVATION
6.18.25

the CHERF
architecture + design llc

138 BLUE HERON POND RD.
KIAWAH ISLAND, SC

DRAWING NAME
SITE PLAN




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

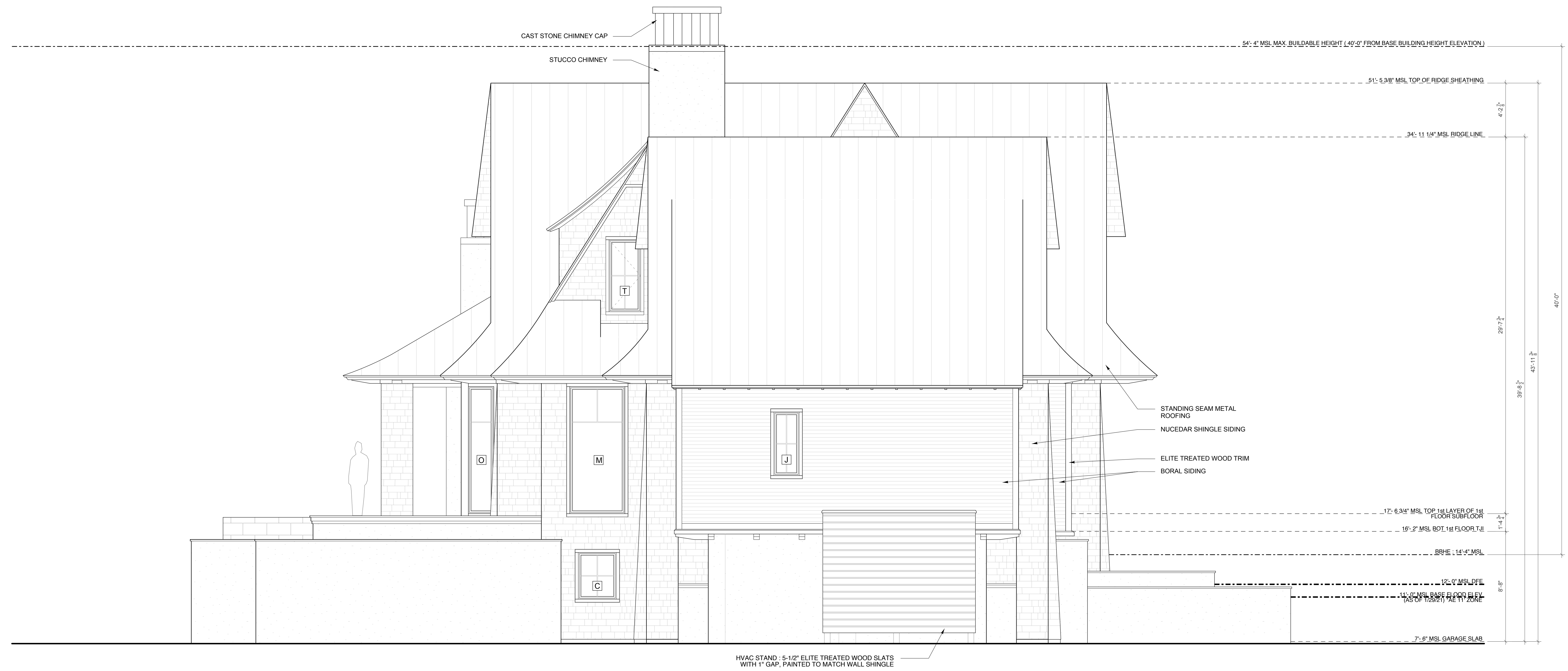
SHEET NUMBER:
A-100

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.




