



Case # BZA-01-25-00837

Charleston County BZA Meeting of March 3, 2025

Applicant: R. Chamberlain Chesnut of RCC Properties

Property Owner: Michael O'Laughlin of MJO Enterprises LLC

Representative: Andy Bajoczky, PE or Barrier Island Engineering & Consultants

Property Location: 2060 River Road – Johns Island

TMS#: 345-00-00-061

Zoning District: Low Density Residential (R-4) Zoning District

Request:

Variance request for a 25' wide ingress/egress easement to encroach within a restricted area three times the DBH (Critical Root Zone) of a 54" DBH Grand Live Oak Tree for a proposed four (4) lot subdivision.

Requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. Required Tree Protection states, "In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals."



CHAPTER 9 | DEVELOPMENT STANDARDS

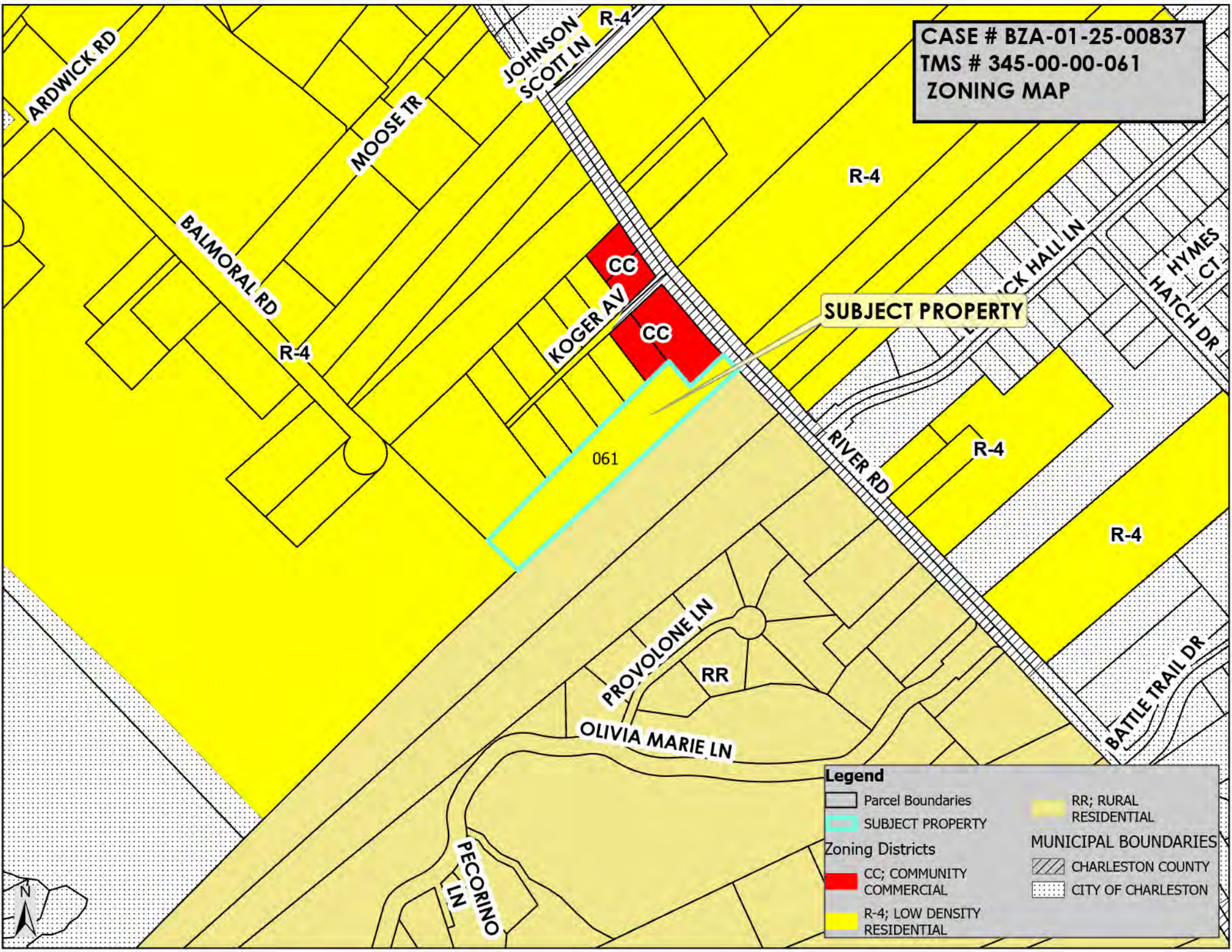
ARTICLE 9.2 TREE PROTECTION AND PRESERVATION

