



Case # BZA-11-22-00621

Charleston County BZA Meeting of December 5, 2022

Applicant/Property Owner: Angela Barnette of Charleston County School District

Representative: Sebastian Davis of ADC Engineering

Property Location: 3321 Ladson Road – North Area

TMS#: 390-00-00-079

Zoning District: General Office (GO) Zoning District

Request: Variance request for the new Ladson Elementary School:

- To remove four (4) Grand Trees; and
- To encroach more than twenty-five percent (25%) of the protected area of two (2) Grand Trees.

Requirement:

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

*Sec. 9.2.4.E. Required Tree Protection states, "Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean."*

*Sec. 9.2.5.B. Tree Removal states, "Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees."*



## CHAPTER 9 | DEVELOPMENT STANDARDS

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(Ord. No. 2177, 10/26/2021)

### **ARTICLE 9.1 PURPOSE AND APPLICABILITY**

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- A. Unless expressly stated, the articles in this Chapter apply to Development occurring on property within unincorporated Charleston County.
- B. The regulations contained in this Chapter are intended to:
  - 1. Protect the public health, safety, and general welfare;
  - 2. Promote harmonious, orderly, sustainable, and resilient Development;
  - 3. Foster civic beauty by improving the appearance, character and economic value of civic, commercial and industrial Development within the unincorporated areas.
  - 4. Implement the goals, objectives, and policies of the Comprehensive Plan;
  - 5. Facilitate safe transportation, access, vehicular circulation, and parking;
  - 6. Assure the protection and preservation of natural resources, such as Trees and wetlands;
  - 7. Implement the use of vegetated buffers in order to mitigate the effects of incompatible adjacent uses, to provide transition between neighboring properties and Streets, to moderate climatic effects, and to minimize noise and glare;
  - 8. Prioritize low-impact design strategies in order to increase the resilience of Charleston County and preserve the landscape and character of the Lowcountry;
  - 9. Implement basic architectural standards, Right-of-Way buffer standards, and Sign standards that will promote attractive, well-designed Development, foster balanced streetscapes, and reduce visual clutter along major Roadways, thus enhancing safe traffic flow; and
  - 10. Ensure protection from fire, flood and other dangers, and furthering the public welfare in any regard specified by a local governing body.
- C. At the discretion of the Zoning and Planning Director, the land use buffer and other Development standards contained in this Chapter may be modified for properties in the Industrial Zoning District that contain existing development on multiple Parcels.

### **ARTICLE 9.2 TREE PROTECTION AND PRESERVATION**

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#### **Sec. 9.2.1 General**

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- A. Trees are essential natural, invaluable economic, and priceless aesthetic resources. They play a critical role in purifying air and water, providing wildlife habitat, enhancing natural drainage, and managing stormwater and sediment. They also help conserve energy by providing shade and shield against noise and glare. Trees promote commerce and tourism by buffering different land uses and beautifying the landscape. For these and other reasons, this Article is intended to enhance the health, safety and welfare of Charleston County and its citizens and visitors.
- B. **Applicability and Exemptions.**
1. The provisions of this Article apply to all real property in unincorporated Charleston County, except as otherwise expressly exempted.
  2. The following are exempt from the provisions of this Article:
    - a. Single family detached residential Lots of record are exempt except for those relating to Grand Tree documentation, protection and replacement. This does not exempt applications for Major or Minor Subdivisions from the requirements of Sec. 9.4.4, *Landscape Buffers*.
    - b. This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing Easements in accordance with applicable state laws. Siting and construction of future gas, telephone, communications, electrical lines, or other Easements shall not be exempt from the provisions of this Article.
    - c. Removal of Trees for "bona fide forestry operations" shall comply with state law.
    - d. Removal of Trees for Bona Fide Agricultural Uses pursuant to Sec. 3.8.2, *Exemptions, Sub-Paragraph A*, provided this exemption does not apply to the Grand Tree documentation, protection, and replacement requirements of this Ordinance.
    - e. Removal of trees for safe clearance of aircraft as required by federal law or the establishment of facilities exclusively dedicated to Aviation operations are exempt.
    - f. Removal of Trees on properties in the Industrial (IN) District pursuant to the following conditions:
      - i. Tree removal shall not occur prior to Site Plan Review approval;
      - ii. This exemption does not apply to Live Oak species of Grand Trees or any Protected Trees within required buffers and Parking Lots; and
      - iii. A mitigation plan for Grand Trees, Protected Trees, and any Trees removed in violation of this Ordinance is required pursuant to Sec. 9.2.6, *Tree Replacement*, prior to Site Plan Review approval.
  3. The South Carolina Department of Transportation (SCDOT) and Charleston County Public Works (CCPW) are hereby exempt from the provisions of this Article with the following exceptions:
    - a. All Tree species measuring six inches or greater Diameter at Breast Height (DBH) that are located in Rights-of-Way along Scenic Highways shall be protected and where necessary, may require a variance from the BZA for removal pursuant to Sec. 9.2.5, *Tree Removal, Sub-Paragraph B* and Sec. 9.2.6, *Tree Replacement*.
    - b. Grand Tree Live Oak species in all present and proposed Rights-of-Way and Easements shall be protected and where necessary, may require a variance from the BZA.
    - c. All Grand Trees other than Live Oak species in all present and proposed Rights-of-Way and Easements not located on a Scenic Highway are protected but may be permitted administratively for removal when mitigated pursuant to Sec. 9.3.5, *Tree Replacement*.
- C. **Definition of "Tree Removal."** For the purpose of this Article, the term "Tree Removal" shall include, but not be limited to, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction, changing the natural grade above or below the root system or around the trunk; damage inflicted on the Tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; excessive paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree; excessive grading; or any act of malicious damage to a Tree. Pruning or thinning more than 25 percent of the leaf surface on both the lateral branch and the overall foliage of a mature Tree that is pruned within a growing season shall be considered excessive. Paving or grading more than 25 percent of the root zone of the Tree protection area shall also be considered excessive. Additionally, one-half of the foliage of a mature Tree is to remain evenly distributed in the lower two thirds of the crown and individual limbs upon completion of any pruning. The final determination of Tree Removal shall be made by the Zoning and Planning Director.
- D. **Measurements and Definitions.**



1. If a tree trunk splits at ground level and the trunks do not share a common base (separated by earth at natural grade), then each trunk shall be measured as a separate Tree. If a multi-trunk Tree splits below the four and one half foot mark and the trunks share a common base, all trunks shall be measured separately, added together, and counted as one tree, unless the trunks are of different species. Any trunk measuring less than eight inches DBH is not included in the calculation.
2. For trees between a four-inch and 12-inch caliper, the trunk is measured 12 inches above the ground.
3. All Grand Trees are prohibited from removal unless otherwise exempted by this Ordinance, a Grand Tree Removal Permit is issued, or if the removal is part of an approved Bona Fide Forestry Operation.
4. Limited removal is allowed only when specified in this Article.

