



BEAUFORT COUNTY OPEN LAND TRUST

*Providing Leadership in Preserving, Protecting and Enhancing
the Natural Beauty and Scenic Open Vistas of Beaufort County*

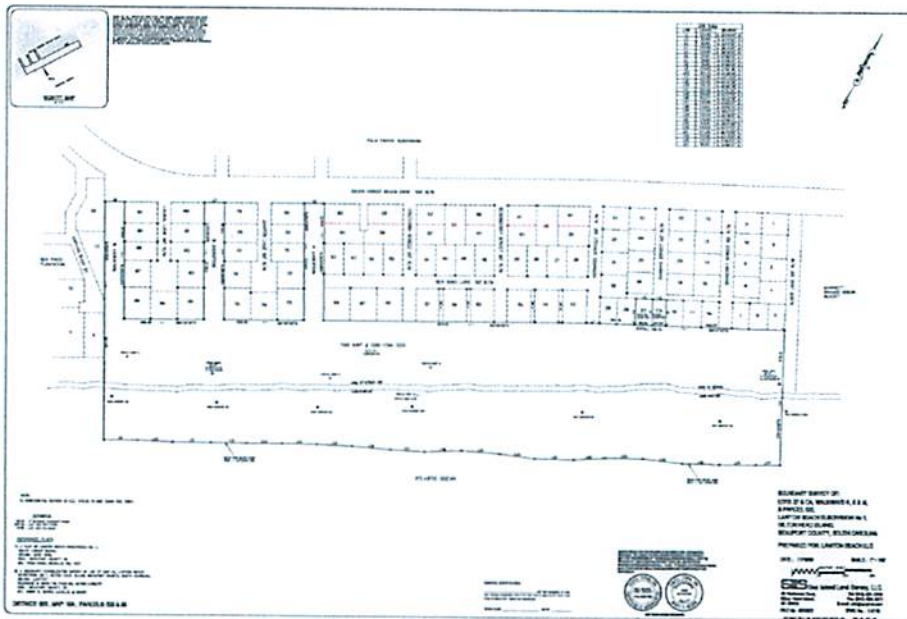
BASELINE DOCUMENTATION
THE STRAND
DECEMBER 18, 2009



BASELINE DOCUMENTATION
THE STRAND
DECEMBER 18, 2009

Conservation Easement: December 20, 2009
Beaufort County Tax Map Number 550-15A-525

The Property: The Property known as *The Strand* is a 30 acre site of beach front property on Hilton Head Island, South Carolina. It is completely undeveloped and provides an unsurpassed scenic and natural buffer to the South Forest Beach Section of the community.



Topographic view of the Strand

The Strand is owned by Lawton Beach Holdings, LLC a six member corporation organized in 1989 to acquire *The Strand* and protect it for the benefit of the community. The Strand was acquired by Quit Claim Deed from the Hilton Head Company. The current members of Lawton Beach Holdings, LLC are

Malcolm Hunt, Managing Partner
2958 Woodland Park Drive
Mt. Pleasant, SC

Frances Worthy
14 Juniper Land
Hilton Head, SC 29928

Pat Schlunt
20 Sea Oak Lane
Hilton Head, Sc 29928

Thomas P. Tolpa
14 Sea Oak Lane
Hilton Head Island, SC 29928

James Hacket
1 Cyrus Street
Point Marion, PA 15474

Pat Vandermeer
P.O. Box 5092
Hilton Head, SC 29938

Dennis Vandermer
P.O. Box 5092
Hilton Head, SC 29938

Title Information

Lawton Beach Holdings, LLC purchased *The Strand* in 1989 in bankruptcy from the Hilton Head Company. A copy of the deed is attached.

A restriction in the deed causes confusion on what uses can be used on the Strand. It is unclear of the exact limitations resulting from this restriction but a legal opinion (Attachment D) stated that it allowed the subdivision of the property to increase the property holdings of the members of Lawton Beach Holdings, LLC.

Property Location



The property's location on Hilton Head makes it a significant contributing factor to the Lowcountry tourism economy. Tourist flock to the community to enjoy the undisturbed beaches and people relocate to Hilton head because of the natural beauty of the area.

Stretching between Coligny Circle and Sea Pines Plantation the South Forest Beach area is a community with something for everyone. This mile long, activity-filled neighborhood is perfect for those vacationers who

want to spend their time sunning at the beach, enjoying world-class tennis, or dining at a fabulous restaurant.

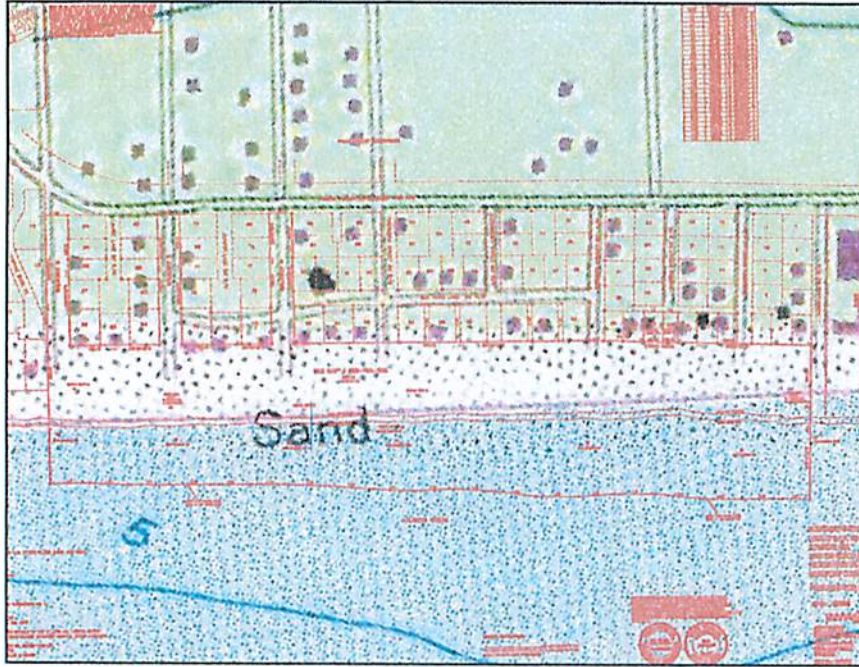
Development is recent in the natural history of Hilton Head. Until the 1960's, the Island was undeveloped and not connected to the main land. But in its development after the building of a bridge to the main land, Hilton Head created a standard for coastal development that served as a model for the United States.



Historic Fire Tower on *The Strand*

Beach Front Status – Clearly Delineated Policy

The Strand's position as undeveloped beachfront property on a South Carolina coast is very significant. Since 1982, South Carolina and the Town of Hilton Head have enforced a "retreat from the beach" strategy of beachfront development. It is a clearly delineated government policy not to build on the beach and the protection of these 30 acres of build-able land promotes that policy in its clearest form. Approximately 2% of South Carolina's shoreline is critically eroding, according to "*Coastal Management*, 27:187-217, 1999.



The Strand's Relationship with the Atlantic Ocean



Aerial View of the Strand

In addition, The Strand is accreting, or growing rather than eroding. This growth in beachfront property is natural occurrence rather than artificially resulting from groins and other manmade sand control structures. Again, this makes the protection of the Strand very significant and furthers the clear State and local policy of protecting the beach.



