Special City Council Meeting

4:30 p.m., Tuesday, June 19, 2018 Council Chambers 1207 Palm Boulevard Isle of Palms, South Carolina

AGENDA

1. Call to order and acknowledgement that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. PURPOSES

A. First Reading, by title only, of Ordinance 2018-10 – AN ORDINANCE AMENDING TITLE 8, MOTOR VEHICLES AND TRAFFIC, CHAPTER 2, STOPPING, STANDING, AND PARKING OF VEHICLES, OF THE CITY OF ISLE OF PALMS CODE OF ORDINANCES, TO PROHIBIT BOAT TRAILER PARKING ON WATERWAY BOULEVARD; TO PROHIBIT BOAT TRAILER PARKING ON 41ST AVENUE; AND TO PROVIDE AN EXCEPTION FOR VEHICLES DISPLAYING A VALID RESIDENT PARKING PERMIT TO PARK WITH ATTACHED BOAT TRAILERS ALONG THE RIGHTS-OF-WAY OF 41ST AVENUE FROM WATERWAY BOULEVARD TO THE TERMINUS OF 41ST AVENUE WHERE PARKING IS NOT OTHERWISE PROHIBITED.

B. Consideration of proposed relocation of City's drainage easement over property owned by Wild Dunes LLC in the vicinity of The Village pool at Wild Dunes LLC's expense and amendment to the Easement Agreement.

C. Consideration of proposed reduction of City's 50-foot drainage easement along Palmetto Drive over property owned by Wild Dunes LLC.

- 3. Executive Session if needed
- 4. Adjournment

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Special City Council Meeting

4:30 p.m., Tuesday, June 19, 2018

A Special Meeting of City Council was called to order at 4:30 p.m., Tuesday, June 19, 2018 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. In attendance were Councilmembers Bell, Buckhannon, Ferencz, Kinghorn, Moye, Rice, Smith and Ward, Mayor Carroll, Interim City Administrator Fragoso, Attorney Halversen and Clerk Copeland; a quorum was present to conduct business.

1. Mayor Carroll called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. Purposes

A. First Reading, by title only, of Ordinance 2018-10 – AN ORDINANCE AMENDING TITLE 8, MOTOR VEHICLES AND TRAFFIC, CHAPTER 2, STOPPING, STANDING, AND PARKING OF VEHICLES, OF THE CITY OF ISLE OF PALMS CODE OF ORDINANCES, TO PROHIBIT BOAT TRAILER PARKING ON WATERWAY BOULEVARD; TO PROHIBIT BOAT TRAILER PARKING ON 41ST AVENUE; AND TO PROVIDE AN EXCEPTION FOR VEHICLES DISPLAYING A VALID RESIDENT PARKING PERMIT TO PARK WITH ATTACHED BOAT TRAILERS ALONG THE RIGHTS-OF-WAY OF 41ST AVENUE FROM WATERWAY BOULEVARD TO THE TERMINUS OF 41ST AVENUE WHERE PARKING IS NOT OTHERWISE PROHIBITED.

Interim Administrator Fragoso reported that this ordinance was drafted as a result of a discussion at the Public Safety Committee, and it applies to 41st Avenue between Waterway Boulevard and the end of the marina. This section of road is not under SCDOT's jurisdiction; therefore, Council is not required to wait until the parking changes in Ordinance 2018-05 are approved. Assuming that this ordinance passes Second Reading at next week's Council meeting, signage can be installed and the Police Department can enforce resident only parking.

MOTION: Councilmember Bell moved to approve Ordinance 2018-10 for First Reading, and Councilmember Kinghorn seconded.

Councilmember Rice said that she does not recall a discussion where this section of 41st would be resident only parking; she thought it was intended to be flexible parking for the marina.

Councilmember Moye said that, since residents would not be allowed to park trailers on Waterway, making this section of 41st additional resident only parking was a good alternative.

VOTE: The motion PASSED UNANIMOUSLY.

B. Consideration of proposed relocation of City's drainage easement over property owned by Wild Dunes LLC in the vicinity of The Village pool at Wild Dunes' expense and amendment to the Easement Agreement

Dave Stevens of Civil Site Environmental and Dan Battista, Senior Vice President of Development in Charleston were present for the meeting to explain the action being contemplated and to answer questions.