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

	HVAC STAND : SIDE ELEVATION 6.18.25	
	the CHERF RESIDENCE 138 BLUE HERON POND RD. KIAWAH ISLAND, SC	
ARCHITECT SEAL & SIGNATURE 	ARCHITECT SEAL & SIGNATURE 	DRAWING NAME NORTH ELEVATION DATE: 5.29.24 DRAWN BY: RDL PROJ. NO.: 03.22 SHEET NUMBER: A-200
<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



ROBERT DENTON
LESLIE
Charleston, SC
No. 10764
REGISTERED ARCHITECT



CUMULUS ARCHITECTURE + DESIGN LLC
Charleston, SC
No. 10764
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

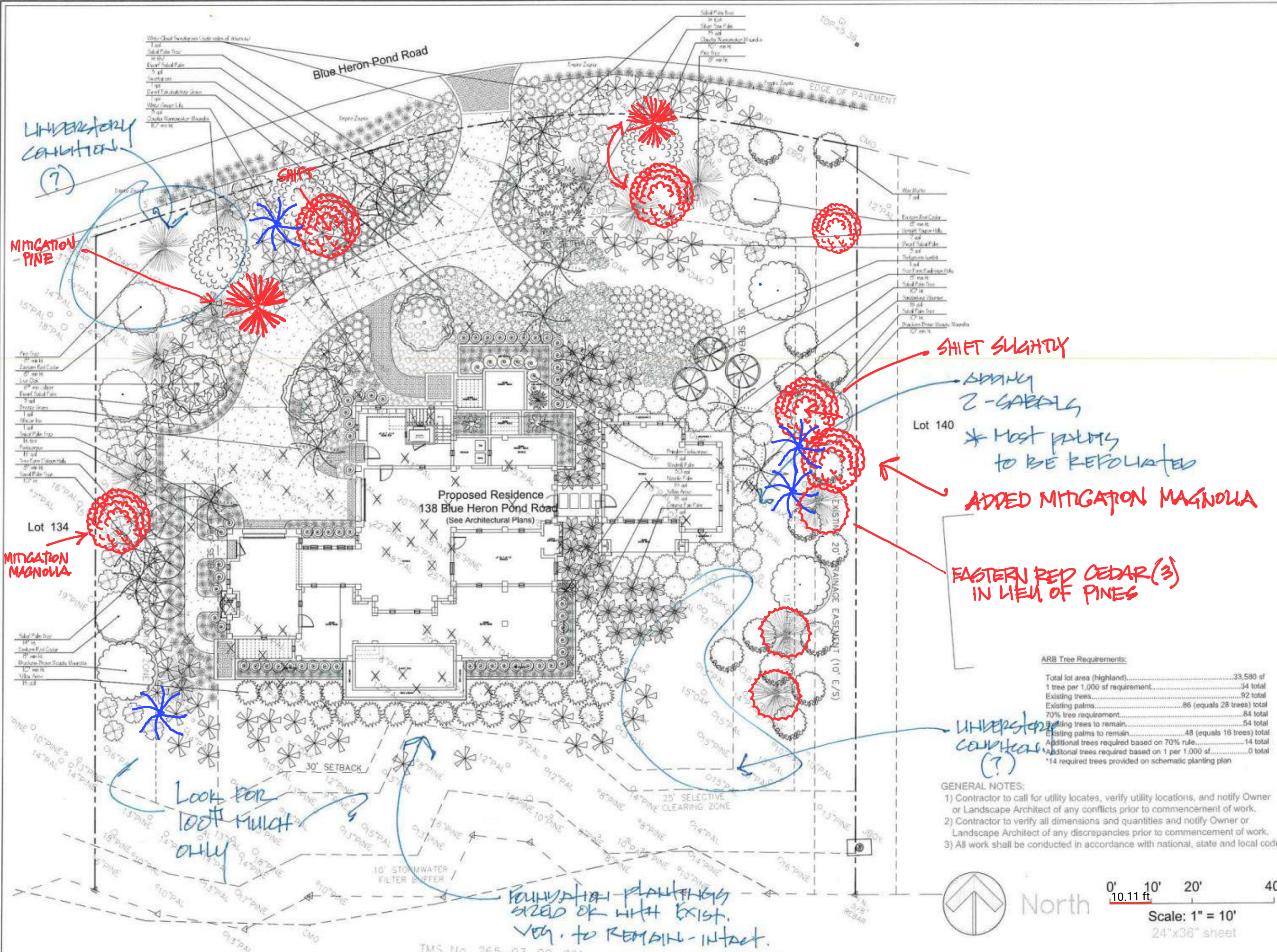
the CHERF RESIDENCE
138 BLUE HERON POND RD.
KIAWAH ISLAND, SC

EAST ELEVATION

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

SHEET NUMBER: **A-201**

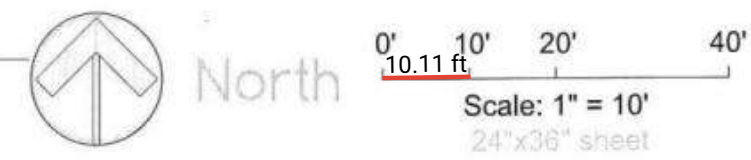
138 Blue Heron Pond Road
 Kiawah Island, SC
 Planting Plan



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
BOOK: ED PAGE: 377
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
No. 138 BLUE HERON POND RD
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.