Sec. 9.2.4 Required Tree Protection

A. General.

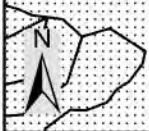
1. All Grand Trees and any other Trees required to remain on a site must be protected during construction and Development of a Parcel. Tree protection must be shown on all Development plans prior to site plan approval. A site inspection of the Tree barricades must be scheduled by the Applicant with the Zoning and Planning Department for approval prior to the issuance of permits or the start of Development activities.
 2. Prior to issuance of a Zoning Permit, a pre-construction planning conference is required for on-site Tree preservation with the Zoning and Planning Director or staff representative, the Applicant(s), and any appropriate parties for determining if there is need for additional Tree protection techniques and for designating placement of Tree barricades, construction employee parking, temporary construction office, and dumpsters.
- B. Prior to the start of Land Development activities, protective Tree barricades shall be placed around all Required Trees in or near Development areas. The barricades shall be constructed of wood, metal, or plastic fencing or other materials approved by the Zoning and Planning Director, and include a top rail. Tree barricades shall be placed beneath the canopy Drip Line or one foot times the DBH of the Tree as a radius from the trunk, whichever is greater. Other protective devices or construction techniques may be used as approved by the Zoning and Planning Director. Three inches of mulch shall be installed and maintained within all Tree barricade areas. The mulch shall remain in place throughout Development activities. The area within the Tree barricade shall remain free of all Building materials, dirt, fill, and other construction debris, vehicles, and Development activities. All Required Trees are also subject to the requirements of Sec. 9.4.6, *Landscape Materials Standards*, and Article 11.3, *Enforcement Responsibility and Complaints*.
- C. In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals.
- D. Limited Clearing and Grubbing may be authorized by the Zoning and Planning Director prior to the installation of Tree barricades on sites that exhibit unusually heavy undergrowth and where access to the interior of the site and its Protected Trees is impractical. Limited Clearing shall be for the express purpose of accessing the property and Protected Trees to erect the Required Tree barricades and silt fencing. Such limited Clearing shall be done with hand tools, push or walk - behind equipment, or lightweight bush-hog type equipment designed for brush and undergrowth Clearing and which is not capable of removing vegetation greater than three inches in diameter. Under no circumstances may metal-tracked bulldozers, loaders, or similar rider/operator equipment be allowed on site until the Tree barricades are erected and a Zoning Permit is issued.
- E. Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean.
- F. Prior to issuance of a Zoning Permit for uses other than Single-Family Detached Residential, the following numbers of Trees with a DBH of eight inches or greater shall be preserved and protected pursuant to the requirements of this Ordinance. Preservation and protection of native Trees is to be prioritized. Properties within the Industrial (IN) District may elect to mitigate the removal of these Protected Trees, as described in Sec. 9.2.6.D, with the exception that all Grand trees and any required Buffer tree measuring eight inches (8") or greater shall be preserved. On properties in the IN District that elect to mitigate the removal of these Protected Trees and where the planting of canopy trees is required within Buffers and other landscaping, screening, and buffer areas, canopy trees shall be a minimum of four inch (4") caliper.
1. 20 Trees per acre; or
 2. Any number of Trees with a combined DBH of at least 160 inches per acre.

