#### PLANNING COMMISSION April 11, 2018

#### AGENDA

The Isle of Palms Planning Commission will hold its regular meeting on Wednesday, April 11, 2018 at 4:30 p.m. in the City Hall Conference Room, second floor, 1207 Palm Boulevard.

A. Call to order and acknowledgment that the press and the public were duly notified in accordance with state law

B. Public comments

C. Miscellaneous business- discuss ways to increase the likelihood future recommendations are implemented

D. Approval of minutes:	March 14, 2018 March 19, 2018 special meeting
E. Old business:	consider subdivision 2401 Waterway Boulevard
	discuss stormwater priorities

- F. New business
- G. Adjourn

#### MINUTES OF THE ISLE OF PALMS PLANNING COMMISSION MEETING March 14, 2018

The Isle of Palms Planning Commission met in the City Hall conference room, 1207 Palm Boulevard on March 14, 2018 at 4:30 p.m. Members attending included Ron Denton, Vince DiGangi, Richard Ferencz, Lewis Gregory, Lisa Safford, and Phillip Pounds; the Director of Planning Douglas Kerr was present as well. Bill Mills was absent. Mr. Ferencz acknowledged that the press had been notified of the meeting and the agenda for the meeting was posted in City Hall and the Building Department to comply with the Freedom of Information Act.

# **PUBLIC COMMENTS**

Mr. Dan Kubeck, 107 Carolina Boulevard, explained that he had noticed in the Planning Commission packets that the group would be discussing the drainage problems at Carolina Boulevard near Palm Boulevard. He explained that he was present with his four neighbors to confirm that this area has a serious drainage problem that the neighbors believe could be fixed with the changing of the check valve at the outfall of the system. He explained that the neighborhood had met with Donnie Pitts and they had filled out a work order request with SCDOT on March 7<sup>th</sup>. He stated that Kevin Mitchell with SCDOT indicated that this was a 30-day process, but that the work order is in their system. He explained that they believe that if the ditch was made to be deeper and if the check valve was replaced, it would fix their issue.

Mr. Wayne Walts, 106 Carolina Boulevard, explained that he was across the road from Mr. Kubeck and his family has had the property since the 1960's. He explained that he has seen flooding many times over the years, but it is now almost coming into his house. He explained that the oysters are stuck in the check valve and not allowing the valve to close. He explained that on his side of the road there is no drainage system, so he has to run a sump pump across the road when it rains.

Ann Harlingen, owner of 102 Carolina Boulevard, explained that SCDOT had installed a drain near her house with rocks around it and this is where the storm surge comes up from the hightide. She explained that each king tide causes water to go into the road and every hightide causes water to come into the ditch.

Mr. Ferencz asked when the last time any work was done on this area. Mr. Walts answered it has been many years. Mr. Ferencz asked if Eadies had been in this area in years. The owners answered not that they were aware of.

Ms. Lisa Roberts, owner of 2305 Waterway Boulevard, explained that she wanted to address the request for subdivision at 2401 Waterway Boulevard. She explained that since the last meeting she has met with a second real estate attorney, Mr. C.J. Manos, and it was his opinion that the restriction on lot 2401 Waterway Boulevard could only be

lifted if there was a document on record that would delete the restriction, and that for the document to be legal, all owners on Block E would have to sign off on the division.

Mr. Ferencz asked Mr. Kerr to respond. Mr. Kerr indicated that the applicant's attorney has provided written confirmation that the restriction has been lifted and does not apply, but that City would only be reviewing the request under the City and State codes and it could be that the applicant satisfies the City's requirements, but it may not satisfy the neighbors' claims. There would be nothing to stop the neighbors from pursuing enforcement of the covenants, beyond what the City does.

#### **APPROVAL OF MINUTES**

Mr. Ferencz explained that the next item on the agenda was the approval of the February 14, 2018 minutes. Mr. Pounds made a motion to approve the minutes as submitted and Ms. Safford seconded the motion. The vote was unanimous in favor of the motion.