MOTION: Councilmember Bell moved to approve the relocation of the drainage easement and to amend the Easement Agreement; Councilmember Ward seconded.

Attorney Halversen stated that the original Easement Agreement was signed in in 2011; in 2013 when the pool was built, the Amended and Re-stated Easement Agreement was executed. The language in this amendment addresses both temporary and permanent easements because they have different approval processes and different sources for the expense. For a temporary agreement, the City has agreed to assume the associated costs; for a permanent agreement, the party desirous of relocating the line would bear the costs. The agreement stated that movement of the temporary portion of the line "must be to a mutually beneficial location" and the City must give its okay; for the section that is permanent, the other party must give written consent for it to be moved. The easement in question has both permanent and temporary sections. Action to be taken at this meeting would agree that relocating the temporary easement is to a mutually beneficial location and Wild Dunes can move forward; for the permanent piece, Council would be giving its consent to relocate the easement.

According to Mr. Battista, the drainage easement is adjacent to the Palm Court pool, and it must be relocated because it is in the footprint of the new construction. With a large map of the area, he as able to show Council where it is located and where they want to move it; a copy of the map is attached to the historical records of the meeting.

When Councilmember Smith asked if the relocation had an upside or a downside, Mr. Stevens replied that the design would not make a difference in how the drainage works; he added that all of the pipes would be submerged. He noted that he has made it clear that the existing easement would not be abandoned until the new line was in the ground.

Councilmember Rice was assured that whatever was encountered underground that could be an obstacle would be the financial responsibility of Wild Dunes.

VOTE: The motion PASSED UNANIMOUSLY.

C. Consideration of proposed reduction of City's 50-foot drainage easement along Palmetto Drive over property owned by Wild Dunes LLC

MOTION: Mayor Carroll moved to approve the reduction of the drainage easement along Palmetto Drive and over property owned by Wild Dunes; Councilmember Rice seconded.

Mr. Battista stated that Wild Dunes was asking to reduce the width of the easement to twenty feet (20 ft.) from fifty feet (50 ft.).

Councilmember Bell stated that his understanding of the reduction request was that, if Council chose not to approve it, the new hotel would have to be constructed thirty feet (30 ft.) closer to Palm Boulevard, and Mr. Battista agreed.

Councilmember Kinghorn asked if an assessment had been done relative to the impact of the new development on the drainage system.

Mr. Stevens responded that it would be the same as now based on the impervious areas Wild Dunes has.

Director Kerr told Council that, due to the size and commercial-nature of the project, it required additional permitting through the state Health Department, and they looked at the drainage system closely. At this time, Wild Dunes has all of the necessary permits and has been vetted through the appropriate state agencies.

Responding to the Mayor's question, Mr. Stevens said that reducing the easement to twenty feet (20 ft.) would be a little tight if future work was needed on the drainage system but it could be done. He informed Council that a twenty foot easement is normal and not out of the norm.

Councilmember Bell asked that the final paragraph in the document be explained to him; it says:

"The Easement may be modified in the future by WD to prevent proposed improvements intended to be constructed adjacent to the New Easement Area from encroaching into the New Easement Areas, and City agrees to cooperate with such amendment. "

Noting that she spoke with the Wild Dunes' attorney about this, Attorney Halversen said that the language was specifically for dealing with a small space, meaning that, if the building were to encroach in the easement by a few inches, the agreement could easily be amended so that, when the building is actually

constructed and surveyed showing that minor encroachment, the City ₃ would agree that it was okay. Attorney Halversen said that the attorneys could work to make the language more specific.

Councilmember Rice asked if the footprint of the new hotel could be reduced to eliminate the chance of encroaching into the easement; she stated that she did not understands why the hotel had not been designed to fit into the space they had.

Councilmember Bell said that he did not think the new hotel was providing sufficient parking, and he inquired if Wild Dunes has made arrangements for overflow parking outside of the resort, as is planned for the construction crews. He also stated that he was "very uncomfortable with any plan ... that insinuates that a site is not large enough to accommodate what the site is to be used for."

The Mayor indicated that Council would hear more about parking at the Council meeting next week.

Mr. Battista said that he was not the person to answer parking questions and referred Council to Mr. Fredericks.

VOTE: The motion PASSED UNANIMOUSLY.