CASE # BZA-01-25-00837
TMS # 345-00-00-061
ZONING MAP

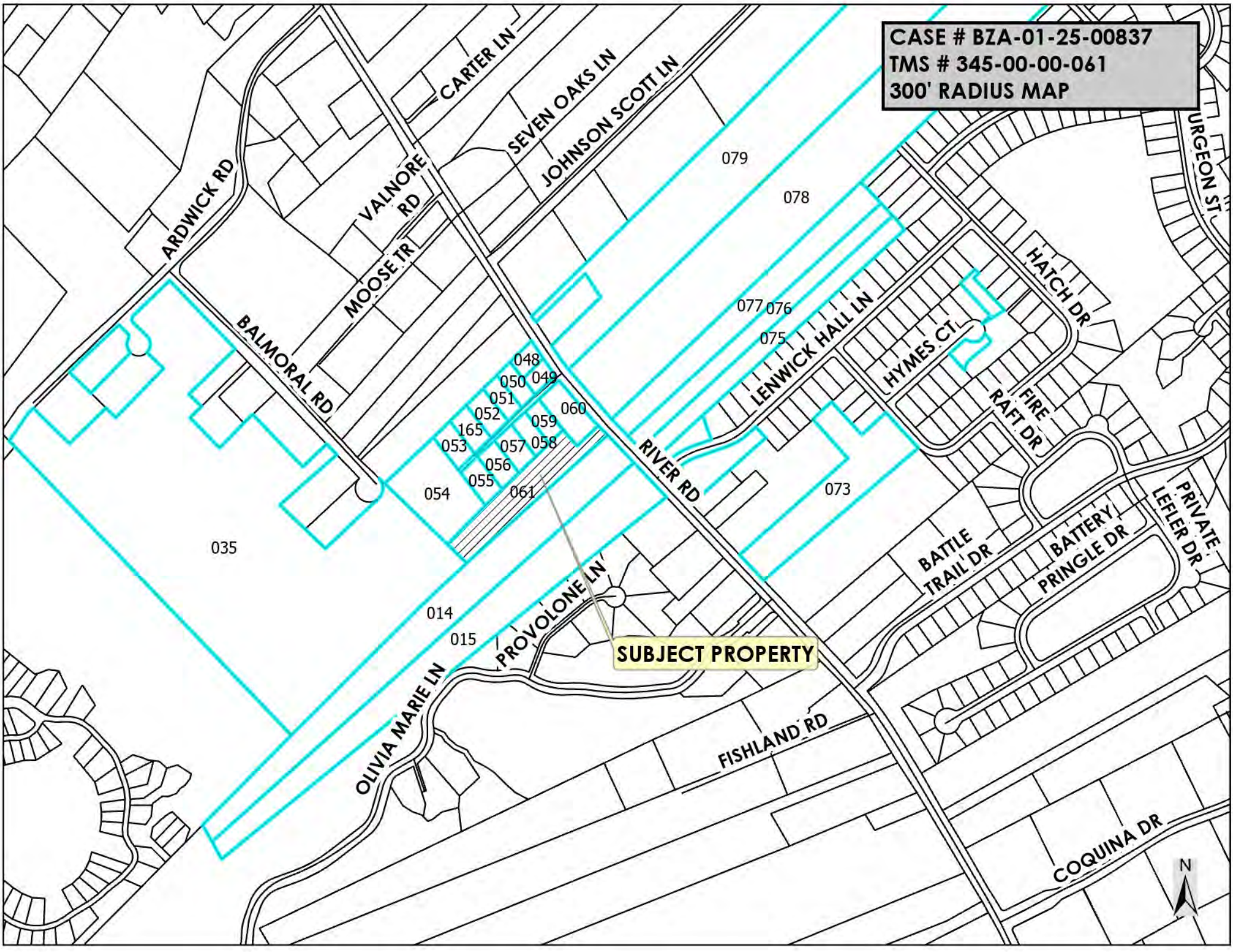


Legend

Parcel Boundaries	RR; RURAL RESIDENTIAL
SUBJECT PROPERTY	MUNICIPAL BOUNDARIES
Zoning Districts	
CC; COMMUNITY COMMERCIAL	CHARLESTON COUNTY
R-4; LOW DENSITY RESIDENTIAL	CITY OF CHARLESTON



CASE # BZA-01-25-00837
TMS # 345-00-00-061
300' RADIUS MAP



SUBJECT PROPERTY



CASE # BZA-01-25-00837
TMS # 345-00-00-061
AERIAL MAP

SUBJECT PROPERTY

KOGER AV

R RD

061



CASE # BZA-01-25-00837
TMS # 345-00-00-061
AERIAL MAP

MOOSE TR

KOGER AV

SUBJECT PROPERTY

LENWICK HALL LN

BALMORAL RD

RIVER RD

061



PROVOLONE LN

OLIVIA MARIE LN

Case # BZA-01-25-00837

BZA Meeting of March 3, 2025

Subject Property: 2060 River Road – Johns Island

Proposal: Variance request for a 25' wide ingress/egress easement to encroach within a restricted area three times the DBH (Critical Root Zone) of a 54" DBH Grand Live Oak Tree for a proposed four (4) lot subdivision.



Encroach 54" DBH Live Oak

Grade B



Encroach 54" DBH Live Oak Grade B



Subject Property



Staff Review:

The applicant, R. Chamberlain Chesnut of RCC Properties, Michael O'Laughlin of MJO Enterprises LLC, represented by Andy Bajoczky, PE of Barrier Island Engineering & Consultants, are requesting a variance for a 25' wide ingress/egress easement to encroach within a restricted area three times the DBH (Critical Root Zone) of a 54" DBH Grand Live Oak Tree for a proposed four (4) lot subdivision at 2060 River Road (TMS # 345-00-00-061) on Johns Island in Charleston County.

The subject property and adjacent properties to the north are located in the Low Density Residential (R-4) Zoning District. Adjacent properties to the northwest along River Road are located in the Community Commercial (CC) Zoning District. The adjacent property to the south is located in the Rural Residential (RR) Zoning District. The subject property contains three (3) legal nonconforming manufactured homes that were permitted in 1986.

The applicant's letter of intent explains the request, *"Requesting a variance for encroachments into tree protection zones for the construction of 4 single family detached residences with associated infrastructure."*

Applicable ZLDR requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. Required Tree Protection states, "In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals."

Applicable ZLDR Chapter 12 Definitions, Article 12.1 Terms and Uses Defined:

Arborist, Certified A Person certified by the International Society of Arboriculture.

Diameter Breast Height (DBH) The total diameter, in inches, of a Tree trunk or trunks measured at a point four and one-half feet above existing Grade (at the base of the Tree). In measuring DBH, the circumference of the Tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

Grand Tree Any Tree with a diameter breast height of 24 inches or greater, with the exception of Pine Tree and Sweet Gum Tree (*Liquidambar styraciflua*) species.

Staff conducted a site visit of the subject property on February 12, 2025. Please review the attachments for further details regarding this request.

Planning Director Review and Report regarding Approval Criteria of §3.10.6:

§3.10.6(1): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: There may be extraordinary and exceptional conditions pertaining to 1.93-acre property. **The applicant's letter of intent states, "Yes. Site geometry is long and narrow with existing grand and protected trees scattered throughout. In order to meet county road standards for secondary roads, encroachment into the canopy is unavoidable. Tree is not proposed for removal."** Therefore, the request may meet this criterion.

§3.10.6(2): *These conditions do not generally apply to other properties in the vicinity;*

Response: These conditions do not generally apply to other properties in the vicinity. **The applicant's letter of intent states, "The presence of a very large grand oak whose canopy spans the entire lot frontage is unique to the subject property."** Therefore, the request may meet this criterion.

