



Case # BZA-03-24-00766

Charleston County BZA Meeting of May 6, 2024

Applicants/Property Owners: Jennifer Berwick Slater and Mark W. Slater

Property Location: 20 Lolandra Avenue – St. Andrews Area

TMS#: 418-13-00-202

Zoning District: St. Andrews Area Overlay (Community Commercial [CC])  
Zoning District

Request: Variance request to remove a 24” DBH Grand Live Oak Tree adjacent to an existing single-family residence.

Requirement:

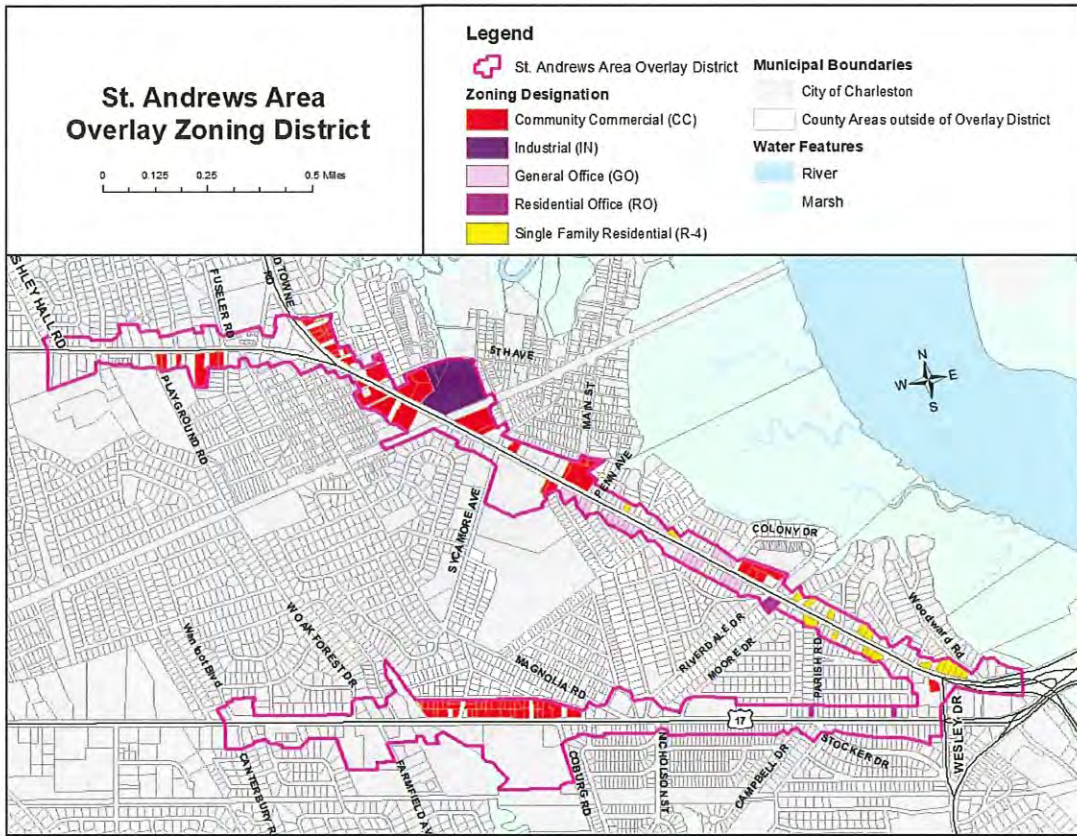
*The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.5.B. Tree Removal states, “Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by 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.”*