### Sec. 9.2.2 Administration

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#### A. Zoning Permit Required.

1. Removal of Grand and Protected Trees is prohibited prior to the issuance of a Zoning Permit, which may be issued after a Tree plan is approved by the Zoning and Planning Director, pursuant to Sec. 9.2.3, *Tree Plans and Surveys*.
  2. *Excess Canopy (Limb) Removal*.
    - a. Removal of three or more limbs with an individual diameter of six inches or greater requires a Zoning Permit.
    - b. Removal of any size limbs contributing to more than 100 continuous linear feet of canopy over public Roadways requires Variance approval from the BZA. This requirement does not preclude SCDOT, CCPW, or other entities from maintaining height clearances at a minimum of 14 feet, width clearances within designated travel ways, and removing unprotected Trees along Rights-of-Way for road widening projects.
- B. Tree plans prepared by a licensed surveyor, civil engineer, forester, arborist, or landscape architect are required on all non-exempt Parcels before Zoning Permit is issued.

### Sec. 9.2.3 Tree Plans and Surveys

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#### A. General.

1. Tree plans of the same scale as, and superimposed on, a Development site plan or Preliminary Plat shall include location, number, size (DBH), and species with a scaled graphic representation of each Grand Tree, along with the canopy size and shape, and trunk location.
2. Tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, civil engineer, forester, arborist, or landscape architect registered in the State of South Carolina.
3. The survey shall include all Trees to be protected or preserved, and those scheduled to be removed, including dead and damaged Trees. In cases where a previously approved recorded Plat is utilized for the purpose of Tree plans, the name, address, phone number, signature, and seal of the licensed surveyor, civil engineer, or landscape architect registered in the State of South Carolina shall be provided. A scaled infrared or high resolution black-and-white aerial photograph or print of equal quality may be substituted in cases where the Director determines that it would provide the same information as a Tree plan. However, all Grand Trees within 40 feet of proposed construction and land disturbance areas and Trees within required buffers must be surveyed and mapped.

B. Refer to Sec. 8.4.2, *Application*, Sub-Paragraph A.4.

#### C. Commercial, Industrial, and Multi-Family, Civic/Institutional, and Other Uses.

1. All Tree surveys must show the location, number, size, and species of all Trees with eight or more inches DBH, including those scheduled to be removed.
2. When there are no Trees that are eight or more inches DBH, documentation to that effect shall be provided from a licensed surveyor, civil engineer, forester, arborist, or registered landscape architect.

D. Agricultural and Single-Family Detached Residential Uses must show all Grand Trees within 40 feet of the area of construction land disturbance, Rights-of-Way, and Easements, and in conjunction with the Subdivision regulations at the time a Zoning or Building Permit application is made.

### Sec. 9.2.4 Required Tree Protection

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**A. General.**

1. All Grand Trees and any other Trees required to remain on a site must be protected during construction and Development of a Parcel. Tree protection must be shown on all Development plans prior to site plan approval. A site inspection of the Tree barricades must be scheduled by the Applicant with the Zoning and Planning Department for approval prior to the issuance of permits or the start of Development activities.
  2. Prior to issuance of a Zoning Permit, a pre-construction planning conference is required for on-site Tree preservation with the Zoning and Planning Director or staff representative, the Applicant(s), and any appropriate parties for determining if there is need for additional Tree protection techniques and for designating placement of Tree barricades, construction employee parking, temporary construction office, and dumpsters.
- B.** Prior to the start of Land Development activities, protective Tree barricades shall be placed around all Required Trees in or near Development areas. The barricades shall be constructed of wood, metal, or plastic fencing or other materials approved by the Zoning and Planning Director, and include a top rail. Tree barricades shall be placed beneath the canopy Drip Line or one-and -one-half feet times the DBH of the Tree as a radius from the trunk, whichever is greater. Other protective devices or construction techniques may be used as approved by the Zoning and Planning Director. Three inches of mulch shall be installed and maintained within all Tree barricade areas. The mulch shall remain in place throughout Development activities. The area within the Tree barricade shall remain free of all Building materials, dirt, fill, and other construction debris, vehicles, and Development activities. All Required Trees are also subject to the requirements of Sec. 9.4.6, *Landscape Materials Standards*, and Article 11.3, *Enforcement Responsibility and Complaints*.
- C.** In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals.
- D.** Limited Clearing and Grubbing may be authorized by the Zoning and Planning Director prior to the installation of Tree barricades on sites that exhibit unusually heavy undergrowth and where access to the interior of the site and its Protected Trees is impractical. Limited Clearing shall be for the express purpose of accessing the property and Protected Trees to erect the Required Tree barricades and silt fencing. Such limited Clearing shall be done with hand tools, push or walk -behind equipment, or lightweight bush-hog type equipment designed for brush and undergrowth Clearing and which is not capable of removing vegetation greater than three inches in diameter. Under no circumstances may metal-tracked bulldozers, loaders, or similar rider/operator equipment be allowed on site until the Tree barricades are erected and a Zoning Permit is issued.
- E.** Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean.
- F.** Prior to issuance of a Zoning Permit for uses other than Single-Family Detached Residential, the following numbers of Trees with a DBH of eight inches or greater shall be preserved and protected pursuant to the requirements of this Ordinance. Preservation and protection of native Trees is to be prioritized.
1. 20 Trees per acre; or
  2. Any number of Trees with a combined DBH of at least 160 inches per acre.
- G.** When Lots lack a sufficient number of Trees to meet the requirement for DBH/number of Trees per acre, this requirement shall be fulfilled by existing Trees and must equal 40 inches per acre combined DBH. On Lots with less than 40 inches per acre combined DBH, additional Trees shall be planted on the Lot equaling or exceeding 40 inches per acre combined DBH. Planting schedules shall be approved by the Zoning and Planning Director.
- H.** Required drainage improvements, such as Detention and retention ponds and wetlands, may be subtracted from the area used to calculate Tree preservation requirements.

**Sec. 9.2.5 Tree Removal**

- A.** Permits for Tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning and Planning Director:
1. Trees are not required to be retained by the provisions of this Article.