§3.10.6(3): *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;*

Response: The application of this Ordinance, Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. Required Tree Protection to 2060 River Road would not unreasonably restrict the utilization of the property. This property can be used as it is currently being used, three (3) legal nonconforming manufactured homes, or the manufactured homes can be removed, and a single-family residence and an Accessory Dwelling Unit (ADU) can be constructed. Therefore, the request does not meet this criterion. However, the **applicant's letter of intent** contends, **"Yes. A county standard secondary road or any entrance at all to the property cannot be achieved without encroachment into the tree."**

§3.10.6(4): *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;*

Response: The authorization of this variance may be of substantial detriment to the adjacent properties and the public good, and the character of the Low Density Residential (R-4) Zoning District may be harmed if the board approves this request, because the tree most likely will not survive construction of the road and it will be damaged by construction traffic when

the four (4) houses are built. Therefore, the request does not meet this criterion.

§3.10.6(5): *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. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;*

Response: The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries. Therefore, the request meets this criterion.

§3.10.6(6): *The need for the variance is not the result of the applicant's own actions;*

Response: The need for the variance is the **result of the applicant's own actions** because they are trying to subdivide the lot into four (4) lots. This property can be used as it is currently being used, three (3) legal nonconforming manufactured homes, or the manufactured homes can be removed, and a single-family residence and an Accessory Dwelling Unit (ADU) can be constructed. Therefore, the request does not meet this criterion. However, the **applicant's letter of intent** contends, **"No. Existing trees."**

§3.10.6(7): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*

Response: Granting of the variance may substantially conflict with the *Comprehensive Plan* and the purposes of the *Ordinance* because even if the board approves this request **with Staff's recommended conditions** below, the tree most likely will not survive construction of the road and it will be damaged by construction traffic when the four (4) houses are built. Therefore, the request does not meet this criterion. However, the applicant contends, **"No. Trees are proposed to remain."**

Board of Zoning Appeals' Action:

According to Article 3.10 Zoning Variances, Section §3.10.6 Approval Criteria of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)*, (adopted July 18, 2006), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship (§3.10.6A). A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing their findings (§3.10.6B Approval Criteria).

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 or structure 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 (§3.10.6C).

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZA-01-25-00837 [Variance request for a 25' wide ingress/egress easement to encroach within a restricted area three times the DBH (Critical Root Zone) of a 54" DBH Grand Live Oak Tree for a proposed four (4) lot subdivision at 2060 River Road (TMS # 345-00-00-061) on Johns Island in Charleston County] based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions recommended by Staff:

1. If the 54" **DBH Live Oak Tree** dies within up to three (3) years from the date the structure is permitted, the applicant shall mitigate the DBH of the tree by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in Sec. 9.2.6 of the *Charleston County Zoning and Land Development Regulations*, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to its removal.
2. The road shall be constructed using pervious materials as approved by the County Arborist.
3. Tree barricades constructed of chain link fencing shall be installed around all **protected trees within 40' of disturbance prior to any construction, pursuant to** Sec. 9.2.4 of the *Charleston County Zoning and Land Development Regulations*.
4. The applicant shall retain a Certified Arborist to monitor and treat all Grand Trees **within 40' of disturbance through the duration of construction. The applicant shall** provide a copy of the Tree Preservation Plan to Zoning Staff for review and approval prior to Zoning Permit approval for construction.

ZONING VARIANCE APPLICATION
Charleston County Board of Zoning Appeals (BZA)

Property Information		
Subject Property Address: 2060 RIVER ROAD, JOHNS ISLAND, SC		
Tax Map Number(s): 345-00-00-061		
Current Use of Property: VACANT		
Proposed Use of Property: SINGLE FAMILY DETACHED RESIDENTIAL		
Zoning Variance Description:		

Applicant Information (Required)		
Applicant Name (please print): R. CHAMBERLAIN CHESNUT		
Name of Company (if applicable): RCC PROPERTIES		
Mailing Address: 5 CEDAR STREET		
City: CHARLESTON	State: SC	Zip Code: 29403
Email Address: CHESNUTR@GMAIL.COM	Phone #: (843) 518-2027	
Applicant Signature: <i>R. Chamberlain Chesnut</i>		Date: 12/19/24

Representative Information (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)		
Print Representative Name and Name of Company: ANDREW BAJOCZYK, PE, CHIP WYATT		
Mailing Address: 759 FOLLY ROAD, SUITE C		
City: CHARLESTON	State: SC	Zip Code: 29412
Email Address: ANDY@BARRIERISLANDENG.COM	Phone #: (843) 697-0411	

Designation of Agent (Complete only if the Applicant listed above is not the Property Owner.)		
I hereby appoint the person named as Applicant and/or Representative as my (our) agent to represent me (us) in this application.		
Property Owner(s) Name(s) (please print): MICHAEL O'LAUGHLIN		
Name of Company (if applicable, LLC etc.): MJO ENTERPRISES LLC		
Property Owner(s) Mailing Address: 3359 DUNWICK DRIVE		
City: JOHNS ISLAND	State: SC	Zip Code: 29455 → Phone #: 843 670 2242
Property Owner(s) Email Address: mike.laughlin@gmail.com		
Property Owner(s) Signature: <i>Michael O'Laughlin</i>		Date: 12/23/24

FOR OFFICE USE ONLY:			
Zoning District: R-4	Flood Zone: X(657K)	Date Filed: 11/27/25	Fee Paid: \$250
Application #: BZA-a-2500837	TMS #: 345-00-00-061	Staff Initials: <i>cc jsw</i>	

Description of Request

Please describe your proposal in detail. You may attach a separate sheet if necessary. Additionally, you may provide any supporting materials that are applicable to your request (photographs, letter of support, etc.)

