

**1201 BATTERY CREEK ROAD
STAFF REPORT**

**CITY OF BEAUFORT
ZONING BOARD OF APPEALS
Staff Report and Recommendations
Meeting of 27 April 2015**

Case Number: ZB15-11
Property Address: 1201 Battery Creek Road
Applicant: Phoebe and Howard Mills
Type of Request: Lot width and side yard setback variances
Zoning: R-2

Background: The property is located at 1201 Battery Creek Road, at the corner of Battery Creek Road and Broad Street in the Mossy Oaks neighborhood (see Site Location Map attached). The property is identified as District 120, Tax Map 6, Parcel 372A. The parcel is zoned “R-2 Medium Density Single-Family Residential District” (R-2). The R-2 District requires a minimum lot area of 9,000 square feet and a minimum lot width of 80’ measured at the front setback line which is 20’. The side yard setback is 12’. The rear yard setback is 15’. A single-family dwelling is located on the lot (see attached photos). The dwelling is located in the center of the lot. The dwelling is sited to be parallel with Battery Creek Road. Due to the slight turn in the road in this area, this makes the dwelling slightly skewed on the lot (see attached plats submitted by the applicant). The lot is approximately 24,500 square feet in area. A single-family dwelling is adjacent to the subject lot at 1205 Battery Creek Road. The Broad Street neighborhood, a single-family planned unit development, is located behind the subject lot to the east.

The applicants desire to subdivide the property into two lots. The applicants have presented two options for consideration. Both options would result in lots meeting the minimum lot area requirement of 9,000 square feet. Option 1 results in Parcel B, the new lot, having a lot width (measured at the 20’ front setback line), of 74’. This is 6’ less (7.5%) than the minimum lot width required for the R-2 district, so a lot width variance would be required to approve the lot split. To preserve the 12’ side yard setback from the existing dwelling, Option 1 shows the new lot line with a slight angle or off-set. Section 8.2.D.1 of the Unified Development Ordinance (attached) states that, “Side lot lines shall be substantially at right angles or radial to street lines.” Lot lines that curve or “crank” are a concern, especially over time, as residents desire to install fences, landscaping, and accessory structures. With irregular-shaped lot lines, fences and landscaping can be installed mistakenly on adjoining property. Accessory structures, with their required setbacks, can be required to locate in the middle of a back yard, decreasing useable space.

Option 2 results in Parcel B, the new lot, having a lot width of 70’. This is 10’ less (12.5%) than the minimum lot width required for the R-2 district, so a lot width variance would be required to approve the lot split. Option 2 keeps the new lot line radial to the front property line and with no angle or “crank.” Option 2 has the new side line 6.6’ from the existing dwelling, which would

require a 5.4' side yard setback variance. For comparison purposes, the R-4 District requires a minimum 6' side yard setback.

Public comment: The public hearing notice referencing this application appeared in the April 12 edition of *The Beaufort Gazette*. The property was posted on April 13. Letters were sent to adjoining property owners on April 17. Staff has received no public comments on this application as of the date of this writing.

Staff findings: Based on the information submitted with the application, staff has concluded the following:

- (1) *Extraordinary and exceptional conditions.* In staff's opinion, there may be extraordinary and exceptional conditions attached to this property as this lot is over two and one-half times as large as the minimum lot size required by the R-2 District.
- (2) *Conditions as applied to other property in the vicinity.* These conditions do not generally apply to other property in the vicinity.
- (3) *Conditions not a result of the applicant's own actions.* The applicant did not plat the lot nor build the existing dwelling on the lot.
- (4) *Not in conflict with Comprehensive Plan.* The Board must make a finding that granting of the variances would not substantially conflict with the Comprehensive Plan and the purposes of the Unified Development Ordinance. The comprehensive plan and Civic Master Plan encourage compatible infill development. Staff believes that the creation of the new lot and the structure that may built on it would be compatible with the character of the surrounding neighborhood.
- (5) *Unreasonable restriction on utilization of the property.* The Board must make a finding that application of the ordinance to the particular property unreasonably restricts use of the property. Given that the size of the existing lot is over twice the size of the minimum size required by the ordinance, and that the lot area of the new lot would meet the minimum lot area standards, staff believes it may be an unreasonable restriction on use of the property to prevent the lot subdivision.
- (6) *Detriment to adjacent property and the public good.* Staff believes that granting of the variance(s) would not be a detriment to adjacent property or the public good in that an appropriately-sized and sited single-family dwelling could be built on the new lot.

Staff comments: Staff believes that all the findings necessary to approve the variances can be met, and staff recommends approval of Option 2.