Legally Enforced Setback Lines

Influenced by both the ocean and terrestrial uplands, coastal areas are transitional areas or ecotones. Change in coastal ecosystems can be rapidly occurring within a few generations or even within one human lifetime as the result of severe storms such as hurricanes. Wave action, the availability of offshore sand for beach formation, and its subsequent movement by wind are major factors influencing the development of coastal habitat.

The primary dune system typically consists of sea oats, salt meadow hay, American beach grass, yucca and beach elder. These dunes protect life and property by serving as a storm barrier, provide an important basis for the local tourism industry, provide habitat for numerous species of plants and animals which are endangered or threatened, and provide beach and dune vegetation that is important to the barrier island ecology.

Hilton Head Island has long recognized that its beautiful wide hard packed sugar sand beaches are a vital asset to its residents and the Island's economy. In an effort to maintain the Island's beaches in the best possible condition, the Town utilizes beach restoration as part of its long-term strategy.

According to *Travel and Leisure Magazine*, Hilton Head Island beaches rank among "the most beautiful in the world". Most of the beaches are backed by natural dunes and homes instead of the towering high rises you find on other beaches. Nature is a top priority on

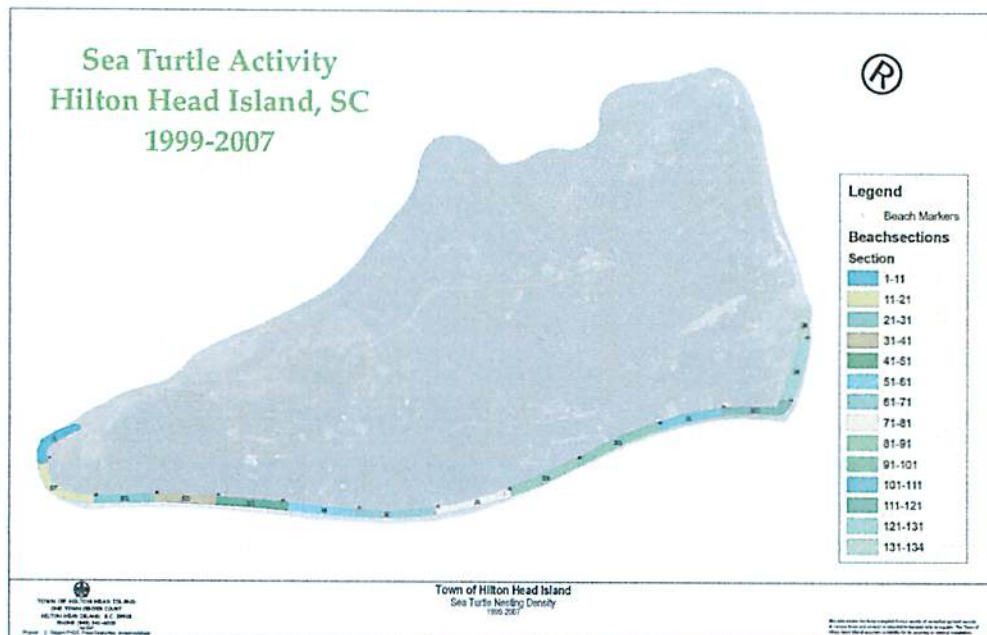
our oceanfront so staying off the fragile dunes, leaving the sandollars and other creatures alone and keeping lights out at night so that endangered Loggerhead Turtles can breed are town ordinances.

PROTECTION OF ENDANGERED SPECIES

The Strand provides critical habitat for numerous coastal species, including two that are listed as federally endangered species.

ENDANGERED SEA TURTLES

On July 28, 1978, the loggerhead sea turtle was designated as threatened. Sea Turtles are a storied species in coastal environments and an impressive movement has arisen to help stop their loss and protect their habitat. *The Strand* is one of these important critical habitats as indicated in the following map of sea turtle habitats



The South Carolina Department of Natural Resources Marine Turtle Conservation Program is responsible for managing and protecting sea turtles in the state of South Carolina, USA. The SCDNR began monitoring sea turtle nesting activities and strandings in the late 1970s. Information gained from this program contributes to ongoing sea turtle nest management and protection projects on all of the state's beaches.

There are approximately 300 kilometers of ocean-facing sandy beaches in South Carolina that provide suitable nesting habitat for sea turtles. To date, loggerheads, green turtles, leatherbacks and rarely Kemp's ridleys sea turtle nests have been recorded on South Carolina beaches. By far the most common nesting species is the loggerhead. In South Carolina, nesting surveys and nest protection measures are carried out by a variety of public agencies such as the SCDNR, USFWS, South Carolina Department of Parks and

Recreation and Coastal Carolina University. Several private organizations and numerous volunteers are also actively involved with sea turtle protection work. Altogether, more than 800 individuals participate in nest monitoring activities in South Carolina each year.

Hilton Head Island is the largest barrier island on the South Carolina coast. Loggerheads nest on all areas of Hilton Head's sandy shore and there are many stretches of good nesting habitat. Although there are small pocket beaches on the side of the island facing Port Royal Sound, very little nesting occurs here. Most nests are laid along the ocean-facing beach. Hilton Head Island has 18.5 km of beach on the Atlantic Ocean and 7.2 km of beach on Port Royal Sound. A sea turtle protection project was founded in 1981. Hilton Head averages 150 nests per season.

Sea Turtle Nesting Activity in South Carolina

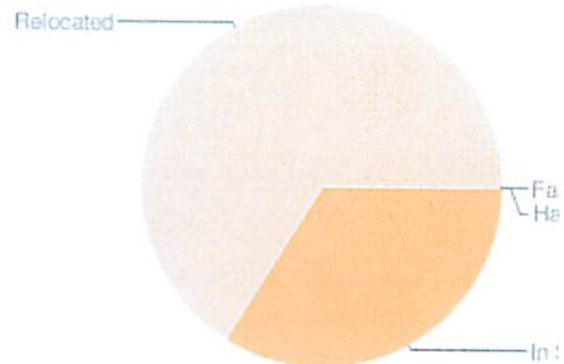
Summary

Nests: 180
Lost: 6 (3.3%)
Relocated: 119 (66.1%)
Emerged Nests: 154 (85.5%)
Inventoried Nests: 177 (98.3%)

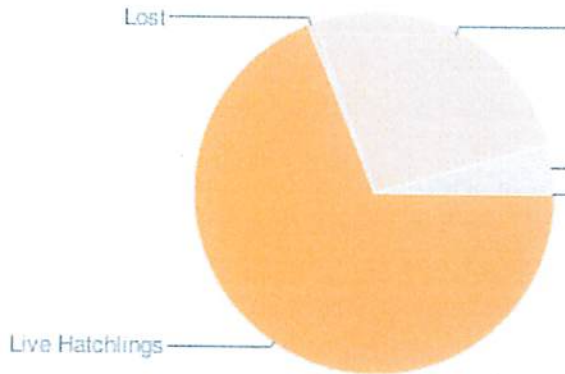
Estimated Eggs to Date: 20034
Eggs Lost: 101 (0.5%)
Hatched Eggs: 14697 (68.8%)
Emerged Hatchlings: 12920 (64.4%)
Mean Incubation Duration: 54.1 days
Mean Clutch Size: 113.1 eggs