### Sec. 9.2.5 Tree Removal

---

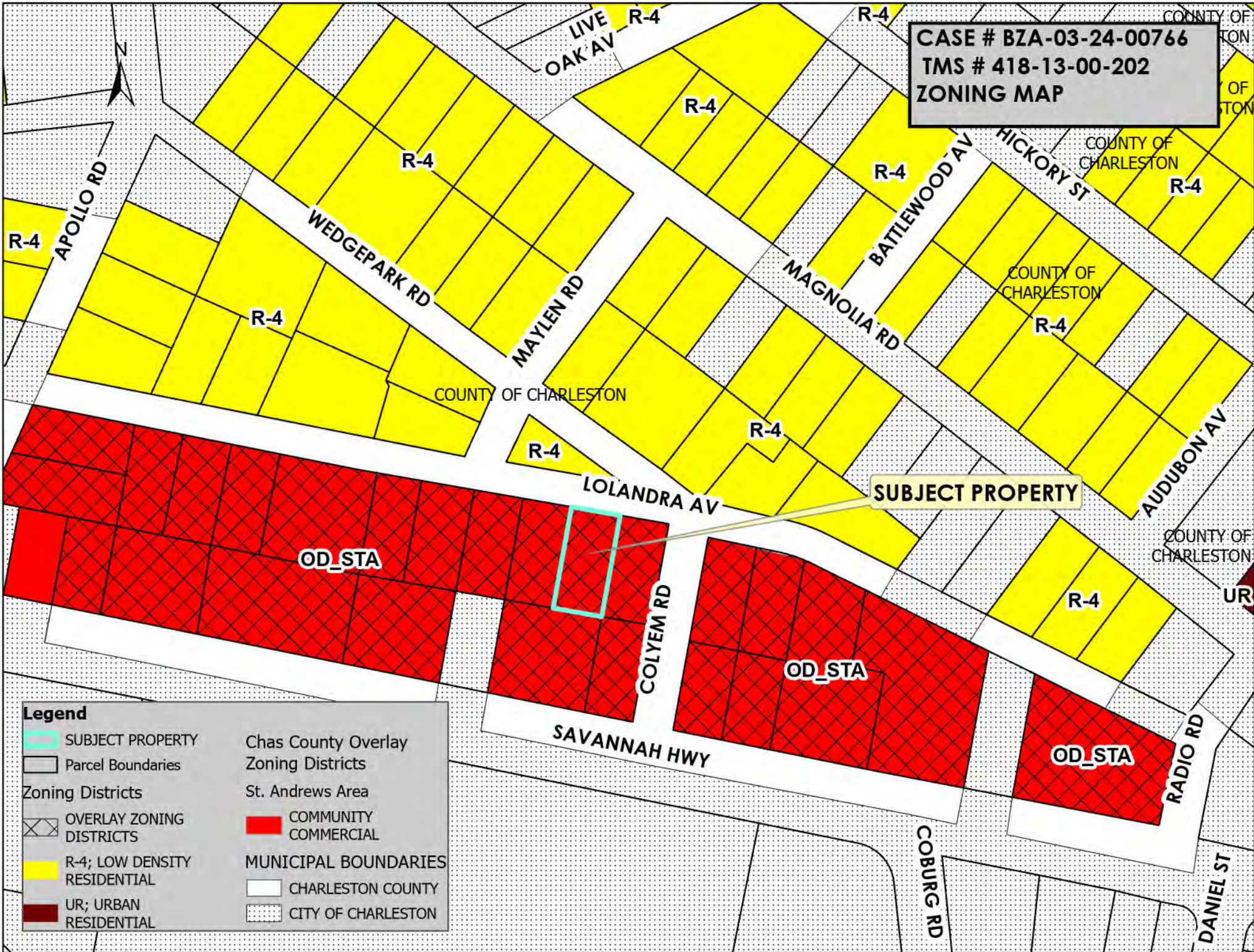
- A. Permits for Tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning and Planning Director:
1. Trees are not required to be retained by the provisions of this Article.
  2. Trees are diseased, dead, or dying. Documentation may be submitted by a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

### Map 5.9





**CASE # BZA-03-24-00766**  
**TMS # 418-13-00-202**  
**ZONING MAP**



**Legend**

SUBJECT PROPERTY	Chas County Overlay Zoning Districts
Parcel Boundaries	St. Andrews Area
<b>Zoning Districts</b>	
OVERLAY ZONING DISTRICTS	COMMUNITY COMMERCIAL
R-4; LOW DENSITY RESIDENTIAL	<b>MUNICIPAL BOUNDARIES</b>
UR; URBAN RESIDENTIAL	CHARLESTON COUNTY
	CITY OF CHARLESTON