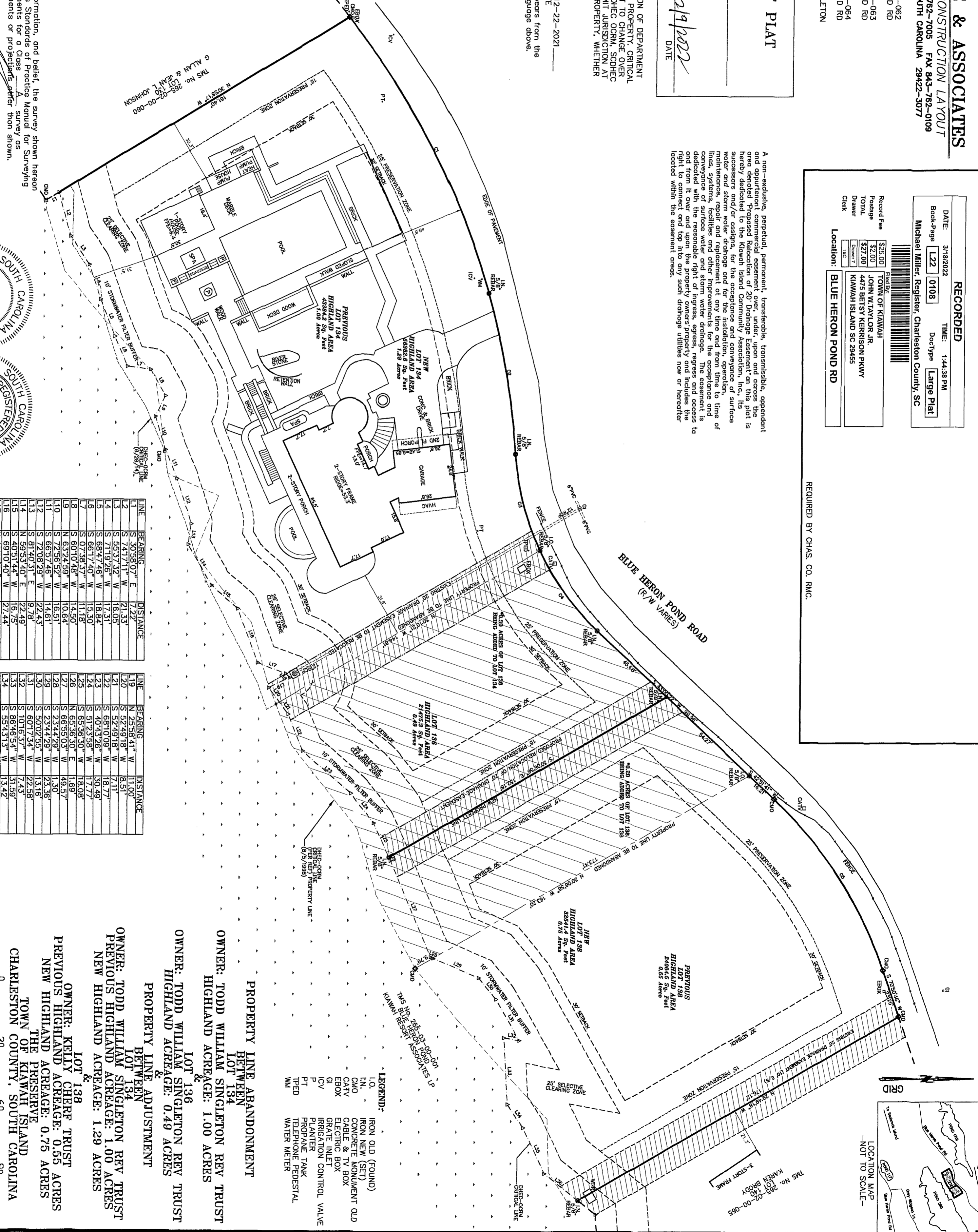
A non-exclusive, perpetual, permanent, transferable, transmissible, appurtenant and opportunity conveyed easement is hereby granted to the successors and assigns, for the acceptance and conveyance of surface water and storm water drainage and for the installation, operation, maintenance, repair and replacement 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 owner's 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