Program Hatch Success: 73.3%
Program Emergence Success: 64.4%
Last Updated: 2009-11-02 11:02:58 (23.8 days ago)

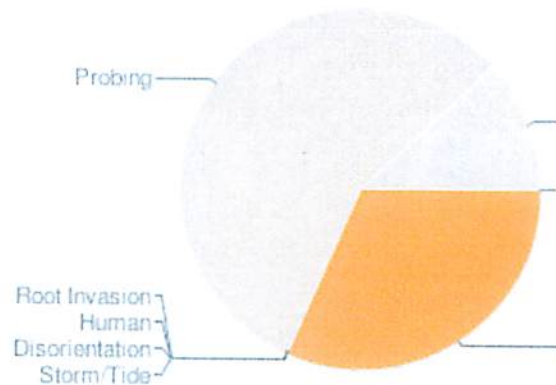
Activity



Eggs



Losses



The loggerhead sea turtle, the South Carolina state reptile, has a rich reddish-brown carapace and yellow plastron. The loggerhead's large skull provides for the attachment of strong jaw muscles for crushing conchs and crabs. Loggerheads usually leave the cold

coastal waters in the winter and are often seen along the western edge of the Gulf Stream. The major nesting area for the loggerhead in the western Atlantic is the southeastern United States. The loggerhead is the most common sea turtle to strand in South Carolina and the nesting population has declined three percent per year since records began in 1980.



The mile markers for *The Strand* start at 52 and go south to 48. *The Strand* had 5 nests in 2009. The first number is the mile marker, the S or N means north or south from the

given mile marker, and the last number is the number of feet from the given mile marker. The Coastal Discovery Museum Web Site has the following nests on the Strand:
Nest 28 – 50AN 53 – nest 37 50 AN 33 – Nest 80 48 N160 – Nest 110 50 AN 158 – Nest 52 50N119

Brown Pelican Habitat ¹



The Strand provides habitat for brown pelicans, a threatened species that is culturally and ecologically significant to the South Carolina coast and Lowcountry. The wide-winged bird with the pterodactyl beak is a familiar sight on the Lowcountry coast.

Wildlife watchers along the South Carolina coast weren't surprised by its removal from the federal Endangered Species list earlier this year. The birds have hung on here, even while they became few and far between along other coasts, and have been down-listed for some time. But now there's concern over the species' future.

The pelicans' numbers virtually tripled in South Carolina in 20 years after they were placed on the list in 1970. But since 1990, the nest numbers have fallen off. In the coastal rookeries overall, the numbers fell 50 percent or more and have yo-yoed between 3,000 and 4,000 since, according to the S.C. Natural Resources Department.

According to the South Carolina Department of natural resources Brown pelican is stable. "But with all the beach-nesting birds, they're threatened by development, boat and foot traffic at the rookeries, and contaminants. The Hilton Head Audubon Society reports pelican numbers in the Hilton Head Island area have declined in recent years, according to the society's annual Christmas Bird Count. In 2008, 332 pelicans were counted, the lowest since 1999. In 2003, as many as 1,441 were seen.

¹ Information obtained from *The Island Packet*

The lower numbers of Brown Pelicans is attributed to a lack of nesting sites. Pelicans are finicky about where they nest, requiring a moat of water around them and vegetation.

The pelicans' removal from the federal list is an example of the Endangered Species Act working, the species is out of immediate danger, but they're not out of the woods by any means."

The Hilton Head Audubon Society says the brown pelican must continue to be protected. "Pelicans are one of those iconic things for us". "Anyone would be disappointed if they went to the beach and didn't see pelicans anymore."

NON CONFORMING USES

Although *The Strand* is undeveloped and in a protective status, there are some uses existing on the protected property that are in a state of non-conformance. *All uses in existence at the time of execution of the conservation easement have been grandfathered and can continue use into the future.* Post execution of the conservation, any new use must adhere to the provisions of the easement and the conservation purposes it promotes.

The Town of Hilton Head allows certain uses under its beachfront management ordinances. All replacement of non-conforming uses, following there loss, will be subject to the Town's ordinances. Included below is a provision from those ordinances.

Sec. 8-1-223. Activities and uses permitted and prohibited in the critical storm protection and dune accretion area.

All development is prohibited in the critical storm protection and dune accretion area except the following permitted uses and activities: boarded pathways as perpendicular to the beach as practical not larger than six feet in width and their associated wooden deck not larger than 144 square feet; beach renourishment; emergency vehicular beach access; and permitted beach maintenance activities such as sand fencing, re-vegetation and erosion control. All activities and uses in the critical storm protection and dune accretion area must comply with all current local, state and federal laws.

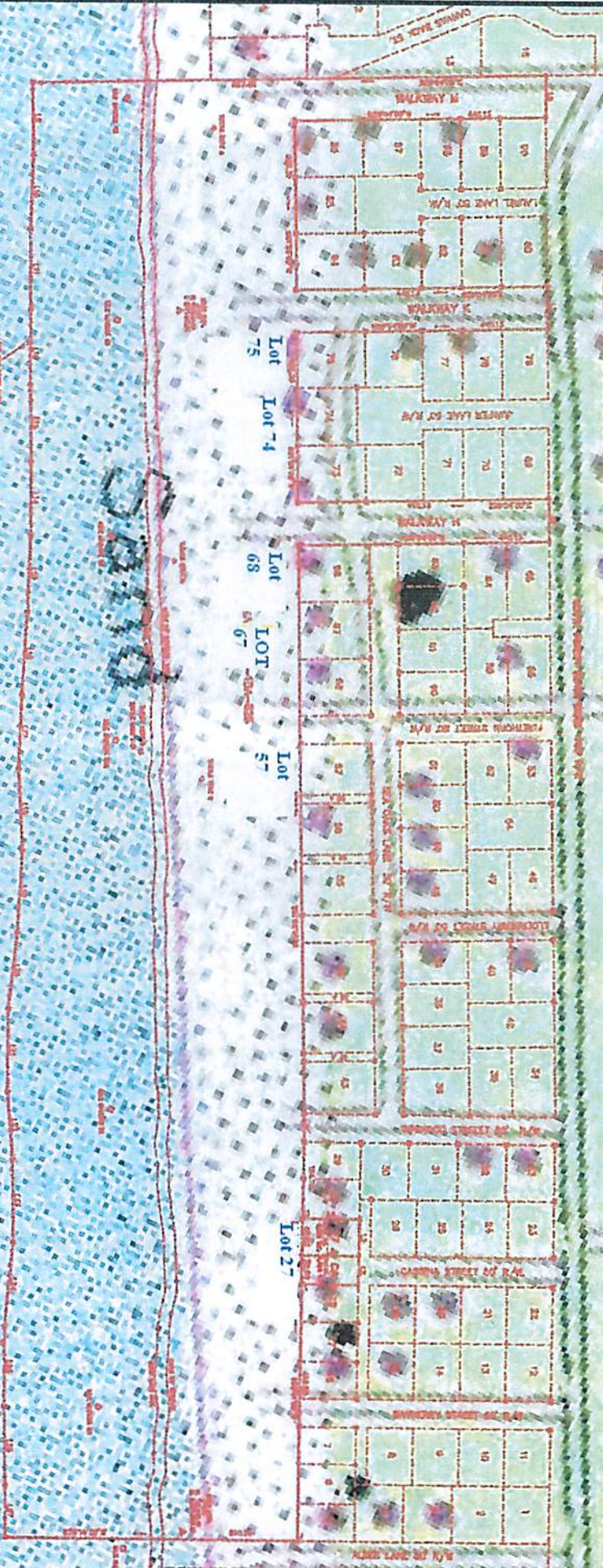
(Ord. No. 06-04, § 1, 5-16-06; Ord. No. 06-27, § 1, 12-5-06)

Other regulatory language is provided in the attachments.