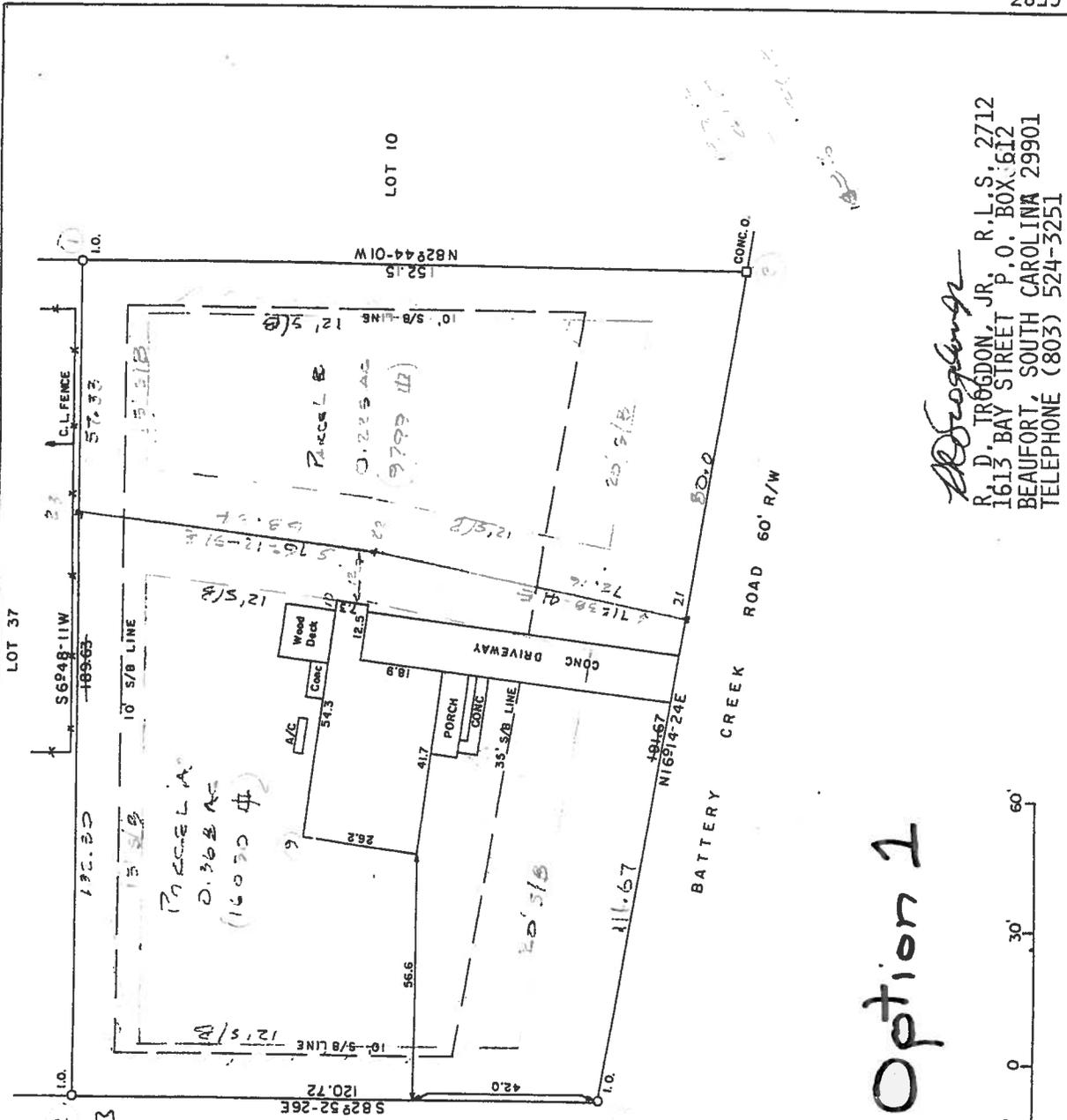
PLAT PREPARED FOR
PHOEBE W. KADER

THE SAME BEING LOT 38, MOSSY OAKS EXTENSION AS SHOWN ON A PLAT BY KIRK NIVEN, JR., DATED SEPTEMBER 26, 1985 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN DEED BOOK 430, PAGE 1778.

I HEREBY CERTIFY THAT THE MEASUREMENTS ON THIS PLAT ARE CORRECT AND THERE ARE NO ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

THIS PROPERTY IS LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450026 0005 D; ZONE A-8 (ELEV 13.00).