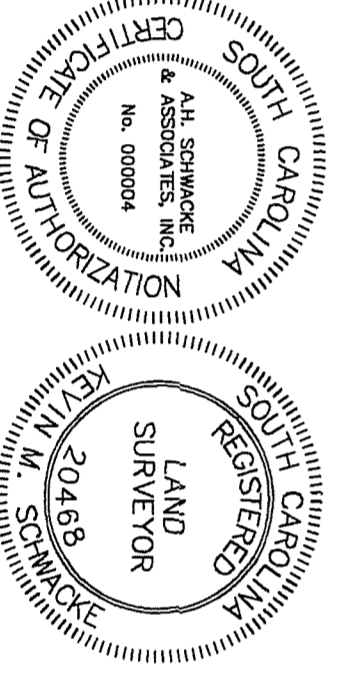
REQUIRED BY CHAS. CO. RMC.

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. CHASELSON COUNTY MAY REQUIRE A JURISDICTIONAL 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

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT (SCHEC OCRM) PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF SCHEC OCRM IN NO WAY WAIVES ITS RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.



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.
KIM21 / 21055 SD



LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
1	S 30°58'07" E	7.22	19	S 62°40'57" W	22.5719'
2	S 74°17'11" W	21.33	20	N 80°09'08" E	11.59102'
3	S 55°33'32" W	16.05	21	N 75°17'30" E	21.4218'
4	S 71°19'26" W	17.31	22	S 53°44'52" W	21.3148'
5	S 68°47'46" W	18.84	23	N 56°56'49" E	27.5809'
6	S 61°17'40" W	15.36	24	S 53°43'13" W	13.42
7	S 07°56'37" W	11.18	25	S 64°26'20" W	23.81
8	S 60°10'48" W	11.18	26	S 38°17'25" W	20.57
9	N 63°24'59" W	10.64	27	S 63°38'30" E	18.05
10	S 72°56'57" W	16.51	28	N 66°39'03" W	19.57
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°6'57" W	22.58
13	S 81°40'31" E	92.49	31	S 60°17'54" W	7.43
14	N 59°53'40" E	92.49	32	S 86°46'54" W	51.59
15	S 40°51'44" E	16.49	33	S 63°43'13" W	13.42
16	S 69°10'40" W	27.44	34	S 64°26'20" W	23.81
17	N 19°57'30" E	14.81	35	S 38°17'25" W	20.57
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	367.76'	147.34'	146.36'	S 62°40'57" W	22.5719°
C2	367.76'	76.92'	76.78'	N 80°09'08" E	11.59102°
C3	125.00'	47.35'	47.07'	N 75°17'30" E	21.4218°
C4	125.00'	46.97'	46.70'	S 53°44'52" W	21.3148°
C5	200.00'	97.69'	96.72'	N 56°56'49" E	27.5809°

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

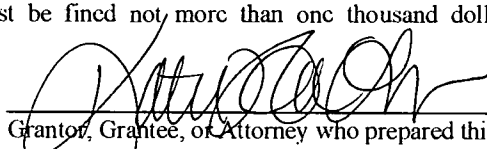
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT

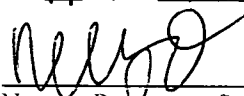
PERSONALLY appeared before me the undersigned, who being first duly sworn, deposes and says:

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.

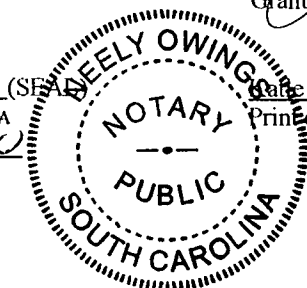
SWORN to and Subscribed before me
this 14 day of March, 2022.