REQUESTING A VARIANCE FOR ENCROACHMENTS INTO TREE PROTECTION ZONES FOR THE CONSTRUCTION OF 4 SINGLE FAMILY DETACHED RESIDENCES W/ ASSOCIATED INFRASTRUCTURE.

Applicant's response to Article 3.10 Zoning Variances, §3.10.6 Approval Criteria

Zoning Variances may be approved only if the Board of Zoning Appeals finds that the proposed use meets all 7 of the approval criteria. In evaluating your request, the members of the board will review the answers below as a part of the case record. You may attach a separate sheet if necessary.

1. Are there extraordinary and exceptional conditions pertaining to the subject property? Explain:

YES. SITE GEOMETRY IS LONG & NARROW WITH EX. GRAND & PROTECTED TREES SCATTERED THROUGHOUT. IN ORDER TO MEET COUNTY ROAD STDS. FOR SECONDARY ROADS, ENCROACHMENT INTO THE CANOPY IS UNAVOIDABLE. TREE IS NOT PROPOSED FOR REMOVAL.

2. Do these conditions generally apply to other property in the vicinity or are they unique to the subject property? Explain:

THE PRESENCE OF A VERY LARGE GRAND OAK WHOSE CANOPY SPANS THE ENTIRE LOT FRONTAGE IS UNIQUE TO THE SUBJECT PROPERTY.

3. Because of these extraordinary and exceptional conditions, would the application of this Ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property? Explain:

YES. A COUNTY STANDARD SECONDARY ROAD OR ANY ENTRANCE AT ALL TO THE PROPERTY CANNOT BE ACHIVED WITHOUT ENCROACHMENT INTO THE TREE.

4. Will the authorization of a variance be a substantial detriment to adjacent property or to the public good? Will the character of the zoning district be harmed if this variance is granted? Explain:

NO. TREES TO REMAIN.

5. The BZA 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. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance. Does the variance request meet this criterion?

YES _

6. Is the need for the variance the result of your own actions? Explain:

NO. EXISTING TREES.

7. Does the variance substantially conflict with the Charleston County Comprehensive Plan or the purposes of the Ordinance? Explain

NO. TREES ARE PROPOSED TO REMAIN.

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 or structure 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.

OBSERVATIONS

Site

The trees reside on a 1.93-acre vacant residential property.

Analysis

It appears the property was previously used as a mobile home park and the trees were not well-maintained.

Tree Condition and Inventory Table

Tree #	(DBH)	Species	Health	Risk Rating	Comments
1	37"	Water oak, <i>Quercus nigra</i>	F	High	Large fungal conk, shear plane crack, decay, tannic acid.
2	37"	Water oak, <i>Quercus nigra</i>	F	High	Severe decay, Hypoxylon canker.
3	29"	Water oak, <i>Quercus nigra</i>	F	High	Storm-damaged, rot, decay, tannic acid.
4	32"	Water oak, <i>Quercus nigra</i>	F	High	Rot, decay, cavities in trunk column.
5	26.5"	Post oak, <i>Quercus stellata</i>	F	High	Severe lean with loading, small cavities, decay, cavity in the root collar.
6	24"	Post oak, <i>Quercus stellata</i>	C	Moderate	Vine saturation and deadwood.
7	27"	Water oak, <i>Quercus nigra</i>	F	High	Storm-damaged, severe decay.
8	36"	Southern red oak, <i>Quercus falcata</i>	C	Moderate	Vine saturation and minor hollow detected.
9	26"	Southern red oak, <i>Quercus falcata</i>	D	High	Significant hollow detected, decay.
10	27"	Live oak, <i>Quercus virginiana</i>	D	High	Decay, damaged trunk.
11	27"	Pecan, <i>Carya illinoensis</i>	D	Moderate	Significant lean/loading, receives routine utility line trimming.
12	54"	Live oak, <i>Quercus virginiana</i>	B	Low	Minor decay.

Tree Grading System

A - Specimen tree exhibiting vigorous growth and showing little or no sign of disease or storm damage.

B - Healthy tree, exhibiting vigorous growth, showing minimal signs of disease, but having suffered notable storm damage.

C - Semi-healthy tree, showing some signs of decline which are perhaps correctable (i.e., some insect infestations, some diseases, root compaction, etc.); still shows signs of growth, but suffered significant storm damage.

D - Tree in declining health; has suffered extensive storm damage; tree may still live for many years without posing a hazard but may not be successfully treated to again become a healthy, specimen tree.

F - Tree which is determined to be irreparably damaged, diseased or hazardous.

Discussion

Trees provide numerous benefits to the urban environment. These benefits increase as the age and size of the trees increase. However, as a tree becomes larger and more mature, it is likely to shed branches or develop decay or other conditions that can predispose it to failure. In assessing and managing trees, we strive to strike a balance between the risk that a tree poses and the benefits that individuals and communities derive from trees.