SPECIFIC NON CONFORMING USES

1. Pool of James Hackett

James Hackett, a member of Lawton Beach Holdings, LLC constructed a pool on *The Strand* adjacent to his oceanfront lot. Mr. Hackett received an easement for this construction from the previous owners of the property which is recorded in the office of the R.M.C. for Beaufort County. This easement is included in the attachments. The location is indicated the following illustration.



Lot 75
Lot 4
Lot 68
LOT 67
Lot 57
Lot 1
Lot 27

WALKWAY A
WALKWAY B
WALKWAY C
WALKWAY D
WALKWAY E
WALKWAY F
WALKWAY G

LOT 27 (bottom right)

ASBESTOS DATA

DATE OF SURVEY

DATE OF ASSESSMENT

DATE OF PHOTOGRAPHY

DATE OF VIDEO

DATE OF REPORT



STIS
Professional Services
2100...
614-...
www.stis.ca

Partners
...
...

Architectural Services
...
...

Engineering Services
...
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Location of Hackett Pool - Lot 75



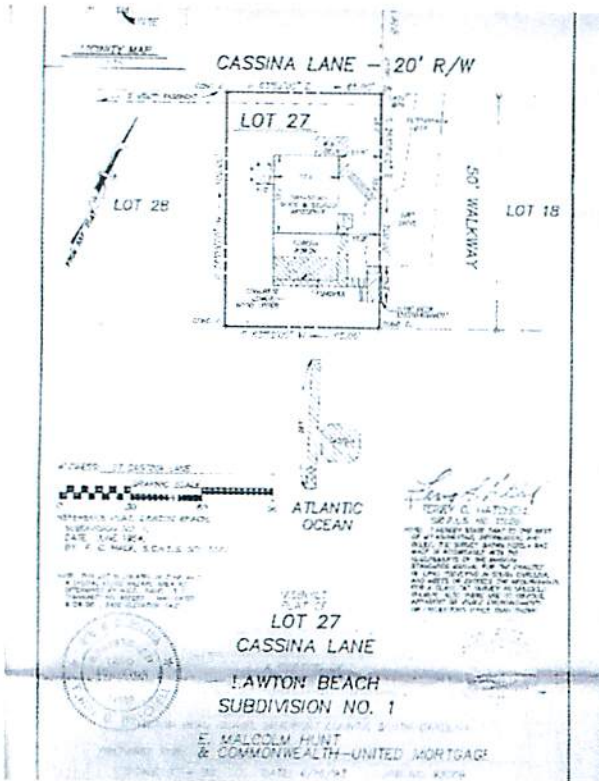
Hackett Pool - Non Conforming Use Lot 75



Hackett Yard Lot 75

Right of Way of Malcolm Hunt

Lot owner Malcolm and Cindy Hunt were granted a right of way to use The Cassina beach access/Walkway for vehicle access and parking to the property, as indicated in the schematic below. The Hunt's have a prescriptive easement from this as built survey from the original owners and therefore their use shall be grandfathered. Additionally all existing landscaping on beach access to remain as is.





Gazebo on Hunt property



Access on *The Strand* via Hunt property

Other Non Conforming Uses

Some residents of beachfront lots have constructed small beach amenities on *The Strand* to promote the recreational use of the property. Generally gazebos, benches or paths, these non conforming uses would generally not be allowed post execution of the conservation easement. The Grantor and the Grantee have agreed that these structures are allowed to continue. Encroachments in the 20 foot setback areas, for example Tom Tolpa's pool on lot 57, are grandfathered as well.

The following illustrations demonstrate these recreational structures on *The Strand* at this time:



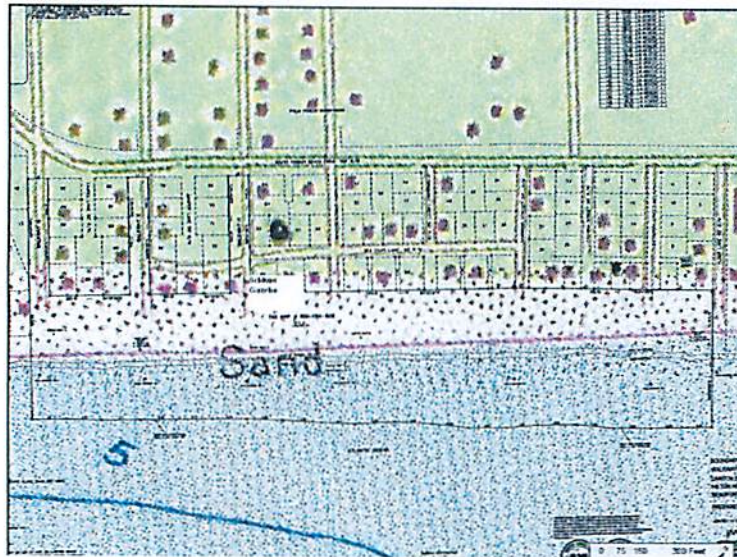
Fence on Pat Schlunt Property Lot 68



Chairs on Schlunt Property Lot 68



Schlunt Lot 68 Flag Pole and pool



Schlunt Lot 68

Lot 74 Worthy Yard



Lot 68 Walkway



Lot 68 lawn



Worthy Deck Lot 74



Worthy beach front Lot 74



Worthy Lawn Lot 74



Lot 57 Tolpa Walkway



Vandermeer Gate lot 67



Vandermeer Property Lot 67



Lot 57 Tolpa Deck



Lot 57 Tolpa Pool



Lot 57 Tolpa Chairs

Native Vegetation;

To the casual observer, beaches may simply appear as barren stretches of sand - beautiful, but largely devoid of life or ecological processes. In reality, nothing could be further from the truth. Sandy beaches not only provide habitat for numerous species of plants and animals, they also serve as breeding grounds for many species that are not residential to the beach. Additionally, beaches function as areas of high primary production. Seaweeds and other kinds of algae flourish in shallow, coastal waters, and beaches serve as repositories for these important inputs to the food chain. In this way, beaches support a rich web of life including worms, bivalves, and crustaceans. This community of species attracts predators such as seabirds, which depend on sandy beaches for their foraging activities. In short, sandy beaches are diverse and productive systems that serve as a critical link between marine and terrestrial environments

The Strand contributes to the natural beauty of the Hilton Head experience because it is an undeveloped beach. There are ample native plants to include trees such as live oak - the signature tree of the Lowcountry, lack gum, Loblolly Bay and Red bay. Shrubs, such as Wax myrtle, Yaupon holly, Saw palms and Fetterbush and smaller, non-woody plants are also found on *The Strand*.