2. Trees are diseased, dead, or dying. Documentation may be submitted by a qualified tree care professional and approved by the Zoning and Planning Director;
  3. Trees pose an imminent safety hazard to nearby Buildings, pedestrian, or vehicular traffic (as determined by the Zoning and Planning Director or a qualified construction professional); or
  4. Removal of Required Trees has been approved by the Board of Zoning Appeals.
- B. Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees.
- C. In the event that a Tree poses a serious and imminent threat to public safety due to death, disease, or damage resulting from emergencies including, but not limited to, fires, flooding, storms, and natural disasters, the Zoning and Planning Director may waive requirements of this Article. Documentation shall later be submitted for review outlining the threat to public safety which initiated the removal. Documentation must include any written findings by a qualified professional and photographs supporting the Tree Removal emergency.
- D. The Zoning and Planning Director may require replacement of Required Trees that are removed where it is determined that death or disease resulted from negligence.
- E. Violations and penalties are specified in **CHAPTER 11, *Violations, Penalties, and Enforcement***, of this Ordinance.

#### **Sec. 9.2.6 Tree Replacement**

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- A. Tree replacement shall be required accompanying Development on all non-exempt properties in the manner described below:
1. When replacement Canopy Trees are required in fulfillment of the requirements of this Article, they shall be no smaller than two and one-half-inch Caliper.
  2. The Zoning and Planning Director or Board of Zoning Appeals is empowered to require Trees of larger Caliper as determined appropriate for site-specific conditions and the circumstances, lawful or illegal, under which removal occurred.
- B. When Trees of eight inches DBH or greater have been removed in violation of this Ordinance, replacement Trees shall be planted in the same general area according to a replacement schedule approved by the Zoning and Planning Director.
- C. Where sites were cleared of Trees prior to the adoption of this Article or have been cleared subsequently for activities exempted from this Article, replacement Trees shall be planted, the combined Caliper of which equals or exceeds 40 inches per acre. Replacement schedules, including number, species, Caliper, and placement shall be approved by the Zoning and Planning Director.
- D. The Tree Fund is established to receive monies exacted from tree removal violation fines or other Tree removal mitigation, to include, but not limited to, removal, damage, destruction, or as defined in Sec. 9.2.1.C of this Chapter, and as a form of mitigation when planting of the Required Trees is determined to be detrimental to the overall health of existing Trees or impractical for the intended site design. The Zoning and Planning Director shall impose a Tree Mitigation fee based on the current market retail value of two-and one-half inch Caliper Trees installed to the American Association of Nurserymen Standards. The Applicant shall provide a minimum of two quotes from local (tri-county area) contractors for review and fee determination by the Zoning and Planning Director. If the Applicant disagrees with the amount of the Tree Mitigation fee imposed, they may file appeal with the Board of Zoning Appeals in accordance with the provisions contained in this Ordinance. All Tree Mitigation fees collected shall be paid to the County Treasurer and placed in an account established exclusively for public beautification through the planting of trees in Charleston County.
- E. When Trees have been removed through an approved mitigation program and the project will not be completed for any reason (i.e., bankruptcy, abandonment, change in ownership, etc.), the owners of the Subject Property are responsible for the mitigation of the removed Trees as outlined and agreed or subject to Sec. 9.2.6.D of this Chapter.

#### **Sec. 9.2.7 Inspections and Final Approval**

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- A. The Zoning and Planning Director may periodically visit Development sites prior to completion to monitor compliance with the Tree plan approved for a project.
- B. Prior to issuance of a Certificate of Occupancy by the Director of Building Services, the Zoning and Planning Director shall issue a statement of approval attesting to the Developer's compliance with the site plan approved for the project (including landscaping, parking, drainage, etc.). The Director of Building Services shall withhold Certificates of Occupancy pending verification of compliance. It is the responsibility of the owner or agent to contact the Zoning and Planning Director regarding the compliance inspection, which will occur within five working days of contact. Failure to obtain a Certificate of Occupancy prior to occupying or using the Building for its intended purpose will result in ticketing and fines.
- C. The Zoning and Planning Director may approve a delayed schedule for planting materials (provided by the Applicant's contractor) when the immediate planting schedule would impair the health of the Plants. When a delayed planting schedule is approved, the Applicant shall provide a bond equivalent to one and one-half times the projected cost of the planting materials and installation in accordance with the American Association of Nurserymen Standards. This is designed to include severe weather, such as droughts, heat waves, and floods. The Applicant shall provide a minimum of two quotes from local (tri-county area) contractors for review and the bond amount shall be determined by the Zoning and Planning Director.
- D. Within three years of the issuance of the Certificate of Occupancy, the Zoning and Planning Director may perform a site inspection to verify the health of Trees and landscaping that were retained to meet the requirements of this Article and which may have suffered damage due to insufficient protective measures during Development.
- E. Each Required Tree or Plant determined by the Zoning and Planning Director to be diseased or injured to an extent it is irreparably damaged shall be approved for removal. The burden of proof of the extent of disease or injury shall rest with the Applicant, who must provide documentation from a qualified landscaping professional. Any Tree or landscaping damaged during or as a result of construction shall be repaired to the satisfaction of the Zoning and Planning Director and in accordance with accepted ANSI A300 or International Society of Arboriculture practices. Tree or landscaping damage must be repaired prior to issuance of a Certificate of Occupancy.
- F. The owners of a non-exempt property or properties shall be responsible for the maintenance of all Required Trees. No department or agent of the County of Charleston is in any way responsible for the maintenance of Required Trees on private property. All approved and required landscaping must be maintained throughout occupancy of site.