#### SUBDIVISION REQUEST FOR 2401 WATERWAY BOULEVARD

Mr. Ferencz asked if the memorandum from the City Attorney could be discussed openly. Mr. Kerr answered no, it should be done in executive session with the City Attorney.

Mr. Kerr explained that the applicant has agreed to extend the Planning Commission review until the next meeting to provide the City Attorney with additional information regarding the release of the restrictive covenants affecting the property.

Mr. DiGangi made a motion to defer and extend the review of this request until the April meeting. Mr. Pounds seconded the motion and the vote was unanimous in favor of deferring the matter until the April meeting.

#### DISCUSSION OF STORMWATER WITH DAVID STEVENS

Mr. Kerr introduced Mr. Stevens and explained that he was a prior member of the Planning Commission and he was the designer of the City's previous major projects between 57<sup>th</sup> and 43<sup>rd</sup> Avenues.

Mr. Stevens explained that he is currently working on 32<sup>nd</sup> Avenue and he is aware of the check valve problems that the island is having, which is probably the same problem that the owners on Carolina that spoke earlier are having. He explained that the newer

style valve is called TideFlex CheckMate and it goes into the pipe to avoid U.V. exposure and debris.

Mr. Ferencz asked how much it would cost to install such a valve at Palm and Carolina. Mr. Milner, with CSE Engineering, answered that the City just installed a 36-inch check valve at the outfall near the marina and he thought it was \$15,000 to \$20,000 and that another valve has been ordered for the 19<sup>th</sup> Avenue outfall, which is 15 inches, and the cost of this valve was about \$3,500 for materials and there would be another \$3,000 to install the valve. Mr. Ferencz asked if the City could do the work on the SCDOT system at Palm and Carolina. Mr. Stevens answered that if the City secured an encroachment permit to do the work, they would allow it, but sometimes they will require that the City assumes maintenance. So this detail would need to be worked out, but it would depend if the SCDOT saw the project as a repair of their existing system or an upgrade.

Mr. Ferencz asked why this problem at Carolina and Palm would not have been repaired prior to now. Mr. Kerr answered that he would speculate that the City has been advised to not fix the problem, because it is clearly an SCDOT system and that SCDOT has historically been slow to respond. He thought that the position of SCDOT may have changed very recently, but this is how it has historically been with SCDOT.

Mr. Kerr explained to Mr. Stevens that the Planning Commission was trying to develop some short-range projects as well as long-range strategies for addressing the island drainage problems and he asked what Mr. Stevens would suggest.

Mr. Stevens said that they needed more information on the existing system. He said that the County had some of the information and that DNR was releasing LIDAR elevation data for the entire County that would help. He stated that this would provide the background data needed to fix the problems.

Mr. Stevens stated that he also thought the outfalls adjacent to Waterway Boulevard were a key to fixing the drainage problems. He said that all the systems on the interior of island outfall along Waterway Boulevard and if the tides are coming into the system and the outfalls are silting in, this is would be the root of many of the problems. He suggested that the group gather some baseline data on the condition and elevations of these outfalls and then work out towards the ocean side of the island.

Mr. Kerr said that Mr. Wannamaker indicated that on the Waterway Boulevard where the pipes go into the marsh there were limitations imposed by OCRM that could prohibit the maintenance of these systems to allow them to freely flow. He asked Mr. Stevens if they have faced this situation in other areas.

Mr. Stevens answered that he believed it was a permitting issue and that it was something that they should be able to work out. He said that because the person that shows up to clear the problem, may not have the permission to do the work, they may just pack up and go away. He said that these areas are so much more difficult to work on because it requires having equipment out in the marsh on mats. He said it is tedious and expensive proposition.

The group discussed the issues around 32<sup>nd</sup> Avenue that Mr. Blanding indicated he had cleaned from Palm Boulevard down 32<sup>nd</sup> Avenue, but that the system then turned away from the road and into another system and he could not proceed up the system. Mr. Stevens indicating that he is working on a different portion of this system adjacent to Mr. Burke's property and that the County had indicated that they could clean a portion adjacent to Mr. Burke's property, but that they could not continue up the system.