3. Executive Session – not needed

4. Adjournment

The Mayor declared that the meeting was concluded at 4:57 p.m.

Respectfully submitted:

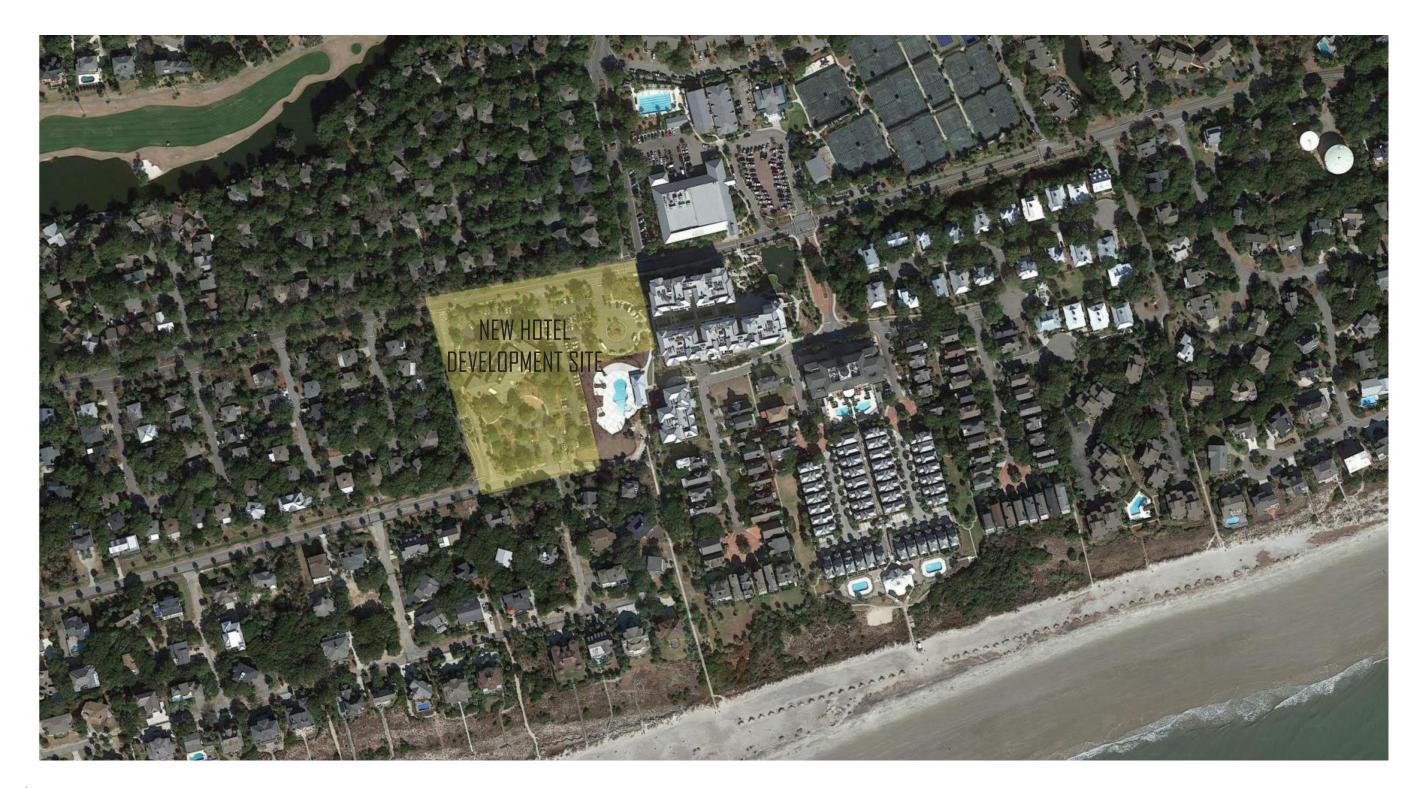
Marie Copeland City Clerk

Wild Dunes Resort | Hotel

New Hotel Presentation

















mcmillan | pazdan | smith















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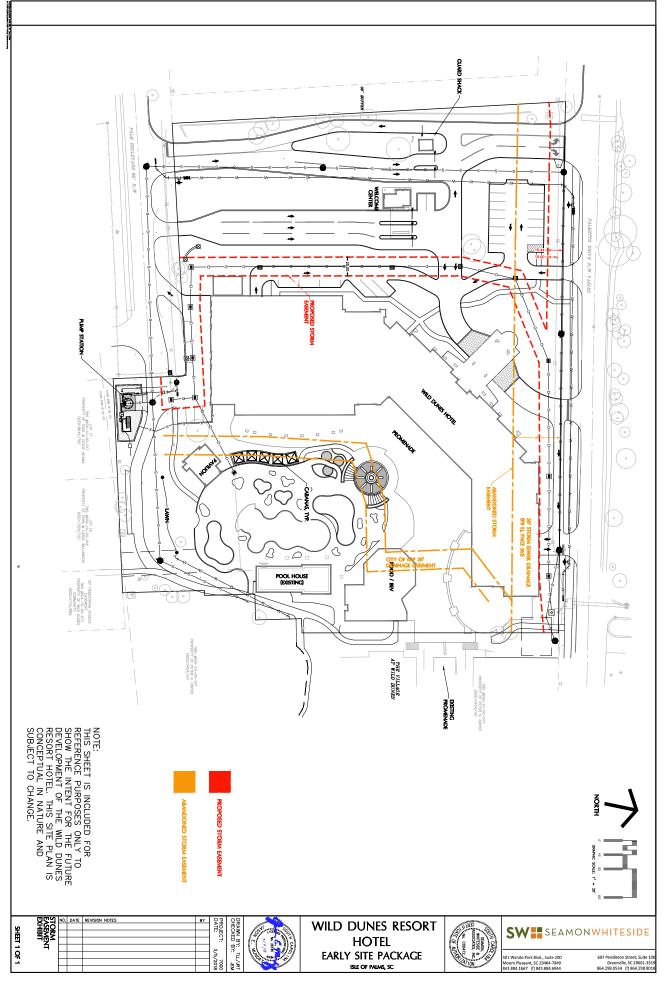














STATE OF SOUTH CAROLINA

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COUNTY OF CHARLESTON

AMENDED AND RESTATED AGREEMENT AND GRANT OF TEMPORARY DRAINAGE EASEMENT

This Amended and Restated Agreement and Grant of Temporary Drainage Easement (the "<u>Agreement</u>") is made as of the 23rd day of May, 2013, by and between Lowe Wild Dunes Investors, L.P., a South Carolina limited partnership ("<u>LWDI</u>" or "<u>Grantor</u>") and the City of Isle of Palms, South Carolina, a South Carolina municipal corporation ("<u>City</u>" or "<u>Grantee</u>") and amends and restates in its entirety that certain Agreement and Grant of Temporary Drainage Easement dated January 11, 2011, and recorded January 28, 2011, in Book 0168, Page 901 of the Office of the Charleston County Register of Mesne Conveyance.

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RECITALS

WHEREAS, the City has installed a stormwater collection system in the City of Isle of Palms, in the general vicinity of Palm Boulevard, including, but not limited to, the area between 53rd Avenue and 57th Avenue (the "<u>City System</u>"); and

WHEREAS, the City has connected the City System with the stormwater collection and discharge system operated by Wild Dunes Community Association Inc. in Wild Dunes Resort (the "<u>WDCA System</u>") in order to discharge the stormwater collected by the City System; and