## ARTICLE 9.3 OFF-STREET PARKING AND LOADING

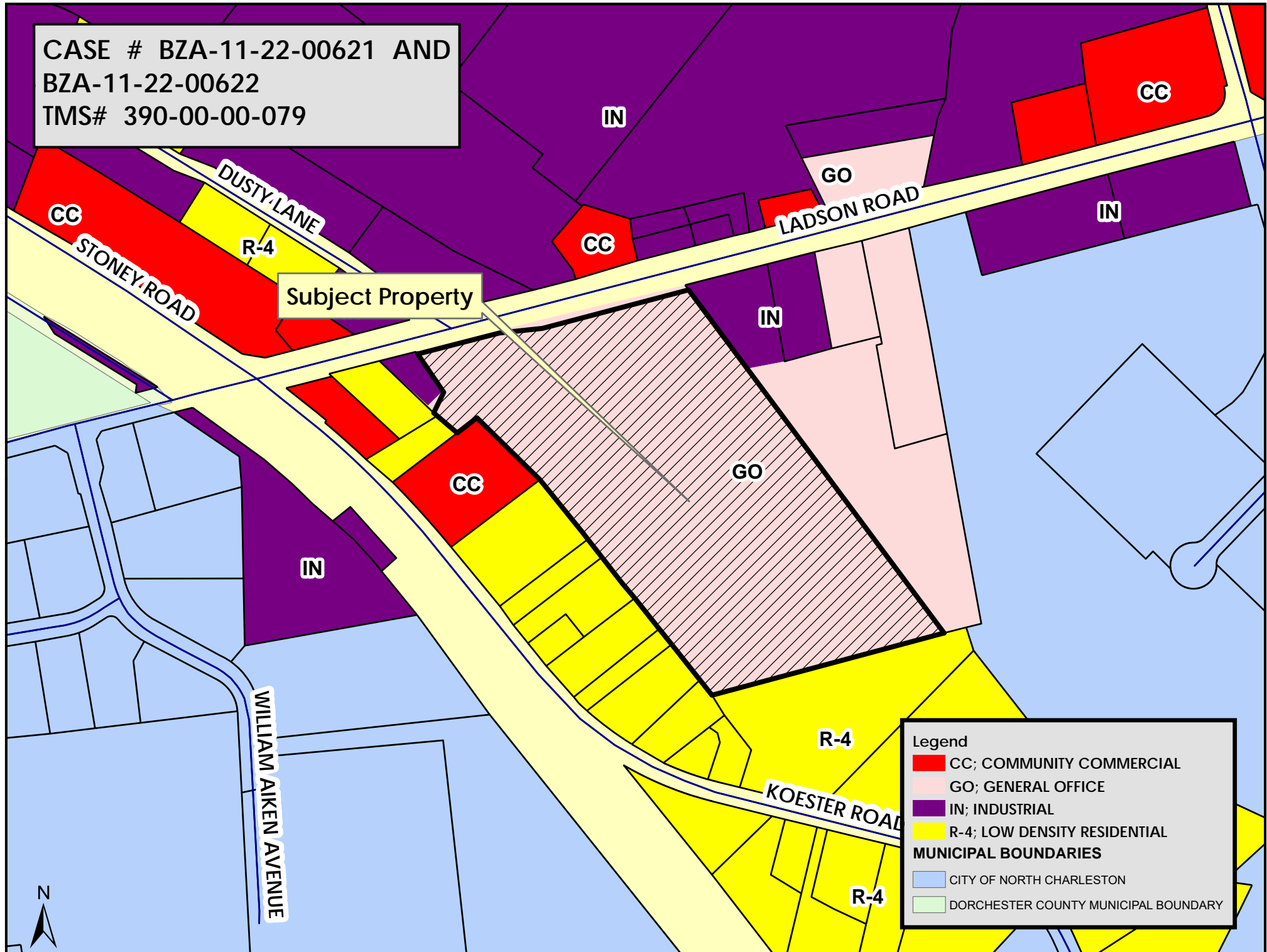
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### Sec. 9.3.1 General

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- A. **Applicability.**
  - 1. *New Development.* The off-street parking and loading standards of this Article apply to the establishment of new uses/businesses, new Building construction, redevelopment, or reconstruction pursuant to Art. 3.7, *Site Plan Review*, of this Ordinance.
  - 2. *Expansions and Alterations.* The standards of this Article apply when an existing Structure or use is expanded, enlarged, or substantially improved pursuant to Art. 3.7, *Site Plan Review*, of this Ordinance. Additional off-street parking and loading spaces will be required only to serve the enlarged, expanded, or substantially improved area, provided that in all cases, the number of off-street parking and loading spaces provided for the entire use (pre-existing and expanded) must equal at least 75 percent of the minimum ratio established in Table 9.3.2, *Off-Street Parking Requirements*.
- B. **Timing.** Required Parking spaces and drives shall be ready for use and approved by the Zoning and Planning Director prior to issuance of a Certificate of Occupancy.
- C. **Reductions.** The Zoning and Planning Director is authorized to reduce the number of Required Parking spaces by no more than 10 percent when ten or more spaces are required, and the following conditions exist:
  - 1. All parking utilizes pervious materials. This excludes required parking outlined in Sec. 9.3.6, *Accessible Parking*;
  - 2. The site can support the minimum number of required parking spaces and meet the buffering and landscaping requirements and all other Development standards in this Ordinance; or
  - 3. The reduction in parking is necessary to meet the regulations contained in Article 9.2, *Tree Protection and Preservation*.