The Commission agreed that situations like the one at 32<sup>nd</sup> illustrate that there is a high level of coordination that needs to happen with these systems and it appears the coordination is not currently happening. They agreed that improving this coordination should be a strategy.

As a final strategy, Mr. Stevens suggested that the City create a catalog of what updates have been done, so going forward the City would know how the system was originally designed to operate.

The group thanked Mr. Stevens and Mr. Milner for coming and sharing their insight.

The group discussed what the next options should be. The group agreed that in the short-term they would like to press for action on the issue discussed at Palm and Carolina Boulevard. Mr. Kerr stated that it is his opinion from what the owners stated that this problem was with SCDOT, where it should be, and the SCDOT was probably working towards a solution. He stated that be believed that this should be viewed as an SCDOT maintenance problem that the Commission should not focus too much on. He stated that he would get a status update from the Public Works Department and SCDOT to provide the group at the next meeting.

The group agreed that the number one short-term priority would be getting the water off of Palm Boulevard around 30<sup>th</sup> Avenue. Mr. Gregory stated that if the work just moved the water off Palm and into the system around 30<sup>th</sup> Avenue, this would just make an existing problem in his neighborhood worse. The group agreed to look at this system in its entirety with the plan of improving the existing system to function well and then add to the system to pick up the water collecting on Palm Boulevard. Mr. Kerr indicated that

he would provide background information on this problem to give the Commission a case study project to work through.

# DISCUSS IMPERVIOUS SURFACE REQUIREMENTS

Mr. Kerr explained that in the packet was a draft of the City's stormwater regulations with sections of the Sullivan's Island regulations inserted. He explained that the major changes to the City's existing code would were:

- 1. Providing an infiltration rate of 2.0 inches per hour to be considered pervious;
- 2. To establish a maximum limit of fill to bring the elevation of the lot up to one foot above the road;
- 3. Require a stormwater plan for every new house and any change of 625 square feet or more, not just when a property is being filled.

The Commission discussed all the changes and agreed that they would be helpful. Mr. Gregory made a motion to recommend that City Council approve the amendments and Mr. Ferencz seconded the motion. The vote was unanimous in favor of the motion.

#### DISCUSS FLOOD AMENDMENTS WITH OLDER HOMES

Mr. Kerr explained that the Planning Commission sent forward a recommendation to City Council to establish a 14-foot minimum elevation requirement and that Council expressed concern over the impact of the 50% rule on older homes. He stated that the Council expressed a desire to relax the 50% rule, where possible, to hopefully make it more feasible for owners to keep the older homes and not remove them to be replaced with bigger homes, covering more area, and intended to be used by more people.

He said that he had two suggestions, one that was a broad reaching change that would help all the houses that are below the flood requirement and a second change that was more narrowly focused on the houses that would become conforming under the future FEMA maps.

After discussing the two options, the group agreed that this matter needed additionally study and they should have a special meeting to come up with a recommendation. The group agreed to set a special meeting for March 19<sup>th</sup> at 9:00am.

#### ADJOURNMENT

With there being no further business, the meeting was adjourned at 6:10 p.m. Respectfully submitted, Richard Ferencz, Chairman

#### MINUTES OF THE ISLE OF PALMS SPECIAL PLANNING COMMISSION MEETING March 19, 2018

The Isle of Palms Planning Commission held a special meeting in the City Hall conference room, 1207 Palm Boulevard on March 19, 2018 at 9:00 a.m. Members attending included Ron Denton, Vince DiGangi, Richard Ferencz, Lewis Gregory, Bill Mills, Lisa Safford, and Phillip Pounds; the Director of Planning Douglas Kerr, the City Administrator Linda Tucker, and the City Attorney Stirling Halversen were present as well. Mr. Ferencz acknowledged that the press had been notified of the meeting and the agenda for the meeting was posted in City Hall and the Building Department to comply with the Freedom of Information Act.