WHEREAS, WDCA has agreed to allow the City System to discharge the stormwater it collects into the WDCA System and has executed an Agreement and Grant of Perpetual Drainage Easement dated November 15, 2006; and

WHEREAS, Grantor owns that certain real property described on Exhibit A (the "Property") over, under, and upon which City has installed drainage lines for the purpose of collection and transfer of stormwater drainage by the City System for discharge into the WDCA System; and

WHEREAS, this Agreement amends and restates the agreement related to Grantor's grant to the City of an easement on the Property for construction and use of stormwater drainage facilities to accommodate the City's current needs while allowing for relocation in the future if needed by Grantor.

THEREFORE, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars in hand paid by City to Grantor, the receipt and sufficiency of which are hereby acknowledged by Grantor, the parties hereto agree as follows:

1. Grantor hereby grants to City a non-exclusive easement for the purpose of construction of stormwater drainage facilities for collection and transfer of stormwater drainage by the City System for discharge into the WDCA System (the "<u>Permanent Easement</u>") over, under and upon that crosshatched portion of the Property labeled "City of IOP 20' Drainage easement (10'each side)" on that certain plat ("Plat") entitled "Property Line Adjustment @ 3

Parcels of Land Owned By Lowe Wild Dunes Investors" surveyed by John E. Wade Jr. and dated January 8, 2013 attached as Exhibit B (the "Permanent Easement Area").