CASE # BZA-11-22-00621 AND  
BZA-11-22-00622  
TMS# 390-00-00-079



Subject Property

Legend

- CC; COMMUNITY COMMERCIAL
- GO; GENERAL OFFICE
- IN; INDUSTRIAL
- R-4; LOW DENSITY RESIDENTIAL

**MUNICIPAL BOUNDARIES**

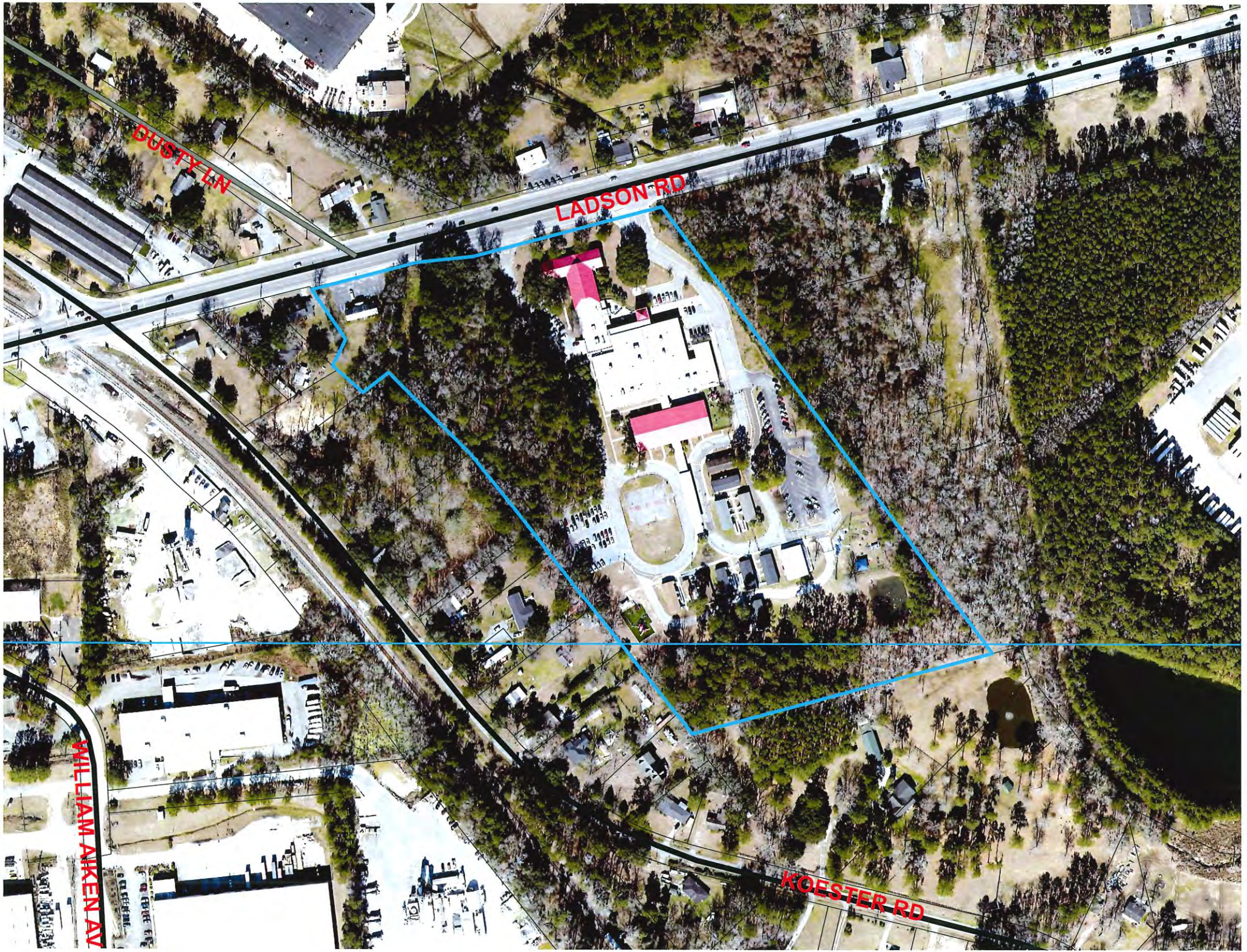
- CITY OF NORTH CHARLESTON
- DORCHESTER COUNTY MUNICIPAL BOUNDARY



CASE # BZA-11-22-00621  
AND BZA-11-22-00622  
TMS# 390-00-00-079  
AERIAL VIEW

Subject Property





BUSTY LN

LADSON RD

KOESTER RD

WILLIAM AIKEN AV



LADSON INDUSTRY DR

COMMERCE CENTER RD

HIGHWAY 78

ANGELIM RD

STONEY RD

LINCOLNVILLE RD

DUSTY LN

LADSON RD

INDUSTRIAL CENTER DR

IRON HORSE RD

WILLIAM AIKEN AV

KOESTER RD

HAMBURG RD

SPENCER HODDS RD

DOWNY BOG CT

AGAPE CT

GALAXY RD

# Case # BZA-11-22-00621

## BZA Meeting of December 5, 2022

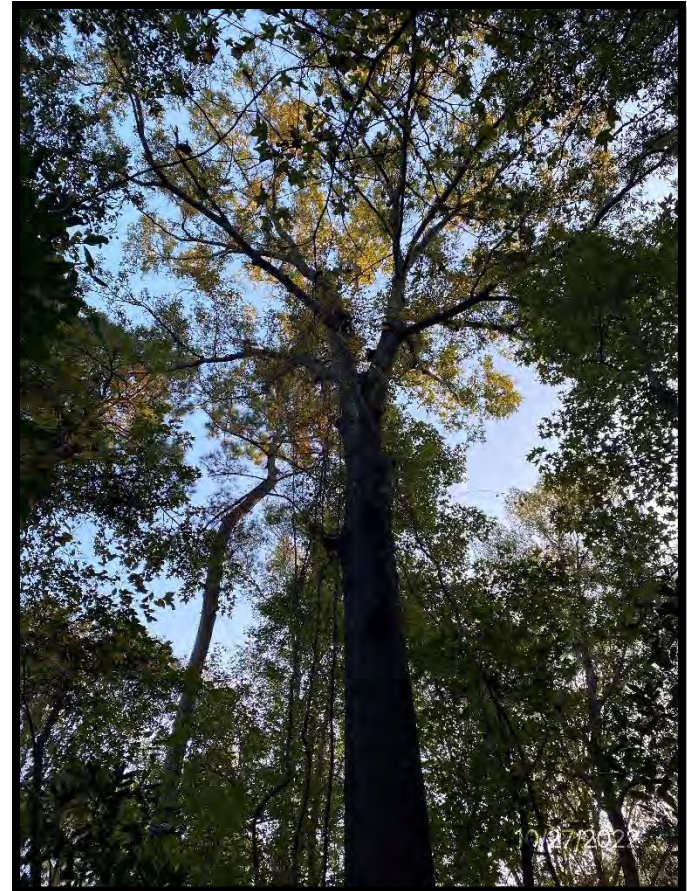
### Subject Property: 3321 Ladson Road – North Area

Proposal: Variance request to remove four (4) Grand Trees and to encroach more than 25% of the protected area of two (2) Grand Trees for the new Ladson Elementary School.