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	\$ -
TOTAL	\$ 510.80

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



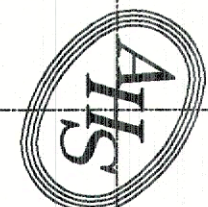
Original Page



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Doc Type



12:25:50
Recorded Time



A.H. SCHWACKE & ASSOCIATES
 LAND SURVEYING & CONSTRUCTION LAYOUT
 1975 FRAMPTON AVE PH: 843-762-7005 FAX 843-762-0109
 P.O. BOX 13077, CHARLESTON, SOUTH CAROLINA 29422-3077

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

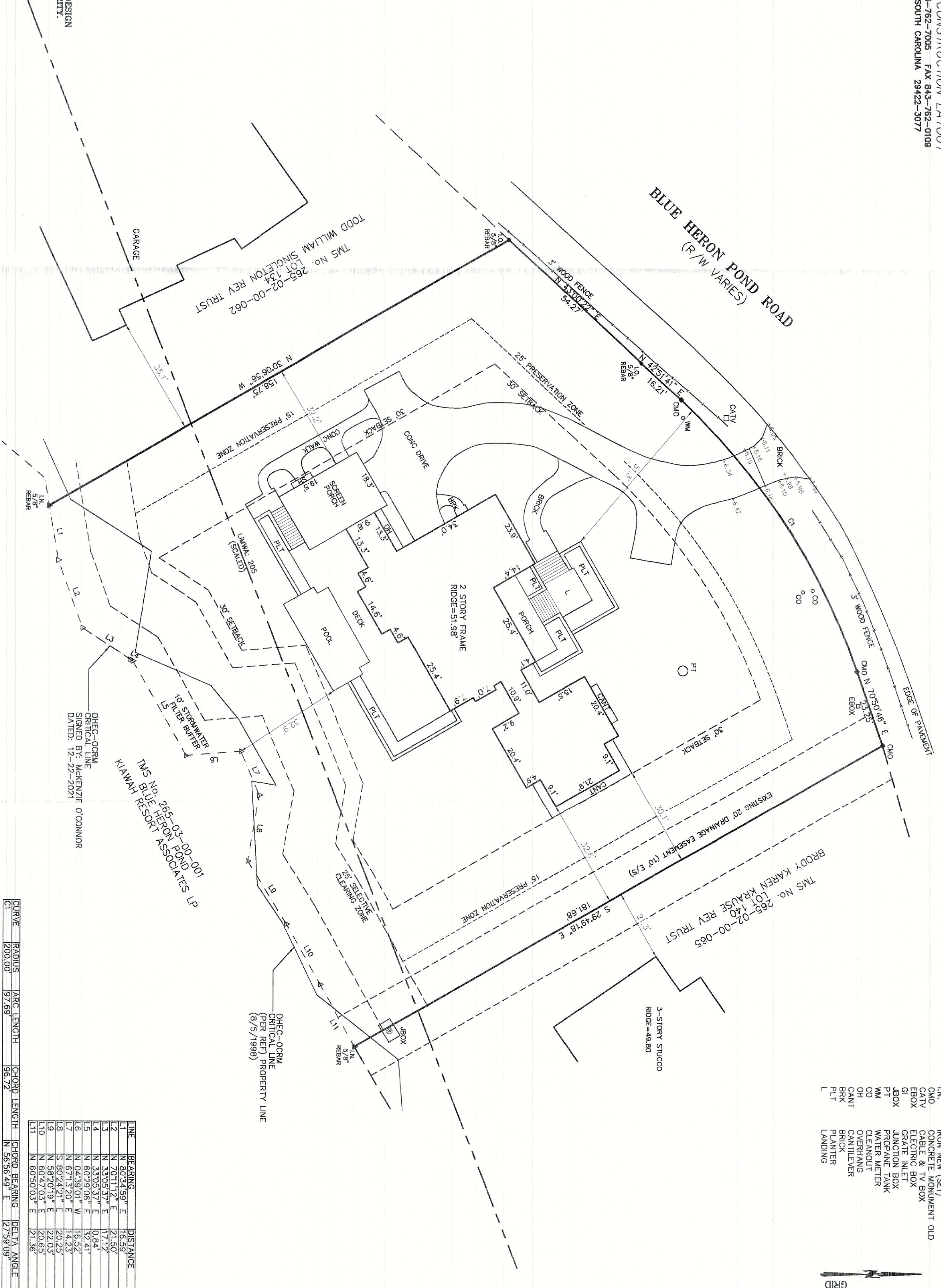
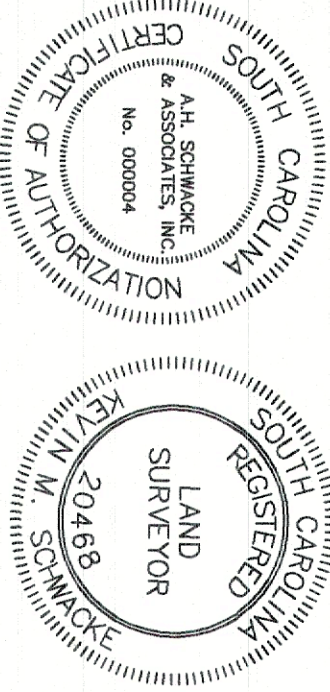
NOTES:
 BEARING SHOWN ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM, NAD 83.
 AREA DETERMINED BY COORDINATE METHOD.
 ELEVATIONS ARE BASED ON NGVD '88 DATUM.
 THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. 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