# DISCUSS FLOOD AMENDMENTS WITH OLDER HOMES

Mr. Kerr explained that the Planning Commission sent forward a recommendation to City Council to establish a 14-foot minimum elevation requirement and that Council expressed concern over the impact of the 50% rule on older homes. He stated that the Council expressed a desire to relax the 50% rule, where possible, to hopefully make it more feasible for owners to keep the older homes and not remove them to be replaced with bigger homes, covering more area, and intended to be used by more people.

Mr. Kerr explained that certain provisions of the flood regulations are set by FEMA as minimum standards, which the City cannot modify. The only items that can be modified are the voluntary standards that are above-and-beyond the FEMA minimum standards. He explained that the 50% rule is a minimum standard, but the five-year tracking period is a voluntary standard and the 14-foot universal elevation requirement is a voluntary standard.

He explained that he had prepared two suggestions, the first was a broad reaching change that would eliminate the five-year tracking period for all legal nonconforming structures. So, owners could pull permits to do 50% improvements to their home as frequently as they like.

The second, more narrow suggestion was to eliminate the 14' universal requirement for legal nonconforming structures, so those structures would only be bound by the FEMA elevation requirements. So, a house that complies with the future FEMA standard would not be bound by a 50% rule at all.

Mr. Mills asked if the 50% rule was based on the value of the building and if this value was established by an appraiser or the County Assessor. Mr. Kerr answered, yes, the limit is an owner can do improvements to a house that value 50% of the market value of the house alone, exclusive of land value, and the value can be established either by private appraiser or by Charleston County Assessor. For example, a property with a

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total value of \$600,000, where the house is valued at \$200,000 and the land is worth \$400,000, an owner could do a maximum of \$100,000 (50% of \$200,000) worth of work.

Mr. Pounds asked if the Planning Commission eliminated the five-year tracking period, could an owner come in every week and pull permits for 49% of the value of the house and, if so, would this be creating a dangerous loophole that could allow people to spend an unlimited amount on non-elevated homes.

Mr. DiGangi said that he has been noticing that some of the older homes seem to be in poor condition and he wonders if owners do not automatically stop improving their property because they feel certain that they could run afoul of the 50% rule and they know that the current code structure will certainly lead to them ultimately being destroyed, so it would be a waste of money to improve the houses.

Mr. Kerr answered that he thought this probably was the case with many of these older houses.

Mr. Mills asked if the logic that was originally used to develop the 50% threshold has changed and he questioned if it was wise to allow owners to spend an unlimited amount on improvements to houses that are susceptible to damage during a flood.

Mr. Kerr answered that he agreed that this discussion was really asking for a judgement of what the community should value more, keeping smaller, more affordable housing or being a more resilient community that would see less damage during a storm. He added that he did feel that the economics of the Isle of Palms today were very different than the economics when the 50% rule was established. He explained that the example has been made to him that a new roof, new siding, windows and air conditioning can cost 50% of the value of an existing structure, without any true upgrades. He added that because land is so valuable on the island, it results in houses not contributing as much to the value. Additionally, the cost of work has increased dramatically since the 50% rule was originally developed in the early 1970's.

Mr. Denton added that it was a choice of preserving some of the original character of the island or making the community safer during a flood event. He added that the new building codes will make homes, even those that are not elevated, more robustly constructed than those that the island saw damaged in Hurricane Hugo.

Mr. Ferencz stated that he was of the mindset that preserving the older homes should be given favor over flood resistance in the two options being discussed.

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Mr. Lewis stated that he did not like the idea of eliminating the tracking of the 50% rule altogether, as it creates a scenario where owners can pull multiple building permits in quick succession that leads to someone not having any realistic limit to how much can be sent. Mr. Safford stated that she agreed and she would support changing the five-year tracking period to a one-year tracking period.

There was consensus that changing the tracking period from five years to one year was a good compromise.