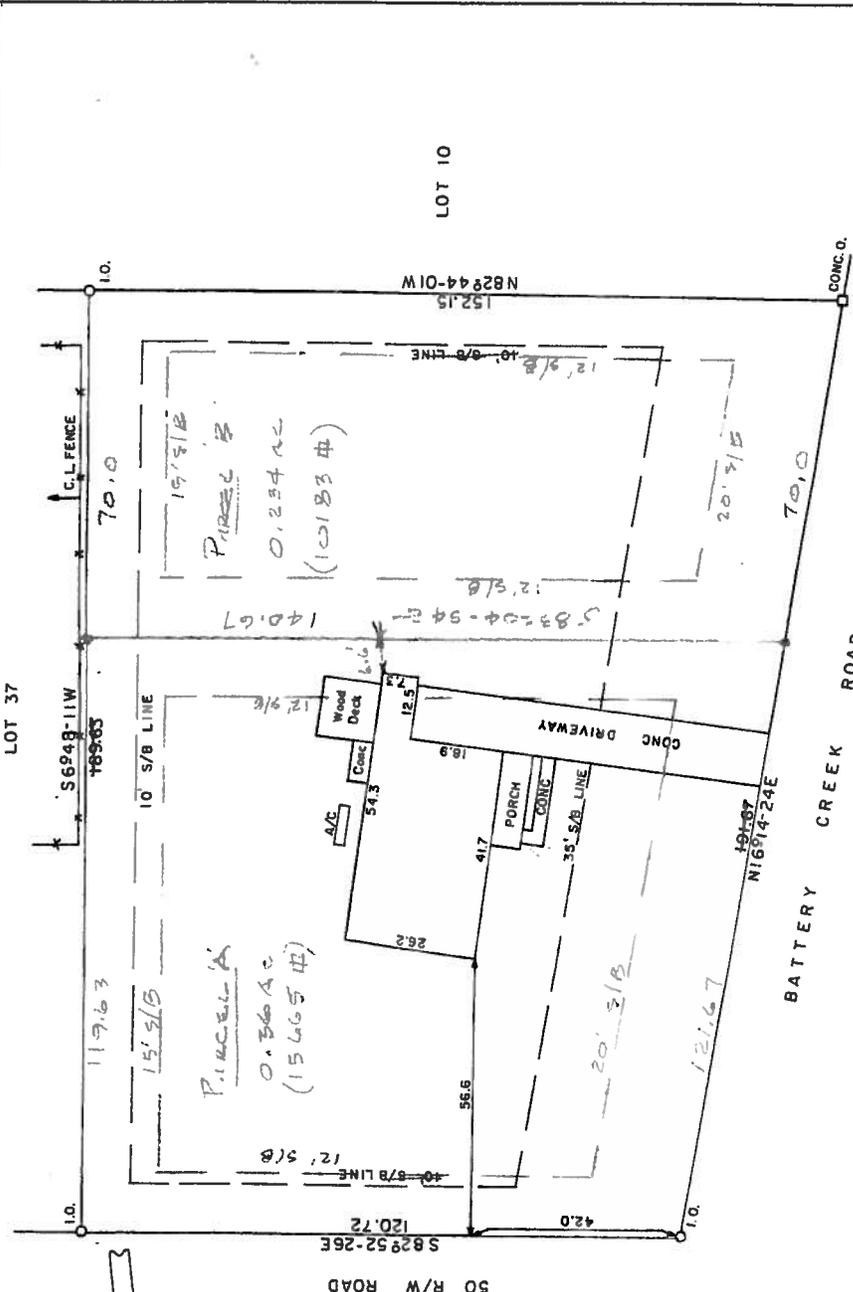
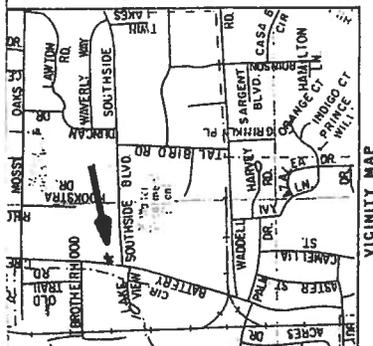
SCALE 1" = 30'
JANUARY 9, 1988



Option 1



R. D. Trigg
R. D. TRIGG, JR., R.L.S. 2712
1613 BAY STREET, P.O. BOX 1612
BEAUFORT, SOUTH CAROLINA 29901
TELEPHONE (803) 524-3251



Option 2

SCALE 1" = 30'
 JANUARY 9, 1988

PLAT PREPARED FOR
 PHOEBE W. KADER

THE SAME BEING LOT 38, MOSSY OAKS EXTENSION AS SHOWN ON A PLAT BY KIRK NIVEN, JR., DATED SEPTEMBER 26, 1985 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN DEED BOOK 430, PAGE 1778.