Typical Vegetation on *The Strand*

Beach Access

South Carolina has pursued a planning program with the objective of providing public access and adequate parking facilities. In 1988, the South Carolina Code of Laws was amended to include new provisions that require state and local communities to prepare comprehensive beach management plans. Within these plans the issue of beach access and parking must be addressed. Each local comprehensive beach management plan must

contain an inventory of public beach accesses and attendant parking, in addition to a plan for enhancing public access and parking.

The Strand provides access to the beach for residents of the South Forest Beach community. A series of access points weave between the houses allowing home owners to reach the beach. The following photographs demonstrate



Typical Beach Access



Typical Beach Access

TAX MAP # 550-15A-525

31.14 AC.
1,356,568 S.F.

TURTLE NEST C

TURTLE NEST B

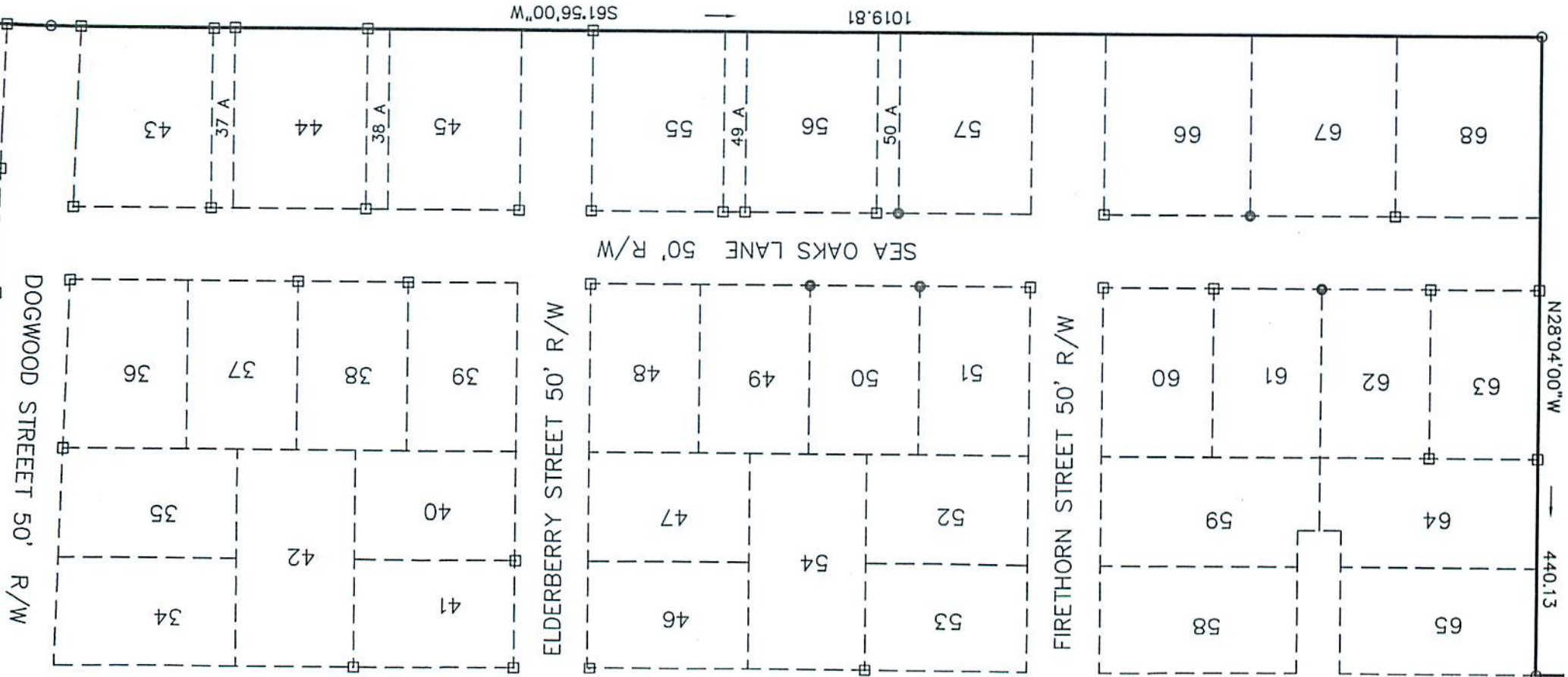
TURTLE NEST D
TURTLE NEST E

OCRM 20' SETBACK LINE
OCRM BASE LINE

MILE MARKER 50A

MARKER 50

E MARKER 51



Attachment A.

4
10
M
A

RECORDED
BEAUFORT COUNTY SC
REC'D BY B KING RCPT# 237592
RECORDING FEES 10.00

BEAUFORT COUNTY SC - ROD
BK D1841 PGS 1827-1830
FILE NUM 2004025254
04/21/2004 10:30:21 AM
REC'D BY B KING RCPT# 237592
RECORDING FEES 10.00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that OCEAN HOLDINGS, INC., (hereinafter referred to as "Grantor"), in the State aforesaid, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and no other valuable consideration to it in hand paid at and before the sealing of these presents by LAWTON BEACH HOLDINGS, LLC, WHOSE ADDRESS IS PO Box 7379, Hilton Head Island, South Carolina 29938 (hereinafter referred to as "Grantee"), (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns, forever, the property described in Exhibit "A" attached hereto.

TOGETHER with all and singular the rights, members, hereditaments, and appurtenances to the said Premises belonging or in any wise incident or appertaining thereto.

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

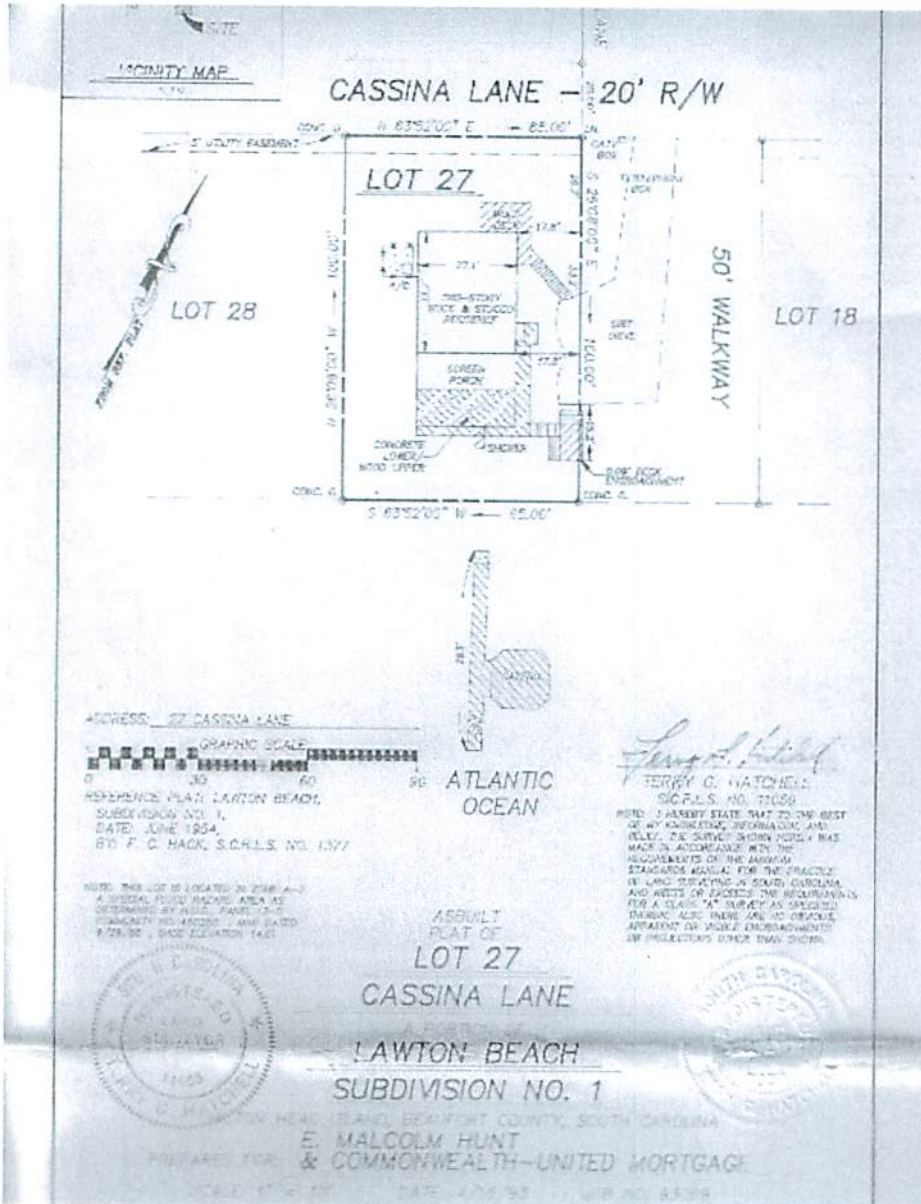
AND THE SAID Grantor does hereby bind itself, its successors and assigns to warrant and forever defend all and singular the said Premises unto the said Grantee, its successors and assigns, against itself and its successors and assigns, and any person whomsoever now or hereafter lawfully claiming, or to claim the same or any part thereof, except as aforesaid.