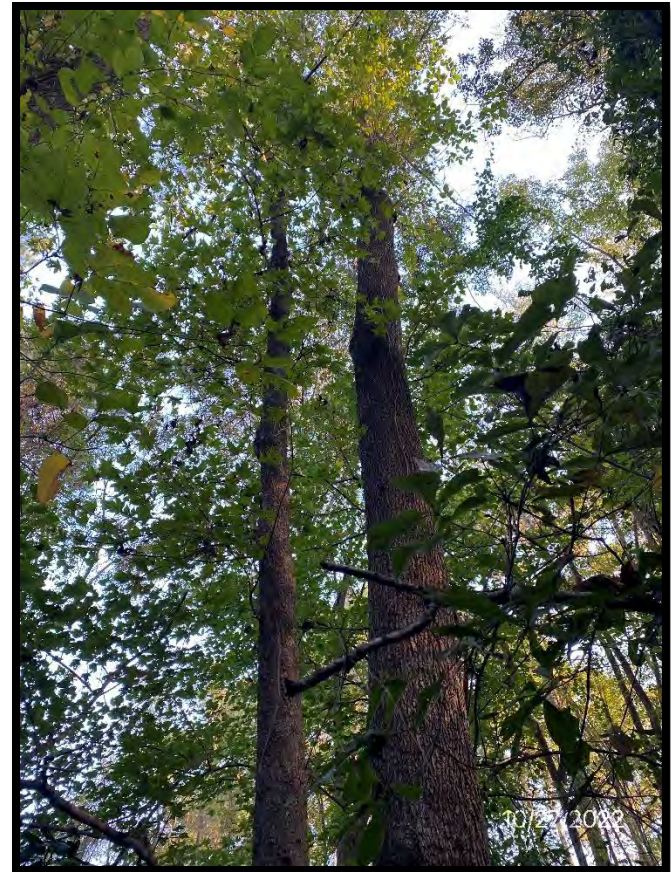
# Subject Property

**36" DBH Red Oak (Remove)**



# Subject Property

**8"/19" Maple (Remove)**



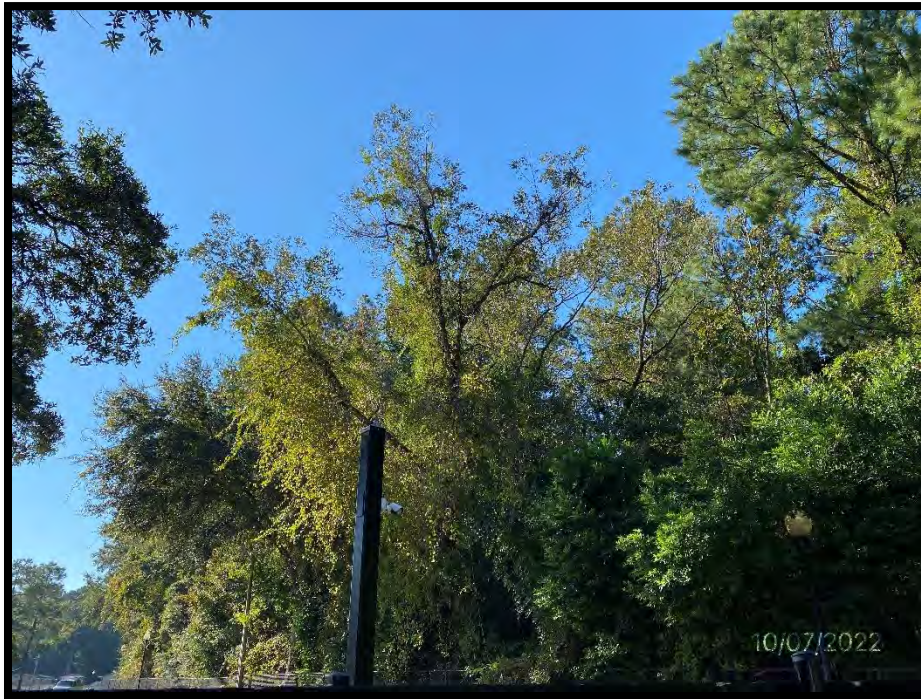
# Subject Property

**10/18" DBH Live Oak (Remove)**



# Subject Property

**32" DBH Live Oak (Remove)**





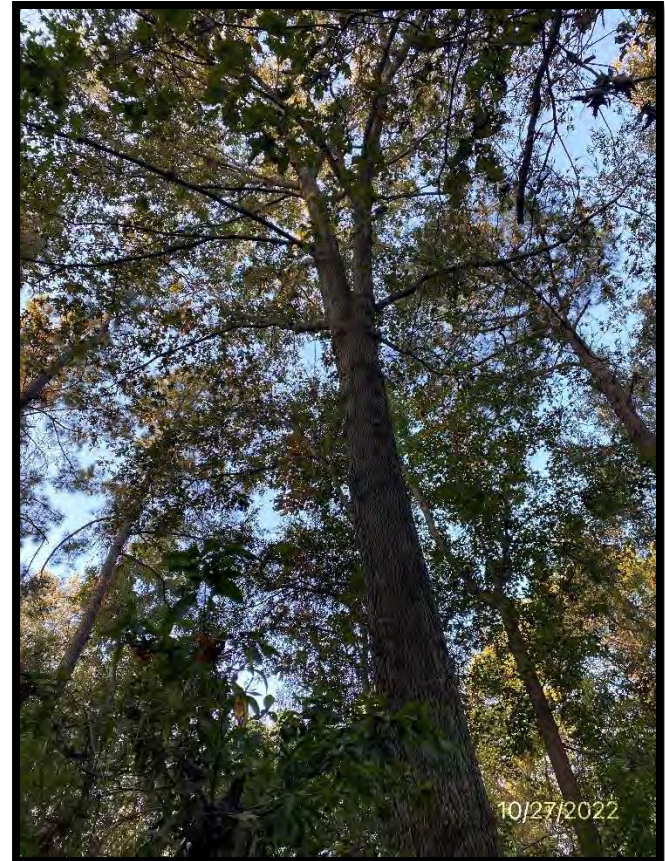
# Subject Property

**52" DBH Live Oak (Encroach)**



# Subject Property

**27" DBH Red Oak (Encroach)**



# Subject Property



# Subject Property



# Ladson Road



**Staff Review:**

The applicant and property owner, Angela Barnette of Charleston County School District, represented by Sebastian Davis of ADC Engineering, is requesting a variance to remove four (4) Grand Trees and to encroach more than twenty-five percent (25%) of the protected area of two (2) Grand Trees for the new Ladson Elementary School at 3321 Ladson Road (TMS # 390-00-00-079) in the North Area of Charleston County.

The 19.13-acre subject property is located in the General Office (GO) Zoning District. Adjacent properties to the east are located in the GO Zoning District and the Industrial (IN) Zoning District. Adjacent properties to the south are located in the Low Density Residential (R-4) Zoning District. Adjacent properties to the west are located in the R-4, IN, and Community Commercial (CC) Zoning Districts.

The proposed school project is currently in the Site Plan Review process (ZSPR-06-22-00740). The site contains the existing Ladson Elementary School building. The proposed plan is to add a new school building. The existing building will remain. Staff parking will be added to the north and west of the existing building, in an area that is heavily wooded. The four (4) Grand Trees proposed for removal are in the staff parking lots or vehicular use areas and the two (2) proposed Grand Tree encroachments are due to vehicular use and parking lot locations, as well as sidewalk installation.

The applicant is requesting a total of two (2) variances:

- 1. Case # BZA-11-22-00621:** Variance request to remove four (4) Grand Trees and to encroach more than twenty-five percent (25%) of the protected area of two (2) Grand Trees.
- 2. Case # BZA-11-22-00622:** Variance request to exceed the maximum height requirement in the General Office (GO) Zoning District. The maximum height is 35 feet or 2.5 stories, whichever is less. The proposed height of the new Ladson Elementary School is approximately 41 feet.