Mr. Kerr asked if the group was interested in relaxing the regulations even further for those houses that complied with the future FEMA map requirements, but not the universal 14-foot elevation requirement. He explained that he did not believe that there were many properties that would be in this category, but that the areas around Carolina and Cameron Boulevards, would be out of the flood zone entirely, so this provision would exempt any houses on the grade in these areas from having to comply with the 50% rule.

Mr. Ferencz stated that people looking to buy into the community that become aware of the 50% rule may opt to buy elsewhere where they feel like they can improve their home overtime and not have to tear it down to improve it. He stated that he liked the idea of removing barriers from people buying and improving the older homes.

The group agreed that it would be good to eliminate the 50% rule altogether for those houses that will be compliant with the FEMA elevation requirements, but not the 14-foot universal requirement.

Mr. Ferencz made a motion to recommend that the five-year tracking period for the 50% rule be reduced to a one-year tracking period and to eliminate the 50% rule altogether for those houses that are compliant with the future FEMA elevation requirement, but not compliant with the proposed universal 14-foot elevation requirement. Mr. DiGangi seconded the motion and the vote was unanimous in favor of the motion.

#### ADJOURNMENT

With there being no further business, the meeting was adjourned at 10:05 a.m. Respectfully submitted, Richard Ferencz, Chairman

#### MEMORANDUM

TO:	Planning Commission Members
FROM:	Douglas Kerr, Zoning Administrator
DATE:	February 9, 2018
RE:	Subdivision at 2401 Waterway Boulevard

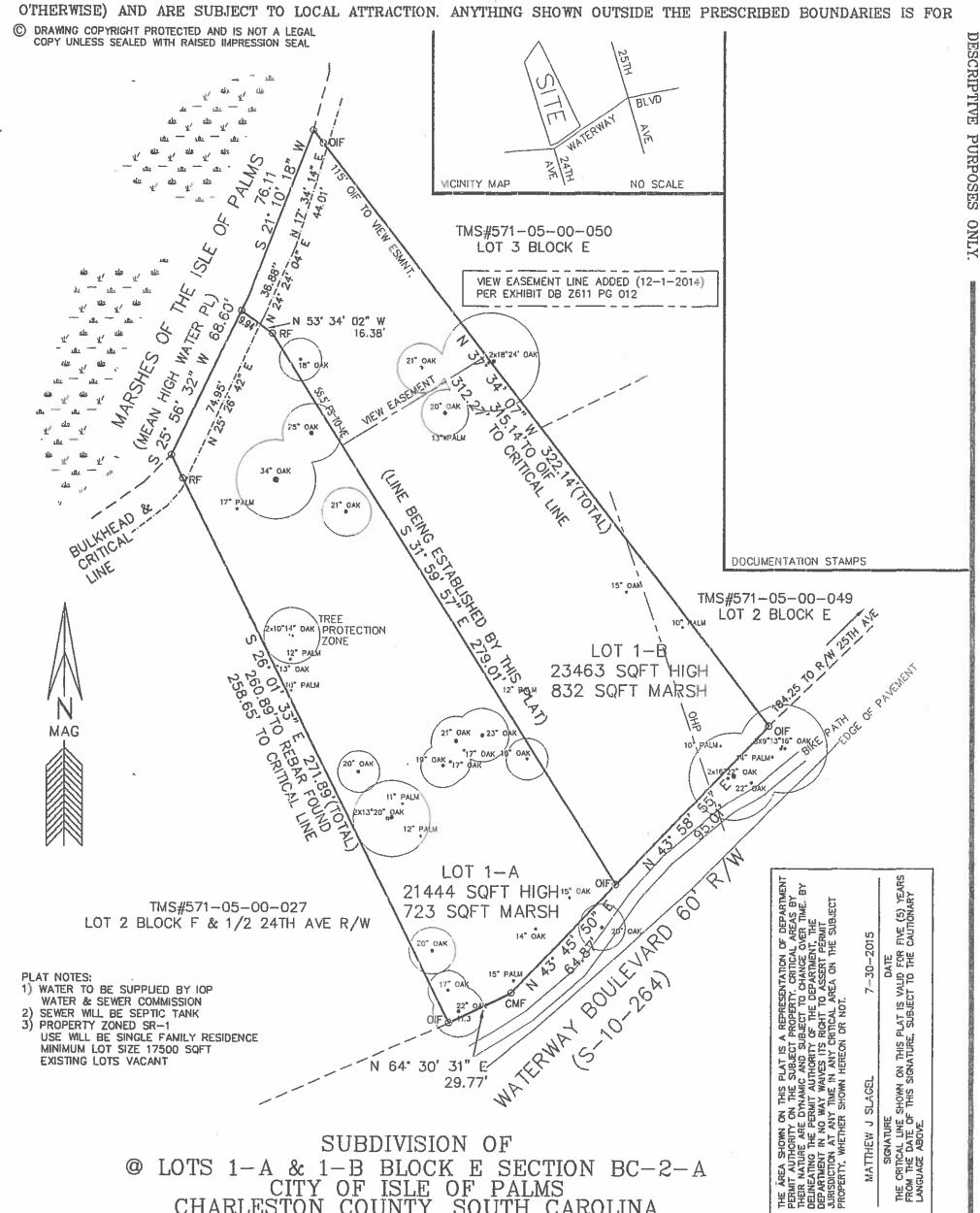
Attached is a request for final approval of a subdivision at 2401 Waterway Boulevard. This subdivision was previously approved in April 1999, but was subsequently converted back to one lot in August 20015.