IN WITNESS WHEREOF, Grantor has caused these Presents to be executed this 1st day of October, in the year of our Lord two thousand three, and the two hundred twenty-eighth year of

TMS # R551 015 00A 0525 0000

ADD CMP Record 5/12/2004 05:35:28 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R551 015 00A 0525 0000 00

Attachment C. Hunt As Built Survey



10868

16

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) ASSIGNMENT OF RIGHTS

This Assignment of Rights (the "Assignment") is made and executed this 20th day of January, 1989 by R. Geoffrey Levy, Trustee of Hilton Head Holdings Corporation, HHC Liquidation Corp., formerly The Hilton Head Company, Inc. and Hilton Head Liquidation Corporation, formerly Sea Pines Plantation Company (collectively referred to as the "Company").

WHEREAS, the Company desires to assign all of its rights, powers, titles, easements and Estates, including but not limited to the tenements, hereditaments, rights, easements, appurtenances, declarant rights, repurchase rights, and reversion rights, if any (collectively referred to as the "Rights") contained in any and all recorded and unrecorded Declarations of Covenants, Conditions and Restrictions and related instruments, recorded and unrecorded, and all subsequent amendments thereto affecting or related to the property described on the attached Exhibit A (the "Declaration and the Amendments") to Ocean Holdings, Inc. (the "Assignee").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company does hereby fully assign to Assignee, its successors and assigns, free and clear of all liens, claims and encumbrances, the Company's Rights under the terms and provisions of the Declaration and the Amendments.

This Assignment is granted without recourse, representation or warranty and is intended as a quit claim of the interest of Assignor as specified herein.

EXHIBIT A

00 21

All that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, being that land located between the mean high water mark of the Atlantic Ocean and the front lot lines of the lots in the subdivision known as Lawton Beach Subdivision No. 1, said parcel of land being described as beginning at the southeastern corner of the southern-most walkway as shown on the plat of said subdivision recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 9 at Page 44, thence in a northeasterly direction for a distance of 2625 feet, more or less, along the front lines of the lots fronting on the Atlantic Ocean in Lawton Beach Subdivision No. 1 to the northeast corner of 1st Street as shown on the plat of said subdivision; thence S 26 degrees, 8 minutes E to the mean high water mark of the Atlantic Ocean; thence southwesterly along the mean high water mark of the Atlantic Ocean to a point S 27 degrees, 53 minutes E of the POINT OF BEGINNING; thence N 27 degrees, 53 minutes W to the POINT OF BEGINNING.

AND ALSO, all those certain pieces, parcels or strips of land including roads, walkways, open spaces, rights-of-way, easements, parks and any other lands located within the tract known as Lawton Beach Subdivision as more fully shown on the plats entitled "Lawton Beach Subdivision No. 1", recorded in the office of the Register of Mesne Conveyance for Beaufort County, South Carolina, in Plat Book 9 at Page 44 and "Block 6 Lawton Beach Subdivision No. 1 Property of The Hilton Head Land Company," recorded in the office of the Register of Mesne Conveyance for Beaufort County, South Carolina in Plat Book 10 at Page 41.

AND ALSO, any and all other lands lying between the above described property and the mean high water mark of the Atlantic Ocean.

Hughes

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<i>Blond H. Dalton</i>		
REGISTER OF MESNE CONVEYANCE		





STATE OF SOUTH CAROLINA)
) ASSIGNMENT OF INTEREST IN
COUNTY OF BEAUFORT) ENCROACHMENT AGREEMENT AND EASEMENT

WHEREAS, the undersigned, Margaret K. Hoffmeier ("Hoffmeier") has sold and conveyed unto James K. Hackett and Anne E. Hackett ("Hackett") certain property known and described as Lot 75 and improvements, Lawton Beach Subdivision (a/k/a 16 Juniper Lane), Hilton Head Island, Beaufort County, South Carolina, as shown and described in a Plat of Record in Beaufort County, Plat Book 9 at Page 44 ("Lot 75"); and

WHEREAS, certain pool and deck improvements to Lot 75 were placed by previous owner Diana G. Jaffe ("Jaffe"), between Lot 75 and Atlantic Ocean on property owned by Hilton Head Company, Inc. ("HHC"); and

WHEREAS, HHC and Jaffe entered into a certain Encroachment Agreement and Easement dated in May of 1987 and recorded in the records of Beaufort County, South Carolina in Deed Book 478 at Page 361 (the "Easement"); and

WHEREAS, Jaffe executed an Assignment of Interest in Encroachment Agreement and Easement ("Assignment") in order to convey all her interest in the Easement to de Lesquen which said Assignment is dated July 7, 1987 and recorded in the records of Beaufort County, South Carolina in Deed Book 481 at Page 1692;

WHEREAS, de Lesquen executed an Assignment of Interest in Encroachment Agreement and Easement ("Assignment") in order to convey all his interest in the Easement to Hoffmeier which said Assignment is dated March 28, 1990 and recorded in the records of Beaufort County, South Carolina in Deed Book 550 at Page 655;

WHEREAS, it is the intention of Hoffmeier in the deed to Hackett for Lot 75 that all her interest in the Easement also be conveyed to Hackett, but in order to make certain Hoffmeier's interest in the Easement is effectively and actually transferred to Hackett, Hoffmeier has entered into this Assignment.