**Applicable ZLDR requirement Case # BZA-11-22-00621:**

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

*Sec. 9.2.4.E. Required Tree Protection states, "Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in*

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*Sec. 9.2.5.B. Tree Removal states, "Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees."*

**Remove the following four (4) Grand Trees:**

- 36" DBH Red Oak
- 8"/19" DBH Maple
- 10/18" DBH Live Oak
- 32' DBH Live Oak (up to 73% encroachment. This tree is impacted due to % as well as the number of limbs that would restrict bus maneuvering without major pruning)

**123 DBH inches total**

**Encroach the following two (2) Grand Trees:**

- 52" DBH Live Oak (sidewalk encroachment – 3x DBH)
- 27" DBH Red Oak (61% encroachment staff parking and vehicular use areas)

**79 DBH inches total**

**Please note: each tree may be considered separately for approval, approval with conditions, or denial.**

Staff conducted a site visit on the subject property on November 14, 2022. The Grand Tree site inspection was conducted on October 27, 2022. Please review the attachments for further information regarding this request.

**BZA-11-22-00621: Planning Director Review and Report regarding Approval Criteria of §3.10.6:**

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

**Response:** **There may be extraordinary and exceptional conditions pertaining to the 19.13-acre property. The applicant's letter of intent states "This site is bound by Ladson Road a heavily traveled roadway with several large trees and limited access options. This school site is limited by its size and shape. This site must remain operational during any proposed improvements due to**

*limited space and proximity to other school sites for swing space. This site contains and is bounded by wetlands.” Therefore, the request may meet this criterion.*

§3.10.6(2): *These conditions do not generally apply to other property in the vicinity;*  
**Response:** **These conditions may not generally apply to other property in the vicinity. The applicant’s letter of intent states, “This is the only elementary school serving this portion of Charleston County and requires improvements to continue serving the needs of this community.” Therefore, the request may meet this criterion.**

§3.10.6(3): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*  
**Response:** **The application of this Ordinance, Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. and Sec. 9.2.4.E. Required Tree Protection, and Sec. 9.2.5.B. Tree Removal, may not unreasonably restrict the utilization of the property. A smaller project, one with a smaller building footprint, or less proposed parking and vehicular use areas could be developed. Therefore, the request may not meet this criterion. However, the applicant’s letter of intent contends, “The site improvements needed are specific to the purpose of this site and the community it serves.”**

§3.10.6(4): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*  
**Response:** **The authorization of this variance request may not be of substantial detriment to the adjacent properties and to the public good, and the character of the OG Zoning District may not be harmed if the variance is granted. The applicant’s letter of intent states, “this variance would not be a detriment to the adjacent properties, as this site’s character will be maintained and fit the community it serves.” Therefore, the request may meet this criterion.**

§3.10.6(5): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;*  
**Response:** **The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the**



zoning district boundaries. Therefore, the request meets this criterion.

§3.10.6(6): *The need for the variance is not the result of the applicant's own actions;*  
Response: **The need for the variance may be the result of the applicant's own actions. A smaller project, one with a smaller building footprint, or less proposed parking and vehicular use areas could be developed. Therefore, the request may not meet this criterion. However, the applicant's letter of intent contends, "this variance is the result of changes required to meet the community's needs and best use of the site."**

§3.10.6(7): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*  
Response: **Granting of the variance may not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance if the Board finds that the strict application of the provisions of the Ordinance results in an unnecessary hardship. In addition, the applicant's letter of intent states, "The vast majority of this site will comply with the requirements. Therefore, the request may meet this criterion.**

**Board of Zoning Appeals' Action:**

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

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§3.10.6C).

The Board of Zoning Appeals may approve, approve with conditions or deny Case BZA-11-22-00621 [Variance request to remove four (4) Grand Trees and to encroach more than twenty-five percent (25%) of the protected area of two (2) Grand Trees for the new Ladson Elementary School at 3321 Ladson Road (TMS # 390-00-00-079) in the North Area of Charleston County] based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision. In the event the BZA decides to approve the application, Staff recommends the following conditions:

1. Prior to zoning permit approval, the applicant shall complete the Site Plan Review process.
2. The applicant shall mitigate the removal of 123" DBH trees by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in *Sec. 9.2.6 of the Charleston County Zoning and Land Development Regulations*, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to removal.
3. If either of the Grand Trees requested for encroachment (52" DBH Live Oak and 27" DBH Red Oak) dies within 3 years of the installation of completion of the school project, the applicant shall mitigate the tree or trees by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in *Sec. 9.2.6 of the ZLDR*, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to its removal.
4. Tree barricades constructed of chain link fencing shall be installed around all **protected trees within 40' of disturbance prior to any construction**, pursuant to *Sec. 9.2.4 of the Charleston County Zoning and Land Development Regulations*.
5. The applicant shall retain a Certified Arborist to monitor and treat all Grand Trees onsite through the duration of construction. The applicant shall provide a copy of the treatment plan to Zoning Staff for review and approval prior to Site Plan Review approval for the construction of the new school.
6. The applicant shall work with staff during the Site Plan Review process to satisfactorily reduce impacts of the fire lane and retaining walls on protected trees along the western property line.



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

<b>Property Information</b>			
Subject Property Address: 3321 Ladson Road, Ladson, SC 29456			
Tax Map Number(s): 390-00-00-079, 390-00-00-078			
Current Use of Property: Educational (Elementary School)			
Proposed Use of Property: Educational (Elementary School)			
<b>Applicant Information (Required)</b>			
Applicant Name (please print): Angela Barnette			
Name of Company (if applicable): Charleston County School District			
Mailing Address: 3999 Bridge View Drive			
City: Charleston	State: SC	Zip Code: 29405	
Email Address: angela_barnette@charleston.k12.sc.us		Phone #: 843-566-1995	
Applicant Signature:		Date: 10/26/2022	
<b>Representative Information</b> (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company: Sebastian Davis, ADC Engineering			
Mailing Address: 1226 Yeamans Hall Road			
City: Hanahan	State: SC	Zip Code: 29410	
Email Address: sebastiand@adcengineering.com		Phone #: 843-566-0161	
<b>Designation of Agent</b> (Complete only if the Applicant listed above is not the Property Owner.)			
I hereby appoint the person named as Applicant and/or Representative as my (our) agent to represent me (us) in this application.			
Property Owner(s) Name(s) (please print):			
Name of Company (if applicable, LLC etc.):			
Property Owner(s) Mailing Address:			
City:	State:	Zip Code:	Phone #:
Property Owner(s) Email Address:			
Property Owner(s) Signature:			Date:
<b>FOR OFFICE USE ONLY:</b>			
Zoning District: 60	Flood Zone: X (290K)	Date Filed: 11/3/2022	Fee Paid: \$500 Chadford
Application #: BZA-10-22-00621	TMS #: 390-00-00-079	Staff Initials: jiw	

**Description of Request**

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

This project proposes to remove trees and encroach into tree protection zones as part of the New Ladson Elementary School project.