The property is currently configured as one lot totaling 44,907 square feet and the owner is proposing to subdivide the property into two lots, with the lots measuring 21,444 square feet and 23,907 square feet.

The property is located in the SR1 zoning district, which requires lots be at least 17,500 square feet in area, be at least 70 feet wide at the building line, be at least 110 feet deep, and have at least 60 feet of frontage on the street.

Each property is proposed to be served by a septic system and permits for the installation of septic systems from the Health Department (SCDHEC) are attached. This request was originally filed on August 29, 2017, prior to the City Council's consideration of an amendment to require all future subdivisions to be tied to public sewer and therefore the request must be considered under the codes in place at the time the request was filed.

Attached is a copy of the zoning ordinance requirements for lots in the SR1 zoning district and the information required for review of the final plat. The property has multiple Historic Trees, which would have to be preserved in according with the City's tree preservation ordinance. The City's staff has reviewed the plat and believes that request complies with the requirements of the ordinances and therefore recommends the plat be approved.



# CITY OF ISLE OF PALMS CHARLESTON COUNTY, SOUTH CAROLINA

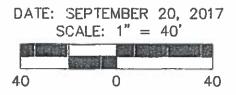
#### <u>NOTES</u>

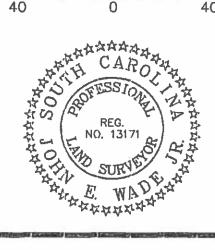
- 1) REFERENCE PLAT BOOK ED PAGE 117, DF-117 & S15-0201
- 2) TMS # 571-05-00-048 & 215
- 3) SURVEY REQUESTED BY: **ROBERT. B. FERGUSON**

SUBJECT PROPERTY LOCATED IN FLOOD ZONE AE ELEV 13 FIRM PANEL 45019C-0541-J DATED NOV 17, 2004

JOHN E. WADE JR., RLS POST OFFICE BOX 686 ISLE OF PALMS-SOUTH CAROLINA, 29451 (843) 886-6262

FILE #025-00A1





#### LEGEND

0IF 1"OPEN IRON FOUND 1"CRIMPED IRON FOUND CIF RF #5 REBAR FOUND RS #5 REBAR SET CMF CONCRETE MONUMENT FOUND

JOHN E. WADE

SOUTH CAROLINA REG.