NOW, THEREFORE, for \$10.00 and the sale of Lot 75, the receipt and adequacy of this consideration is hereby acknowledged, Hoffmeier agrees as follows, to wit:

1. That the above "Whereas" clauses are hereby incorporated herein by this reference thereto as if restated.

2. For value received, the undersigned Hoffmeier hereby assigns, sets over and transfers unto Hackett, their heirs and assigns forever, all of Hoffmeier's rights, title and interest in the Easement.

3. This Assignment dated 29 day of September, 1993 and is executed in the State of South Carolina and shall inure to the benefit of Hackett, their heirs and assigns forever.

WITNESSES:


Margaret K. Hoffmeier


MARGARET K. HOFFMEIER

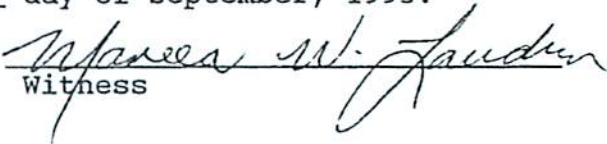
STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PROBATE

PERSONALLY appeared before me the undersigned witness who made oath that s/he was the within named MARGARET K. HOFFMEIER sign, seal and as her Act and Deed, deliver the within written Assignment, and that s/he with the other witness above-named, witnessed the execution thereof.

SWORN TO BEFORE ME, this 17 day of September, 1993.


Notary Public for SC
My Commission Expires: 12-15-2000


Witness

any part of a dune or dune system as defined by the Municipal Code. All activities and uses in the transition area shall comply with current local, state and federal laws.
(Ord. No. 06-27, § 1, 12-5-06)

PART C. DESIGNATED AREAS

Sec. 5-1-231. Designation for special use.

The town council may from time to time designate by resolution of the town council designated areas for any special use. Such designation may be established on either a temporary or a permanent basis by the council. No permanent designation may be made by the council of any section of beach for an activity which is prohibited by this chapter.
(Ord. No. 84-10, 5-21-84; Ord. No. 87-4, § 2, 4-7-87)

PART D. NONCONFORMING STRUCTURES WITHIN THE CRITICAL STORM PROTECTION AND DUNE ACCRETION AREA AND THE TRANSITION AREA*

Sec. 5-1-241. Nonconforming structures.

Any structure or site feature that is nonconforming to the activities and uses permitted within the critical storm protection and dune accretion area and transition area may be rebuilt to its current size (or smaller) and location provided that the structure conforms to current local, state and federal laws; that the same use that previously existed is reestablished within that structure; and that neither the structure nor the use has been abandoned for a period of 12 consecutive months or greater. Normal maintenance activities of non-conforming structures are allowed.
(Ord. No. 06-04, § 1, 5-16-06; Ord. No. 06-27, § 1, 12-5-06)

*Editor's note—(Ord. No. 06-04, § 1, adopted May 16, 2006, amended the Code with the addition of a new part D, section 5-1-241. In order to avoid the duplication of parts and sections, the provisions of said ordinance have been included herein as new part E, section 5-1-251, at the discretion of the editor. Ord. No. 06-27, § 1, adopted Dec. 5, 2006, redesignated part D, sections 5-1-241—5-1-243, as part E, sections 5-1-251, 5-1-252, and redesignated part E, section 5-1-251, as part D, section 5-1-241.

PART E. ENFORCEMENT

Sec. 5-1-251. Authority of law enforcement officers.

Those persons who shall be duly appointed deputies or constables, or who are law enforcement officers or code enforcement officers of the town, the county or the state, shall have the power and authority to enforce this chapter.
(Ord. No. 84-10, 5-21-84; Ord. No. 87-4, § 2, 4-7-87; Ord. No. 06-27, § 1, 12-5-06)

Sec. 5-1-252. Power to recall swimmers.

The aforementioned law enforcement officers or duly appointed representatives of the town shall have the power and authority to recall from the waters and the surf adjoining the waters, any person who, in their discretion, shall be in danger of drowning or becoming imperiled, or who may imperil the safety of others, or when the condition of the wind, water, weather or any hazard, including the physical or mental condition of the person in the waters, shall be such as to constitute a danger to the health, life or safety of that person, rescue personnel, or other persons within the waters.
(Ord. No. 84-10, 5-21-84; Ord. No. 87-4, § 2, 4-7-87; Ord. No. 06-27, § 1, 12-5-06)

Sec. 5-1-253. Fines and penalties.

Any person who violates the provisions of this article upon conviction shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both, as provided for in section 1-6-10 of this Code. Each day's continued violation or separate incident shall constitute a separate offense.
(Ord. No. 87-4, § 2, 4-7-87; Ord. No. 88-24, § 3, 9-20-88; Ord. No. 06-27, § 1, 12-5-06)