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

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

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

Yes, please see the following site conditions. This site is bound by Ladson Road a heavily traveled roadway with several large trees and limited access options. This school site is limited by its size and shape. This site must remain operational during any proposed improvements due to limited space and proximity to other school sites for swing space. This site contains and is bounded by wetlands.

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

No, these conditions do not apply to other properties in the area. This is the only elementary school serving this portion of Charleston County and requires improvements to continue serving the needs of this community.

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

Yes, the application restricts the utilization of the property. The site improvements needed are specific to the purpose of this site and the community it serves.

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

No, this variance would not be a detriment to the adjacent properties, as this site's character will be maintained and fit the community it serves.

5. The BZA shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a Nonconforming Use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance. Does the variance request meet this criterion?

No, the site use will not change and is currently an allowed use.

6. Is the need for the variance the result of applicant's own actions? Explain:

No, this variance is the result of changes required to meet the community's needs and best use of the site.

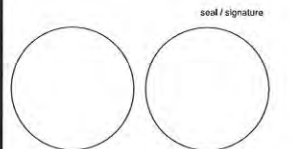
7. Does the variance substantially conflict with the Charleston County Comprehensive Plan or the purposes of the Ordinance? Explain:

No, this variance does not substantially conflict with the County's Comprehensive Plan or the purposes of the ordinance. The vast majority of this site will comply with the requirements.

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**NEW LADSON ELEMENTARY SCHOOL**  
PHASE 2  
BUILDING #0602

3321 Ladson Rd  
Ladson, SC 29456



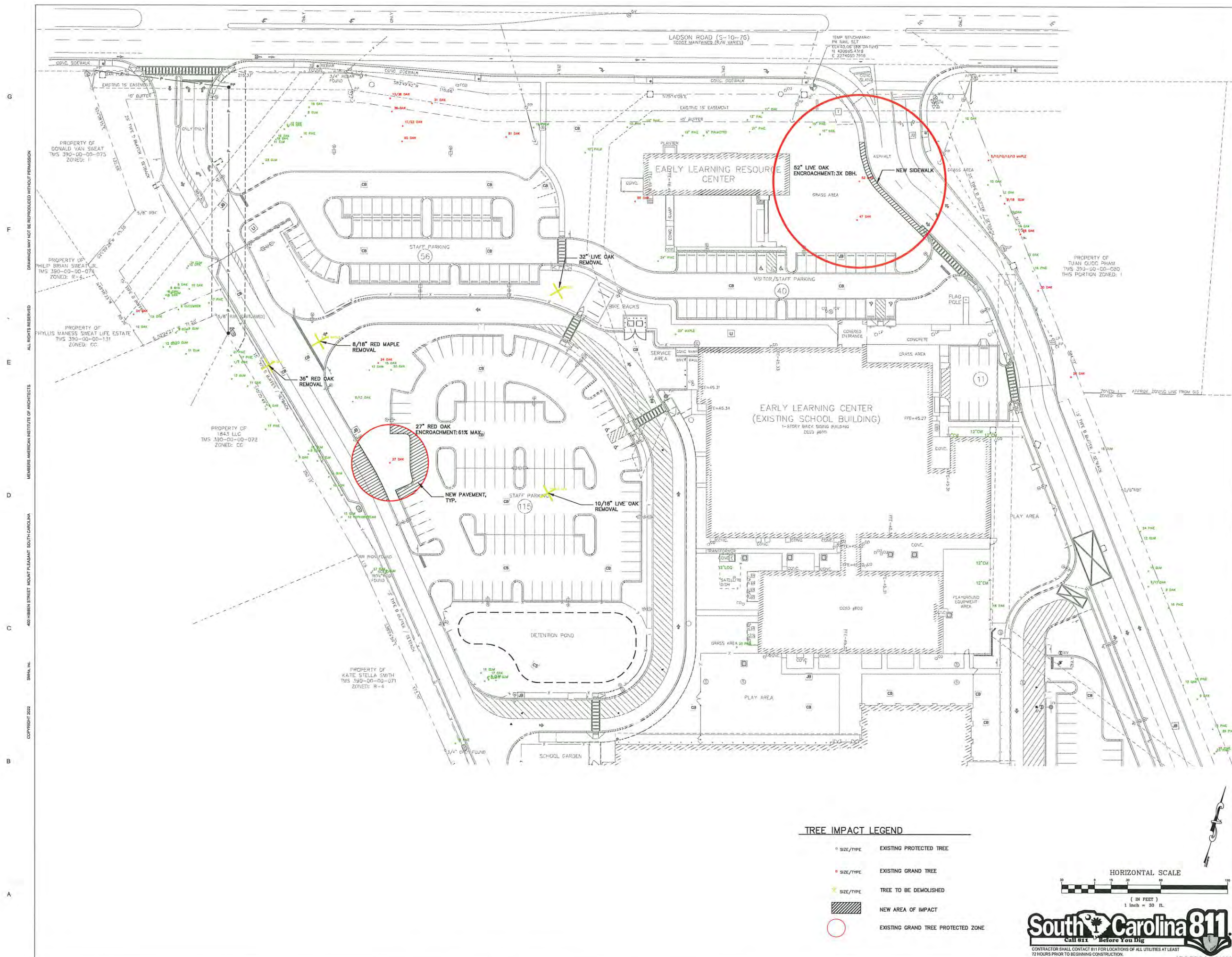
phase	date of issue
CONSTRUCTION DOCUMENTS	11.02.22

rev no.	description	revisions	date

key plan  
sheet title  
**TREE VARIANCE PLAN**

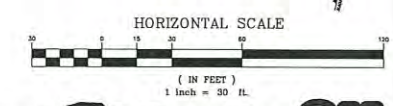
sheet number

**C023**



**TREE IMPACT LEGEND**

- SIZE/TYPE EXISTING PROTECTED TREE
- SIZE/TYPE EXISTING GRAND TREE
- ✖ SIZE/TYPE TREE TO BE DEMOLISHED
- ▨ NEW AREA OF IMPACT
- EXISTING GRAND TREE PROTECTED ZONE



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