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	0.841'
5	N 82°29'07" E	12.441'
6	N 67°43'09" E	16.52'
7	N 67°43'20" W	14.23'
8	N 67°12'29" E	10.263'
9	S 88°24'49" E	10.263'
10	N 88°40'03" E	20.93'
11	N 80°50'03" E	21.36'

- 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. BRK
 - 1.14. PLANTER
 - 1.15. LANDING

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.

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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.

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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.

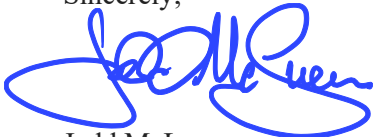
i. Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

- 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



**Kiawah Island
Board of Zoning Appeals
Meeting of September 22, 2025**

**Public Comments Regarding
Case #BZA25-000014**

Karen and Steven Brody
140 Blue Heron Pond Road
Kiawah Island, SC 29455

August 8, 2025

Town of Kiawah Island Zoning Department
4475 Betsy Kerrison Parkway,
Kiawah Island, SC 29455

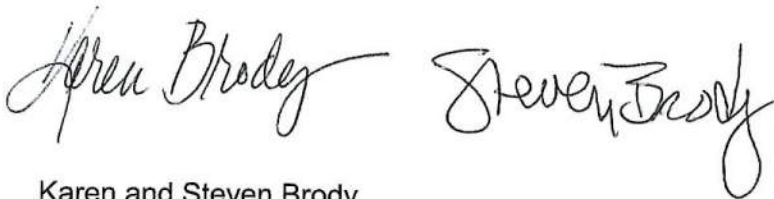
RE: 138 blue Heron Pond Road

Dear Board of Zoning Appeals,

We understand that the issue of the HVAC equipment at 138 Blue Heron Pond Road has received a setback variance from the Kiawah Island ARB and is now applying for the same setback variance with the Town of Kiawah Zoning Department. Dr. Cherf has openly and transparently shared the proposed solution as approved by the Kiawah Island ARB. We are the abutting neighbors and only property owners who will feel the brunt of the proposed variance. In the interest of being good neighbors we will acquiesce to Dr. Cherf's wish not to have the stand positioned on the front or rear elevation of the house where a variance wouldn't be necessary.

We advocate for the proposed HVAC stand to be on the east side of the house as shown on the current proposed site plan and approved ARB variance documents. The only viewscape affected will be ours. We support the granting of a variance to allow for a 12'-0" wide x 3'-6" deep stand. Even with the variance, the stand will be further from our common property line than the closest corner of our house. We also feel that a stand will be the easiest option to screen with plantings. Dr. Cherf has assured us that he is confident that the stand will be maximally screened. We have every reason to trust his commitment to that goal.

Sincerely,

Handwritten signatures of Karen Brody and Steven Brody in black ink. The signature of Karen Brody is on the left and the signature of Steven Brody is on the right.

Karen and Steven Brody

August 6, 2025

Dear Board of Zoning Appeals,

We are writing to express our support for the proposed setback variance for an HVAC stand at 138 Blue Heron Pond Road. We understand that this variance has already been approved by the Kiawah Island ARB and is now awaiting a BZA Variance Hearing from the Town of Kiawah Zoning Department. John Cherf has shared the solution approved by the Kiawah Island ARB and we agree with their approval.