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2. Grantor hereby grants to City a non-exclusive easement for the purpose of construction of stormwater drainage facilities for collection and transfer of stormwater drainage by the City System for discharge into the WDCA System (the "Temporary Easement") over, under and upon that non-crosshatched portion of the Property labeled "City of IOP 20' Drainage easement (10'each side)" on the Plat (the "Temporary Easement Area"). The Temporary Easement and Temporary Easement Area shall remain subject to the terms and conditions set forth in Section 8. For avoidance of doubt, City agrees it no longer has and hereby expressly disclaims any rights to that portion of the Property labeled "Easement Abandoned Line Relocated" on the Plat.

Subject to obtaining prior written approval from Grantor of the repair or 3. restoration scope of work for any affected portion of the Permanent Easement Area or Temporary Easement Area, City shall have the right to construct, install and maintain within the Permanent Easement Area and Temporary Easement Area all drainage lines, collection boxes, pumps, electrical boxes, and any other improvements which may from time to time be utilized in connection with the operation of the City System. City shall meet with Grantor prior to commencement of the work detailed above to obtain approval from Grantor of the scope of work for the repair or restoration of the affected portion of the Permanent Easement Area or Temporary Easement Area. Except in the event of an emergency, such meeting shall occur no less than five (5) days prior to commencement of work. Grantor also grants to City a nonexclusive temporary easement over such lands of Grantor which immediately adjoin the Permanent Easement Area and Temporary Easement Area as is necessary to install or maintain the City System. City, at its expense, shall repair and restore any portion of the Permanent Easement Area and Temporary Easement Area affected by the repair or restoration work to the same condition of the Permanent Easement Area or Temporary Easement Area existing prior to the repair or restoration work, including performing the repair or restoration in accordance with the criteria shown and described in Exhibit C.

4. City agrees to operate and maintain the City System in accordance with all applicable local, state and federal laws, rules, and regulations.

5. The Permanent Easement and Temporary Easement shall burden the lands of Grantor described in Exhibit A and depicted on Exhibit B. All provisions of this Agreement, including the benefits and burdens, shall be considered as covenants running with the land and are and shall remain binding upon and inure to the benefit of the parties hereto and their respective successors and assigns forever.

6. This Easement may be modified by the parties at any time by mutual consent by recorded instrument which refers to this grant of Easement.

7. Grantor agrees that it shall make no use of the Permanent Easement Area and Temporary Easement Area for any purpose which interferes with the use of the Permanent Easement and Temporary Easement by the City except as specified under Paragraph 8 hereunder.

Grantor further agrees to provide the City with written notice prior to placing any new structures upon the Permanent Easement Area and Temporary Easement Area or making alterations or modifications to the existing contours or other physical characteristics of the land comprising the Permanent Easement Area and Temporary Easement Area.

8. If at any time any portion of the Temporary Easement interferes with Grantor's development of the land comprising the Temporary Easement Area, Grantor and City shall modify the Temporary Easement to relocate such portion of the Temporary Easement Area to a mutually beneficial location at the sole expense of City. Upon completion of Grantor's development of the land comprising such affected portion of the Temporary Easement Area, the parties hereto shall amend Exhibit B of the Agreement to provide that such relocated portion of the Temporary Easement Area has become part of the Permanent Easement Area, at which time Grantor's right of relocation as provided in this Section 8 for such relocated portion of the Temporary Easement Area shall terminate but shall remain in full force as to the remaining, unaffected portion of the Temporary Easement Area.

9. No portion of the Permanent Easement may be relocated by either party without the prior written consent of the other party, which consent may not be unreasonably withheld, conditioned or delayed. Any such relocation shall be at the sole expense of the party proposing the relocation.

10. Grantor hereby warrants to the City that Grantor holds a fee simple title to the Temporary Easement Area and Permanent Easement Area subject to all matters of record; Grantor has the full right, power and authority to grant the Temporary Easement and Permanent Easement; the City, its successors and assigns, shall quietly enjoy the Temporary Easement and Permanent Easement for the uses stated herein unless and until any portion of the Temporary Easement by Grantor do not conflict with or constitute a default under any mortgage or other agreement to which Grantor may be bound.