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W. Scroggins
 R. D. TRIGGON, JR., R.L.S. 2712
 1613 BAY STREET, P.O. BOX 612
 BEAUFORT, SOUTH CAROLINA 29901
 TELEPHONE (803) 524-3251



1. Lengths:

Block lengths shall not exceed 1,800 feet nor be less than 300 feet. The maximum length of 1,800 feet may be exceeded where unique conditions, as determined by the Planning Commission, warrant a relaxation of this requirement.

2. Widths:

Blocks shall have sufficient width to allow two tiers of lots of minimum depth. Blocks may be one lot in depth where single tier lots are required to separate residential development from through vehicular traffic or nonresidential uses, and where other unique conditions as determined by the Planning Commission, warrant a relaxation of the requirement.

D. Lots

Residential lots shall meet the lot width, depth and area requirements of the Zoning ordinance.



1. Orientation of Lot Lines

Side lot lines shall be substantially at right angles or radial to street lines.

2. Lots Abutting Streets

Each lot shall abut a public or private street.

E. Curb Cuts and Access Points

Ingress-egress openings in concrete, asphalt, rock or other street curbing provisions, commonly referred to as "curb cuts", as well as other means of vehicular access to and from private property, shall be regulated in the zoning districts established by this UDO in accordance with the following requirements:

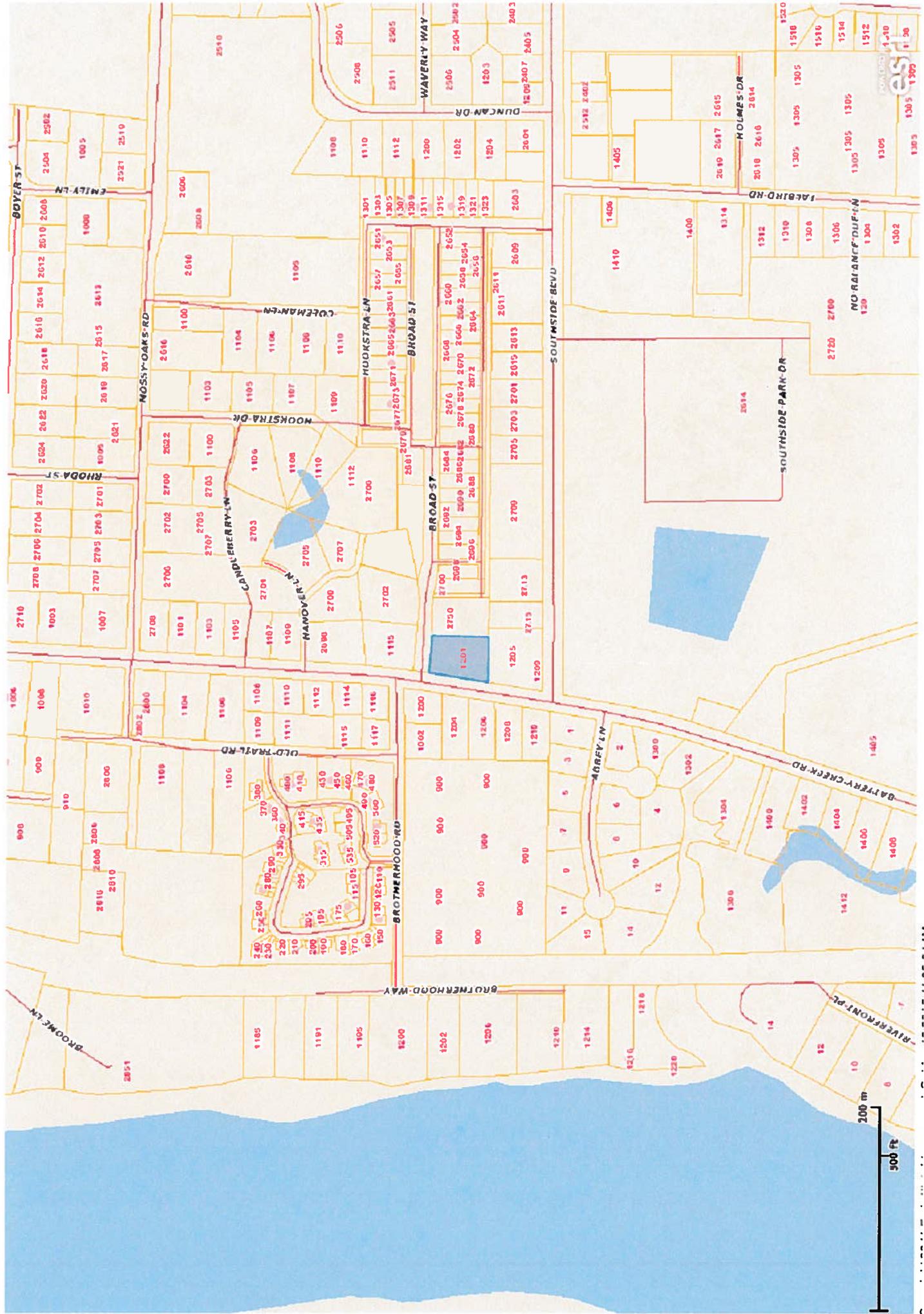
1. Size and Spacing of Curb Cuts and Other Access Points