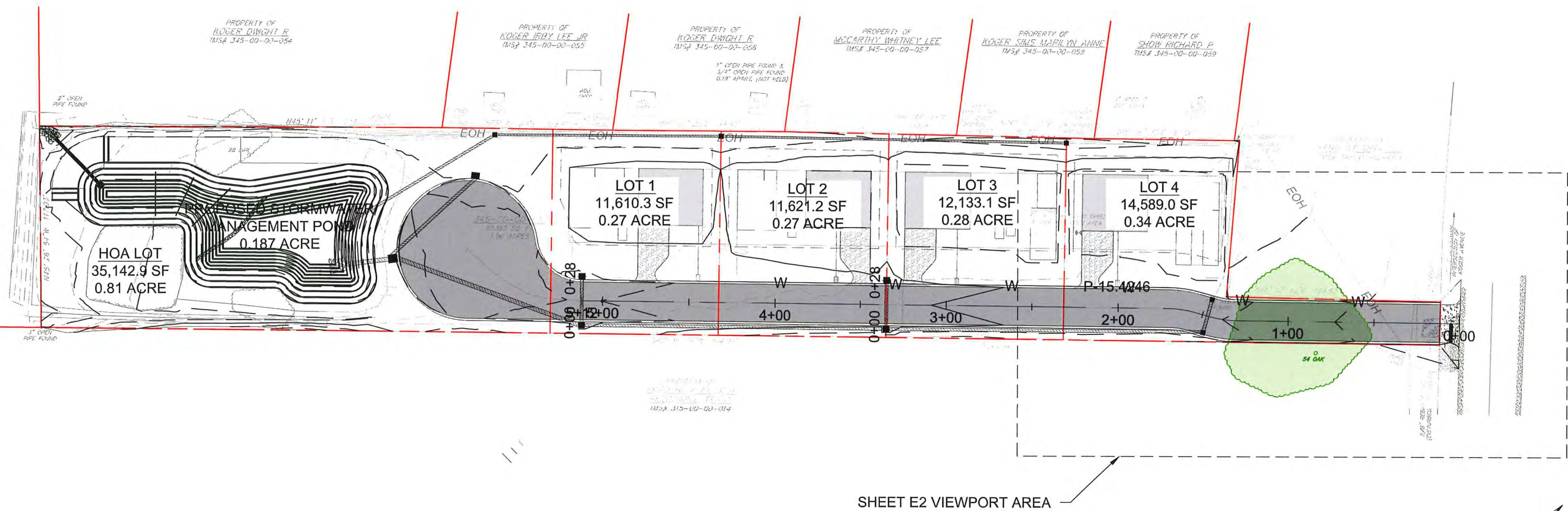
Tree risk assessment (TRA) is the systematic approach used to identify, analyze and evaluate tree risk. By identifying the tree risk, mitigation can be conducted to reduce risk while preserving the trees that meet acceptable levels of risk.

A primary goal of TRA is to provide the tree owner with resourceful information about the level of risk posed by a tree over a period of time. This is accomplished by conducting a qualitative analysis and determining the likelihood and consequences of a tree failure. If the risk rating defined for a tree exceeds the level of acceptable risk, mitigation is recommended.

#12 LIVE OAK, *QUERCUS VIRGINIANA*



PLOTTED ON January 10, 2025 AT 6:12 AM.