TO HAVE AND TO HOLD, all and singular, the Temporary Easement and Permanent Easement unto the City, its successors and assigns forever.

And Grantor hereby binds itself and its successors and assigns to warrant and forever defend all and singular the Temporary Easement and Permanent Easement unto the City, its successors and assigns, against Grantor and its successors, and against all persons whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, by and through the undersigned agents, as of the date stated above.

WITNESS:

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(as to City)

The City of Isle of Palms, South Carolina

By: Title:

(as to

Lowe Wild Dunes Investors, LP, a South Carolina limited partnership

By: Destination Wild Dunes Management, Inc., A South Carolina corporation, its authorized agent

Signature:

Frank Fredericks, Vice President

Date

Signature

William Smith, Director of Finance

Date

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 City of Isle of Palms, S.C., by and through the above-named agent, personally appeared before me this $\frac{23}{2}$ day of $\frac{May}{2}$, 2013, and acknowledged the due execution of the foregoing instrument.

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(Sea NOTARY PUBLIC FOR SOUTH CAROLIN My Commission Expires: Sept 14 201

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 Lowe Wild Dunes Investors, LP, by and through the above-named agent, personally appeared before me this <u>28</u> day of <u>May</u>, 2013, and acknowledged the due execution of the foregoing instrument.



Lisa Deford (Seal) NOTARY PUBLIC FOR SOUTH CAROLINA My Commission Expires: <u>Rb many 5th, 2023</u>.

EXHIBIT A

Legal Description

Parcel 6A 1

All that certain, piece, parcel or tract of land, lying, being and situate in Charleston County, South Carolina, being depicted as "New Parcel 6A1, 181,832 sq. ft., 4.17 acres" on a plat entitled "Property Line Adjustment @ 3 Parcels of Land Owned By Lowe Wild Dunes Investors" surveyed by John E. Wade Jr. and dated January 8, 2013 and further described as follows.

Beginning at a 1" open iron found located at the southwest corner of said tract and known as the "Point of Beginning 6A1" thence 416.55' at a bearing of N15-24-20W to a rebar found thence 144.S5' at a bearing of N7S-57-01E to a rebar found thence 41S.66' at a bearing of N7S-21-5SE to a heavy nail thence 14S.90' at a bearing of 512-19-27E to a rebar found thence 24.1S' at a bearing of 524-16-21 E to a rebar set thence 7S.S4' at a bearing 562-54-12W to a drain box thence 62.43' at a bearing of 576-4S-31W to a drain box thence 55.6S' at a bearing of 559-47 -21 W to a drain box thence 1 02.S1' at a bearing of 50S-32-35E to a drain box thence 77.25' at a bearing of 511-3S-09E to a rebar set thence 74.03' at a bearing of 574-53-20W to a rebar found thence 26S.06' at a bearing of 574-53-20W to a 1" open iron found being the "Point of Beginning 6A1".

Parcel 8A

All that certain, piece, parcel or tract of land, lying, being and situate in Charleston County, South Carolina, being depicted as "New Parcel 8A, 51,637 sq. ft., 1.185 acres" on a plat entitled "Property Line Adjustment @ 3 Parcels of Land Owned By Lowe Wild Dunes Investors" surveyed by John E. Wade Jr. and dated January 8, 2013 and further described as follows.