"I hereby state that to the best of my knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therin; also there are no visible enchroachments or projections other than shown."

JR., R.L.S.

NO. 13171

# CITY OF ISLE OF PALMS

# South Carolina

### DEPARTMENT OF BUILDING, PLANNING AND LICENSING

#### **RESTRICTIVE COVENANTS AFFIRMATION OF APPLICANT**

South Carolina Code of Laws Section 6-29-1145 (attached hereto) requires local planning agencies to inquire whether a tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits an activity for which a permit and/or plat approval is being sought.

1. As Brook	, have researched the existence of re	strictive
covenants applicable to Tax Map Parcel N located at (address or street) 7401	Under(s)	,
have determined that:	<u></u>	, and

#### SELECT ONE

The property is subject to restrictive covenants, but the requested permit and/or proposed plat is not contrary to, does not conflict with, and is not prohibited by any of the restrictive covenants as specified in South Carolina Code of Laws, Section 6-29-1145.

#### OR

The property is subject to restrictive covenants, but the applicable restrictive covenants have been released for the tract or parcel of land by the appropriate authority or property holders or by court order (attach copy of release or court order)

#### OR

There are no restrictive covenants on the tax parcel(s).

I have read and understand the statements on this application and do hereby affirm that the information provided is true to the best of my knowledge. I further understand the approval of this application or issuance of a City Permit does not relieve me of my duty to adhere to and abide by all Federal, State, and City of Isle of Palms laws pertaining to the use of the property as specified herein.

Z. 10 · 15

Owner or Authorized Representative

Brow

Print Name

For Staff Use Only: Received by:	A Ac		0	16-1	0
Received by:	and .	_Date: _	6.	0-1	<u>b</u>

	PERMI Onsite	File Nbr: 2017110010 County: Charleston	-			
Name: Kevin J. Coffe Type Facility: Reside	y ntial 6-bedroom House	Address: 3030 Ashley Town Center Drive,	Program Code: 362 System Code: 611			
Subdivision:		Sulte 101A Charleston, SC 29414	Water Supply: Public			
Block:	Lot: 1-B	Site: Waterway Drive	water Supply: Public			
TM#: 571-05-00-0	48	Isle of Palms, SC				
	PERMIT T	O CONSTRUCT SYSTEM SPECIFICATIONS				
	See engineered sy	vstern design and supporting documen	tation.			
THIS PER APPROV	MIT IS SITE SPECIFIC. ANY CHANGE	IAL #NSTRUCTIONS/CONDITIONS S TO THE SYSTEM MUST BE APPROVED BY DHEC, ALTERNATIV ATIONS MAY BE SUBSTITUTED, ANY UNAPPROVED CHANGES V	E TRENCH PRODUCTS VILL VOID THIS PERMIT.			
s		ct and Operate is issued pursuant to the S water Systems for Peak Flows less than 1				
	the property owner of	Onsite Wastewater System Permit To Consi responsibility in attaining any and all neces a required to develop this property.				
		PERMIT TO CONSTRUCT		-		
		ct is issued upon the system design locumentation as required by this s supplied by:				
Lowcountry La	nd Development Cor	nsultants				
(8	ingineering Company)					
Kevi	n J. Coffey, P.E.	Randy Fov	Randy Fowler, P.S.C.			
(	Consulting Engineer)	(Soff C	(Soll Classifier)			
\$	S.C. #22399	S.C.	S.C. #38			
(Sta	te and License Number)	(State and Lic	cense Number)	-		
		11/13/2017				
		(Plan Date)				

(Project Number)

Any Permit To Construct and Operate that is issued pursuant to this Standard shall be based upon the consulting engineer's design, certification, and other supporting documentation.

lat oľ **Reviewed By:** Date: DHEC 1781 (01/2014) This Permit is Appealable Under the Administrative Procedures Act. There may be an Additional Fee for Changes in this Permit that **Require a Site Reevaluation.** 

Information collected on this form is subject to public scrutiny or release and the Freedom of Information Act.