We strongly prefer that the HVAC stand not be located on the front elevation of the house. We believe such a placement would detract from the street scene and the thoughtful design of the Cherf residence, impacting the aesthetic enjoyment of the entire neighborhood.

We strongly advocate for the proposed HVAC stand to be situated on the east side of the house, as depicted in the current proposed site plan and approved ARB variance documents. This location allows for the best opportunity to screen with nature and newly implemented landscaping and is also the least visible placement on the lot.

Sincerely,

Two handwritten signatures in blue ink. The first signature on the left is a cursive signature, likely Lisa Mascolo. The second signature on the right is a more stylized cursive signature, likely Todd Singleton.

Lisa Mascolo and Todd Singleton
134 Blue Heron Pond Road
Kiawah Island, SC 29455

August 11, 2025

Dear Board of Zoning Appeals,

We are writing to express our full support for the proposed setback variance for the HVAC stand at 138 Blue Heron Pond Road. This plan has already been reviewed and approved by the Kiawah Island ARB and now awaits your consideration. Having reviewed the ARB-approved design shared by Dr. Cherf, I believe it offers the most appropriate and thoughtful solution.

As a nearby neighbor, I feel strongly that placing the HVAC stand on the front elevation would detract from the home's design and the visual harmony of the street. The east-side location shown in the approved plans provides the best opportunity for natural and landscaped screening, making it the least visible and most aesthetically pleasing option.

For these reasons, I respectfully urge the Board to approve the proposed variance.

Sincerely,

A handwritten signature in blue ink that reads "Tacey and Jim Carroll". The signature is written in a cursive style with a large initial "J" and "T".

Tacey and Jim Carroll
119 Blue Heron Pond Road
Kiawah Island, SC 29455

August 13, 2025

Kiawah Island Board of Zoning Appeals
475 Betsy Kerrison Parkway,
Kiawah Island, SC 29455

Dear Board of Zoning Appeals,

I'm writing in support of the proposed setback variance for the HVAC stand at 138 Blue Heron Pond Road. This plan has already been carefully reviewed and approved by the Kiawah Island ARB, whose decision we fully endorse. The ARB-approved design, as shared by Dr. Cherf and his building team, is the most thoughtful, practical, and visually sensitive option available.

Locating the HVAC stand on the front elevation would inevitably diminish the home's architectural appeal and disrupt the cohesive streetscape that makes this neighborhood so attractive. In contrast, the east-side placement shown in the approved plans allows for natural and landscaped screening, significantly reduces visibility, and best preserves the beauty of both the property and its surroundings.

Approving this variance will not only protect the aesthetic character of the Cherf residence but also uphold the visual harmony valued by the entire community. We respectfully urge the Board to grant the variance as proposed.



Mark Meyer

143 & 145 Grey Fox Den Ct.
Kiawah Island, SC 29455

August 5, 2025

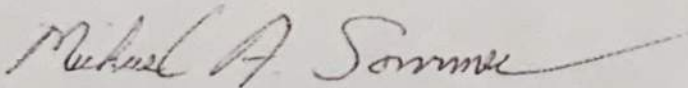
Dear Board of Zoning Appeals,

I am writing to express my support for the proposed setback variance for an HVAC stand at 138 Blue Heron Pond Road. I understand that this variance has already been approved by the Kiawah Island ARB and is now awaiting a BZA Variance Hearing from the Town of Kiawah Zoning Department. Dr. Cherf has shared the solution approved by the Kiawah Island ARB and we agree with their approval.

As neighbors who frequently pass by this home, we strongly prefer that the HVAC stand not be located on the front elevation of the house. We believe such a placement would detract from the street scene and the thoughtful design of the Cherf residence, impacting the aesthetic enjoyment of the entire neighborhood.

We strongly advocate for the proposed HVAC stand to be situated on the east side of the house, as depicted in the current proposed site plan and approved ARB variance documents. **This location allows for the best opportunity to screen with nature and newly implemented landscaping and is also the least visible placement on the lot.**

Sincerely,



Michael Sommers
144 Blue Heron Pond Road
Kiawah Island, SC 29455