RIVER ROAD SINGLE FAMILY
CHARLESTON COUNTY, SC

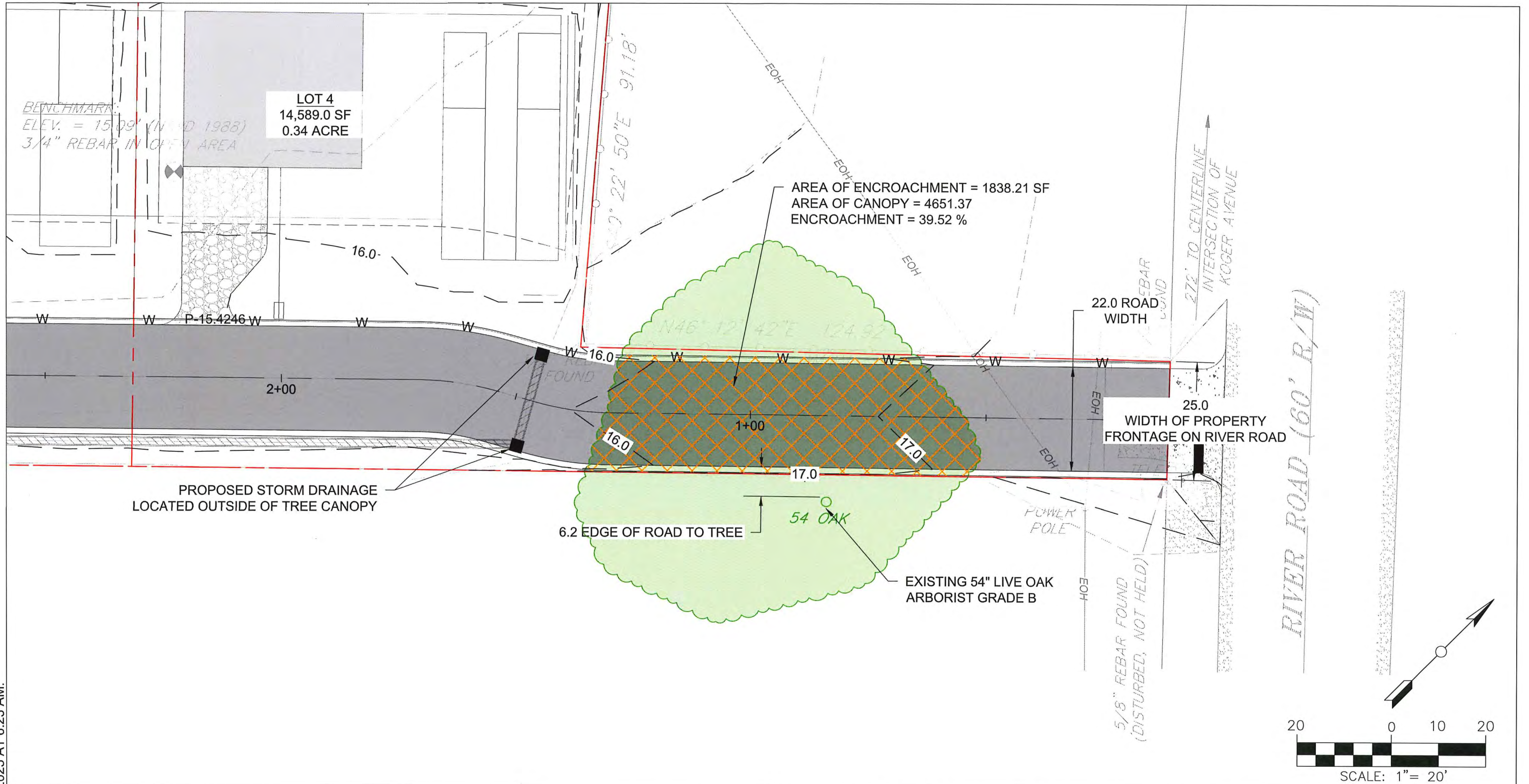
BZA EXHIBIT -
OVERALL SITE PLAN

E1

PROJECT #	22-046
DESIGNED BY:	AJB
APPROVED BY:	AJB
DATE:	1/10/25



PLOTTED ON January 10, 2025 AT 6:23 AM.



RIVER ROAD SINGLE FAMILY
CHARLESTON COUNTY, SC

BZA EXHIBIT - TREE
ENCROACHMENT

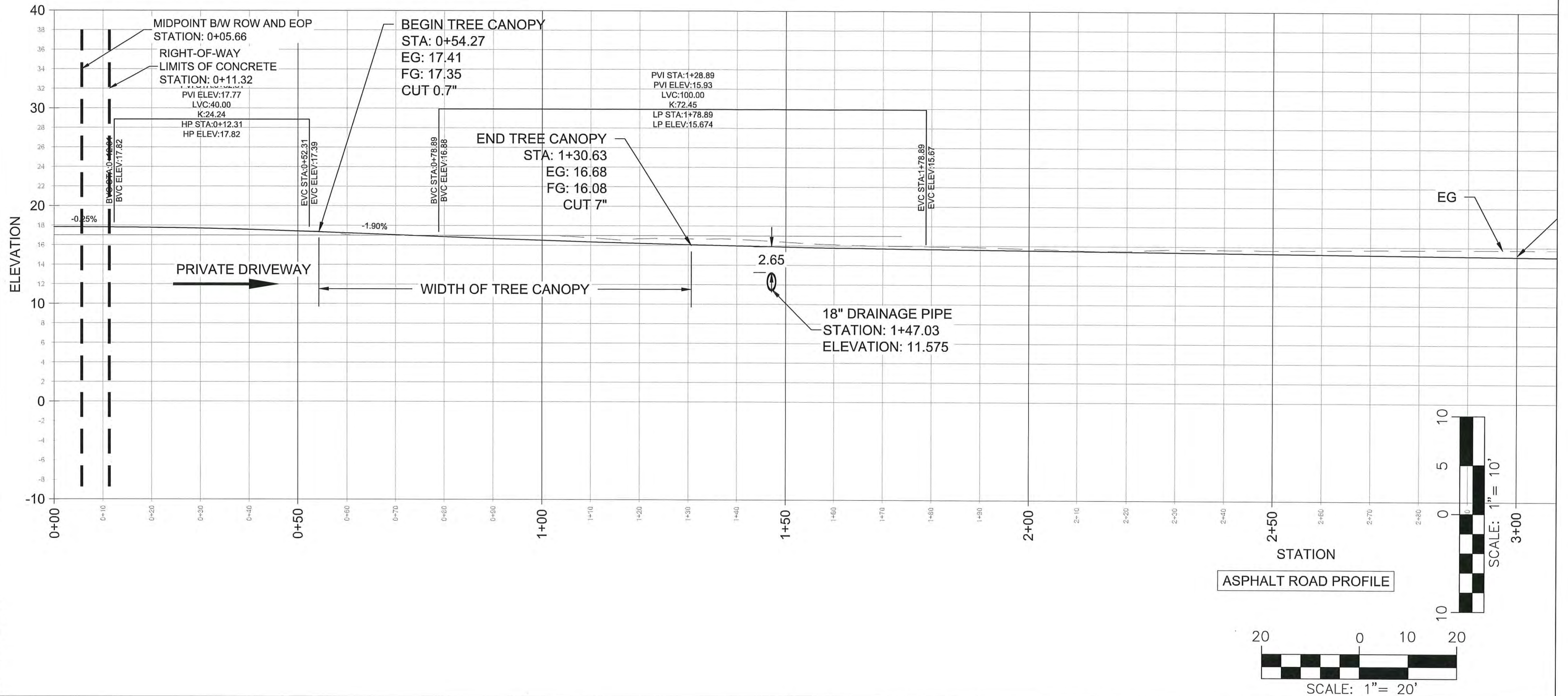
E2

PROJECT #	22-046
DESIGNED BY:	AJB
APPROVED BY:	AJB
DATE:	1/10/25



NOT FOR CONSTRUCTION

PLOTTED ON January 10, 2025 AT 6:12 AM.