In no case shall a curb cut or other access point be less than nine feet or more than 25 feet in width. No two curb cuts or other access points shall be closer than 100 feet from each other except in single-family residential zoning districts R-1, R-2, R-3, and R-4.

2. Location of Curb Cuts and Other Access Points

At street intersections, no curb or other access point shall be located closer than: (1) 20 feet from the intersecting point of the two street right-of-way property lines involved (or such lines extended in case of a rounded corner); (2) 25 feet from the intersection of the two curb lines involved (or such lines extended in case of a rounded corner), whichever is the least restrictive.

Overview of Parcel Sizes



**1201 BATTERY CREEK ROAD
APPLICATION**

AP 11253
pd 3/31/15
ck

City of Beaufort Zoning Board of Appeals
1911 Boundary Street
Beaufort, South Carolina 29902
Phone (843) 525-7011 / Fax (843) 986-5606
E-Mail: jbachety@cityofbeaufort.org
*Revised September 12, 2014

Application Fees	
<input checked="" type="checkbox"/>	Residential \$200
<input type="checkbox"/>	Commercial \$300
<input type="checkbox"/>	Special Meetings \$500

VARIANCE APPLICATION

OFFICE USE ONLY: Date Filed: 3/31/15 Application #: ZB15-11 Zoning District: R-2

Instructions

Entries must be printed or typewritten. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not the owner, the owner(s) must sign the Designation of Agent (below).

Submittal Requirements

1. A legal survey of the property.
2. An accurate, legible site plan showing the north arrow, dimensions, and locations of all existing and proposed structures and any improvements relevant to the appeal such as trees, fences, power lines. Six copies of all plans are required.
3. Photograph(s) of the site. For variances, include photos showing relationship to adjoining properties.

APPLICANT(S): Phoebe & Howard Mills
 Address: 15 Rumbling Rd. St. Helena, S.C. 29920
 Telephone: 843-263-2859 [day] _____ [fax]
 E-mail: bluemoonbahamas@embarqmail.com

OWNER(S) if other than Applicant(s): _____
 Address: _____
 Telephone: Same [day] _____ [fax]

PROPERTY STREET ADDRESS: 1201 Battery Creek Rd. Beaufort, S.C.
 Tax Map No.: (R120) 006
 Parcel No.: 0372A

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application?
 ___ Yes No

DESIGNATION OF AGENT [complete only if owner is not applicant]:
 I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this application.
 Date: _____ Owner's Signature: _____

I (We) certify that the information in this application is correct.
 Date: 03-11-2015 Applicant's Signature: Phoebe Mills

VARIANCE APPLICATION

Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property described on Page 1 of the following provisions in Section 3.15 of the Unified Development Ordinance (UDO):

so that a building permit may be issued to allow use of the property in a manner shown on the attached plot plan, described as follows: (e.g., build a garage) Lot width variance

for which a permit has been denied by a building official on the grounds that the proposal would be in violation of the cited section(s) of the UDO:

1. The application of the UDO will result in unnecessary hardship, and the standards for a variance set by State law and the UDO are met by the following facts:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: the lot is very large, over 40% larger than many lots in the area and as much as 60% larger than Broad St.
 - b. These conditions do not generally apply to other property in the vicinity as shown by: the survey.
 - c. The conditions are not the result of the applicant's own actions as follows: the lot was prepared by someone other than current owner.
 - d. Granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of the UDO in that: because the lot has the footage and over the requirement just needs a variance for footage.
 - e. Because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: prevents us from selling as a separate lot.
 - f. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: The surrounding Broad Street Neighborhood, has much smaller lots.