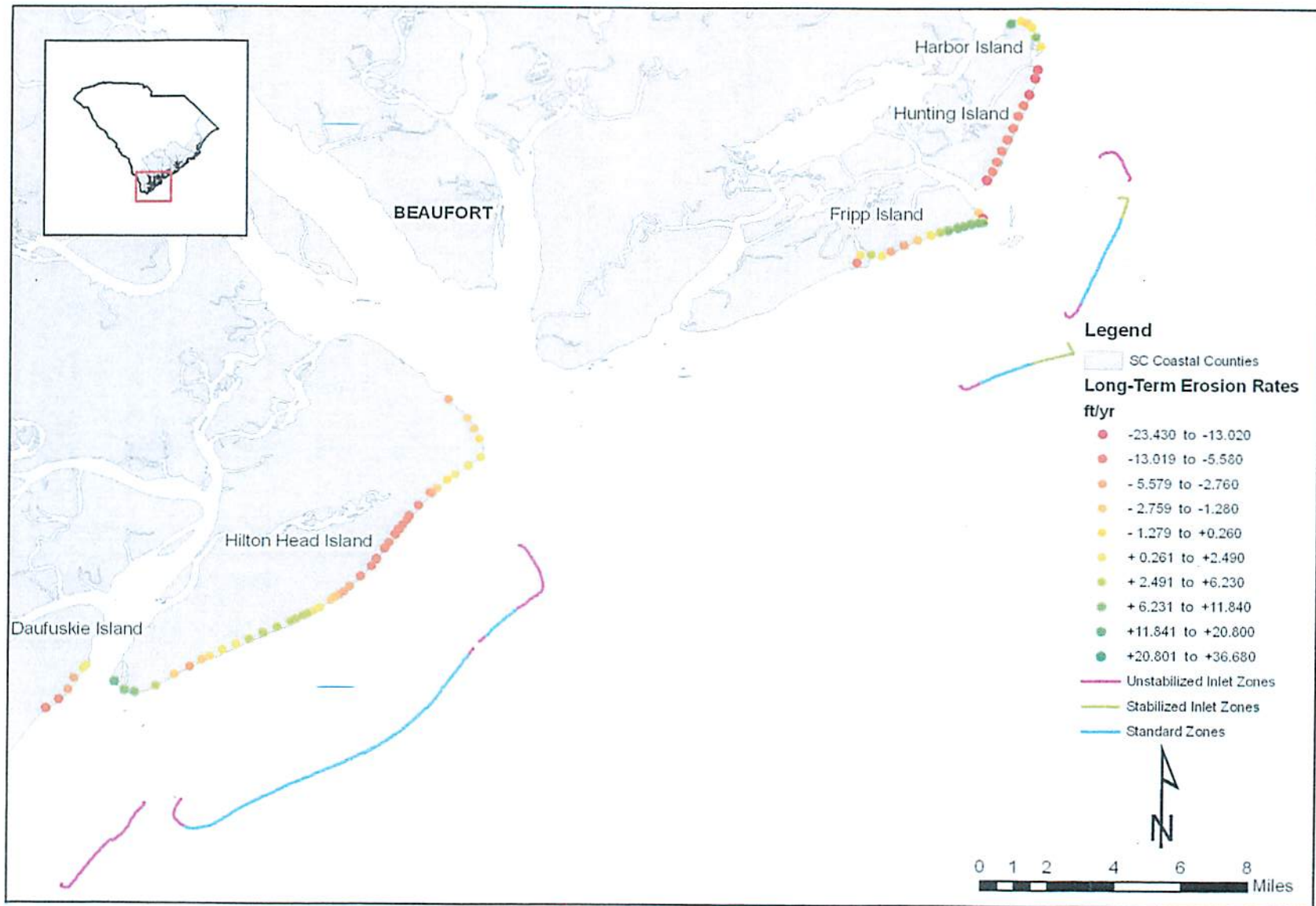


Figure 2(c): Long-term erosion rates and beach zone classifications for South Carolina's southern beaches.

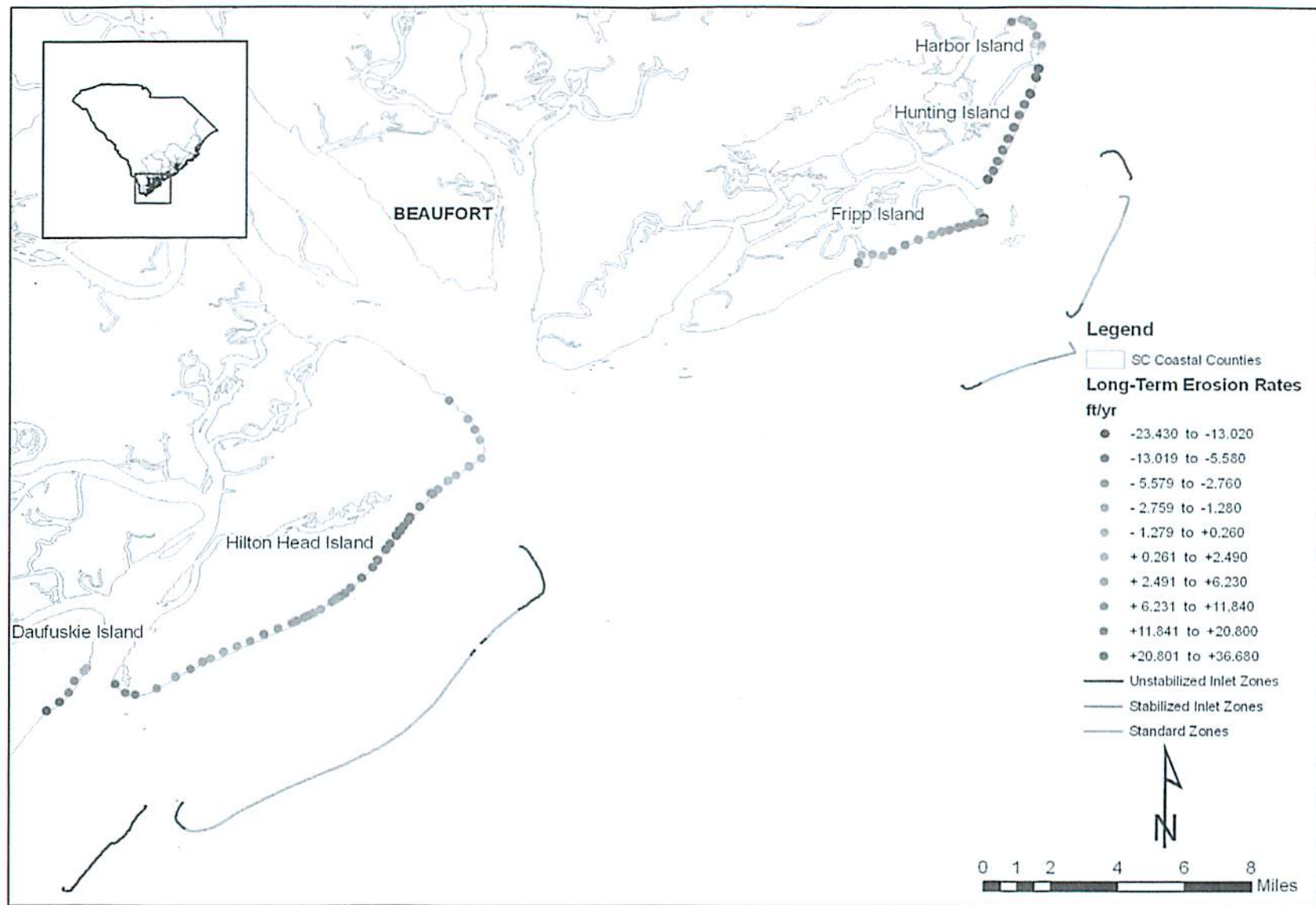


Figure 2(c): Long-term erosion rates and beach zone classifications for South Carolina's southern beaches.

W Y C H E

WYCHE BURGESS FREEMAN & PARHAM, P.A.

Attorneys at Law

MEMORANDUM

To: Ken Driggers
From: Cary H. Hall, Jr.
Date: November 5, 2009
Subject: Lawton Beach

We do not know the state of the title ownership by Lawton Beach Holdings LLC of the "Strand" (property between the high water mark and the front lot line of Lawton Beach subdivision). We have not performed a title search of the records of Beaufort County with respect to that property but the client has provided copies of what it believes to be the relevant title documents.

Those title documents include a "Declaration" dated in 1955 by The Hilton Head Company stating that it and its successors and assigns "shall forever hold in Trust" [the Strand] for the benefit of the owners of lots in the Lawton Beach subdivision. This Declaration could have had the legal effect of transferring ownership of the Strand to those lot owners at that time.

We were also provided with a copy of the 1989 Quit Claim Deed from The Hilton Head Company Inc. and others, then in bankruptcy, conveying the Strand to Ocean Holdings Inc. We have been told that Ocean Holdings Inc. and its successor, Lawton Beach Holdings LLC, have exercised dominion and control over the Strand since 1989 (and, we assume, have paid property taxes on it). The Deed out of bankruptcy and the uninterrupted control of the Strand since 1989 may have extinguished whatever rights were created by the 1955 Declaration of Trust in others.

In all probability nothing short of a quiet title action, naming all lot owners in the Lawton Beach subdivision as parties would finally establish the exact state of title to the Strand.

Subject to the foregoing, however, it would not be unreasonable for the members of Lawton Beach Holdings LLC to take the position that they could distribute the Strand to themselves, out of the LLC, and that each member could add the portion of the Strand adjacent to such member's lot to that lot for use as open space owned as part of the residential lot. (This would be subject to zoning and other land use regulations of Beaufort County and the Town of Hilton Head.) This is not to say that such a position would necessarily prevail in the event of a quiet title action, as described above, but such a position would be consistent with the fact that Lawton Beach Holdings LLC has exercised dominion and control over the Strand since 1989 and we are told that such dominion and control has not been challenged.

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