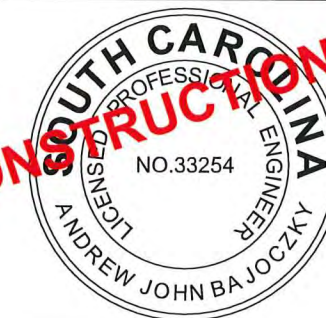


**RIVER ROAD SINGLE FAMILY
CHARLESTON COUNTY, SC**

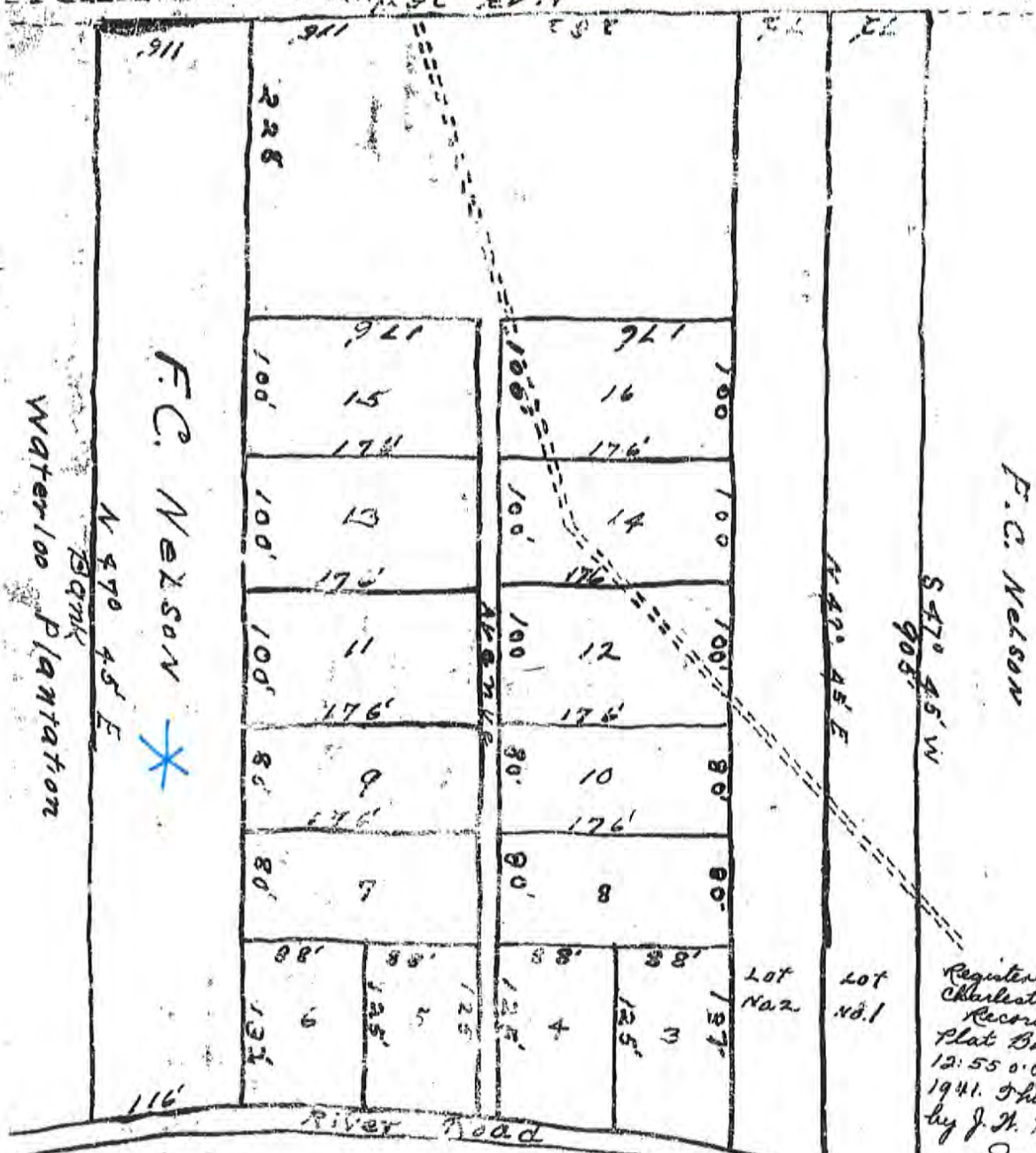
**BZA EXHIBIT -
ROAD PROFILE**

E3

PROJECT #	22-046
DESIGNED BY:	AJB
APPROVED BY:	AJB
DATE:	1/10/25



CURRENT RECORDED PLAT



Register Meas. Conveyance office
 Charleston County, S.C.
 Recorded by filing in
 Plat Book Page 98 at
 12:55 o'clock October 29,
 1941. This tracing furnished
 by J. H. Koger, Jr.
 Julius E. Cogswell
 R.M.C. per clk. a/c.

Property of
 J. H. Koger, Jr.
 Johns Island, S.C.
 W. C. Bolt
 Surveyor

98