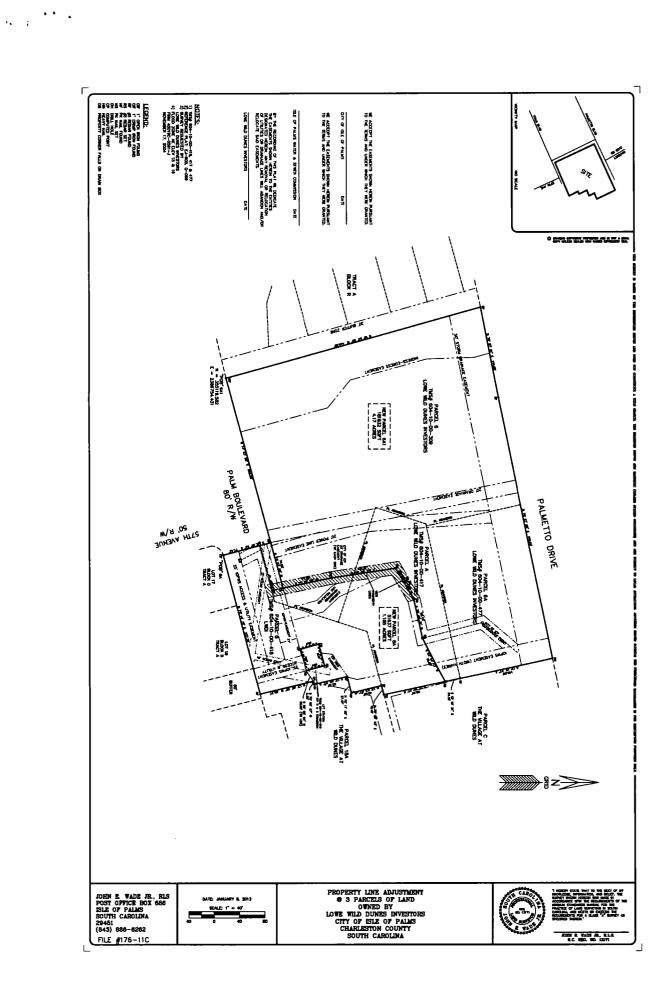
Beginning at a 1" crimp iron found located at the southwest corner of said tract and known as the "Point of Beginning 8A" thence 227.36' at a bearing of n75-14-15E to a rebar found thence S6.71' at a bearing of N13-45-36W to a computed point thence 5.25' at a bearing of N73-OS-02W to a heavy nail thence 53.16' at a bearing of N13-49-37W to a rebar found thence 27.47' at a bearing of N76-11-32E to a rebar found thence 4S.69' at a bearing of N13-53-07W to a rebar found thence 15.1S' at a bearing of N75-0S-43E to a rebar found thence 9S.96' at a bearing of N12-16-21W to a rebar set thence 7S.S4' at a bearing of 562-54-12W to a drain box thence 62.43' at a bearing of 576-4S-31W to a drain box thence 55.6S' at a bearing of 559-47-21W to a drain box thence 1 02.S1' at a bearing of 50S-32-35E to a drain box thence 77.25' at a bearing of 511-3S-09E to a rebar set thence 74.03' at a bearing of 574-53-20W to a rebar found thence 77.42' at a bearing of 514-36-53E to a 1" crimp iron found being the "Point of Beginning 8A".

EXHIBIT B

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Depiction of Temporary Easement Area and Permanent Easement Area

[attached on separate page]



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EXHIBIT C

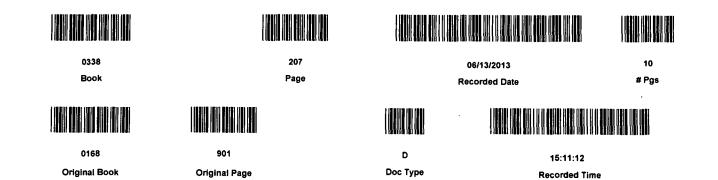
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Restoration Criteria and Description Following Repair or Restoration

The City repair or restoration of the Temporary Easement Area or Permanent Easement Area shall meet the following criteria. Except in the event of an emergency, a meeting between the City and LWDI to review and approve specific repair or restoration plans shall be held at least five (5) days prior to commencement of any work being performed on the City System by the City in the Temporary Easement Area or Permanent Easement Area.

The City shall provide for the complete repair or restoration of the Temporary Easement Area or Permanent Easement Area to the approval and full satisfaction of LWDI, which approval shall not be unreasonably withheld. It is anticipated that the work will disturb the existing Village at Wild Dunes check-in circle and surrounding area including landscaping, irrigation and affected underground utilities. The City will restore all such features and affected areas back to their original pre-construction state based on the approval by LWDI of the repair or restoration work. The specific plans and design for the repair or restoration work of the affected areas will be reviewed at the aforementioned meeting between the City and LWDI. Subsequent to the meeting and review LWDI will provide written approval with any and all conditions for the repair or restoration work for all affected areas within the Temporary Easement Area or Permanent Easement Area.

1	RECORDER'S PAGE					
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101 MEETING STREET CHARLESTON, SC 29401

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