COUNTY OF CHARLESTON

**CASE # BZA-03-24-00766**  
**TMS # 418-13-00-202**  
**300' RADIUS MAP**

COUNTY OF CHARLESTON

COUNTY OF CHARLESTON

CITY OF CHARLESTON

004

**SUBJECT PROPERTY**

APOLLO RD

WEDGE PARK RD

MAYLEN RD

MAGNOLIA RD

LOLANDRA AV

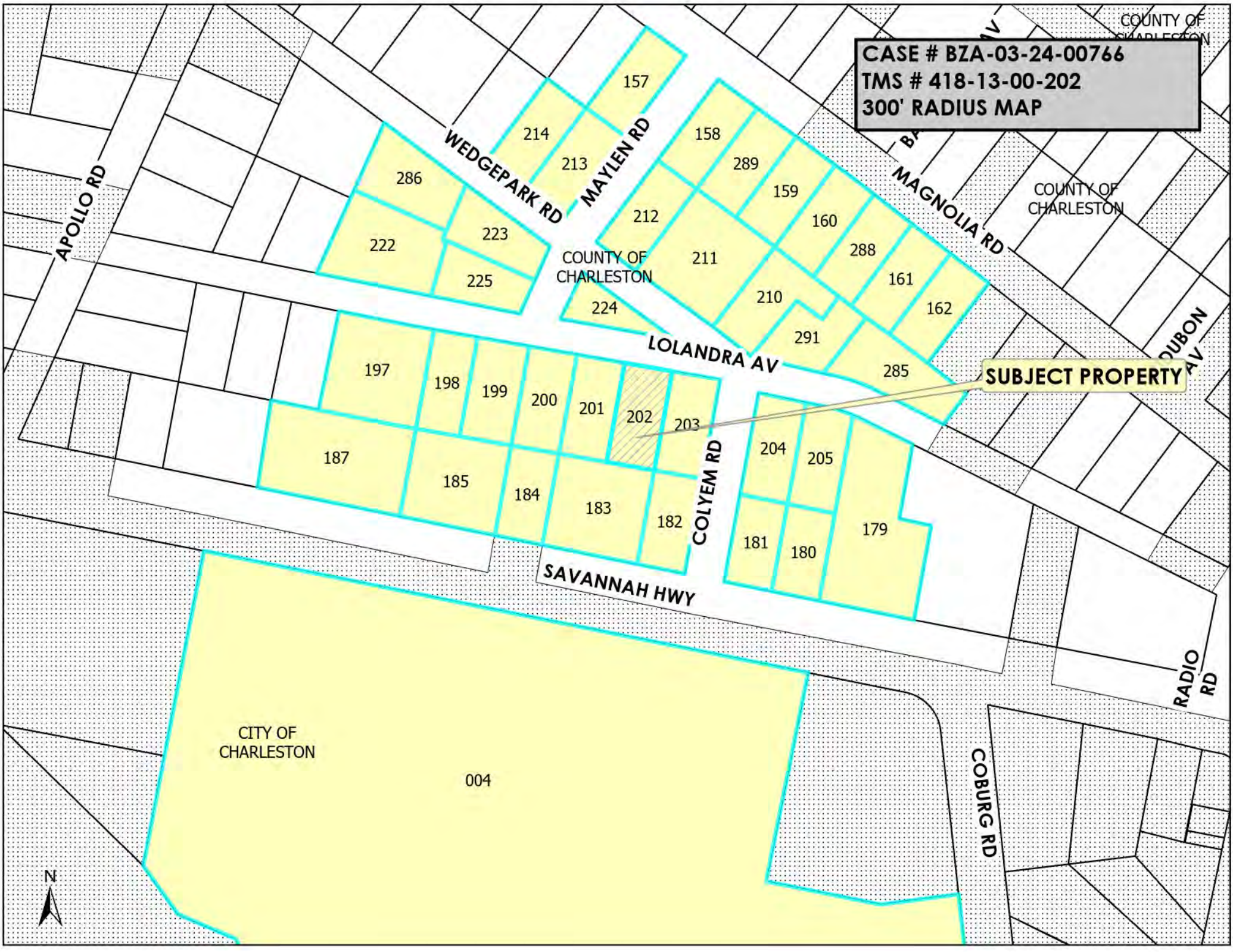
COLYEM RD

SAVANNAH HWY

DUBON AV

RADIO RD

COBURG RD





CASE # BZA-03-24-00766  
TMS # 418-13-00-202  
AERIAL VIEW

WEDGE PARK RD  
LOLANDRA AV

SUBJECT PROPERTY

CITY OF CHARLESTON

COUNTY OF CHARLESTON

COLYEM RD

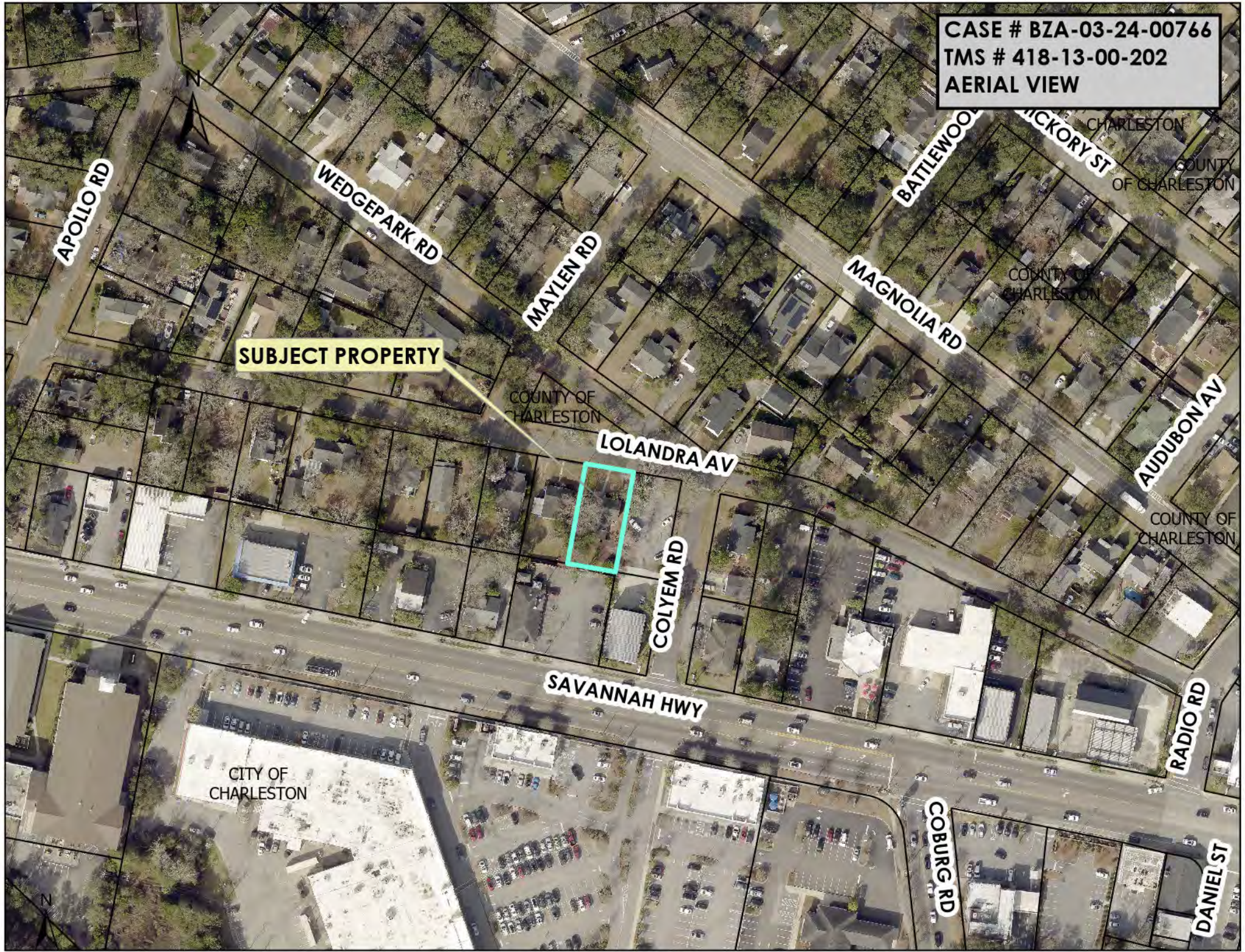


SAVANNAH HWY





CASE # BZA-03-24-00766  
TMS # 418-13-00-202  
AERIAL VIEW



**SUBJECT PROPERTY**

COUNTY OF CHARLESTON

COUNTY OF CHARLESTON

CHARLESTON  
COUNTY OF CHARLESTON

COUNTY OF CHARLESTON

CITY OF CHARLESTON

APOLLO RD

WEDGEPARK RD

MAYLEN RD

BATTLEWOOD

VICTORY ST

MAGNOLIA RD

AUDUBON AV

LOLANDRA AV

COLYEM RD

SAVANNAH HWY

RADIO RD

COBURG RD

DANIEL ST



Case # BZA-03-24-00766

BZA Meeting of May 6, 2024

Subject Property: 20 Lolandra Avenue – St. Andrews Area

Proposal: Variance request to remove a 24" DBH Grand Live Oak Tree adjacent to an existing single-family residence.





# 24" DBH Live Oak Tree

To be Removed – Zoning Variance required from BZA





# Subject Property



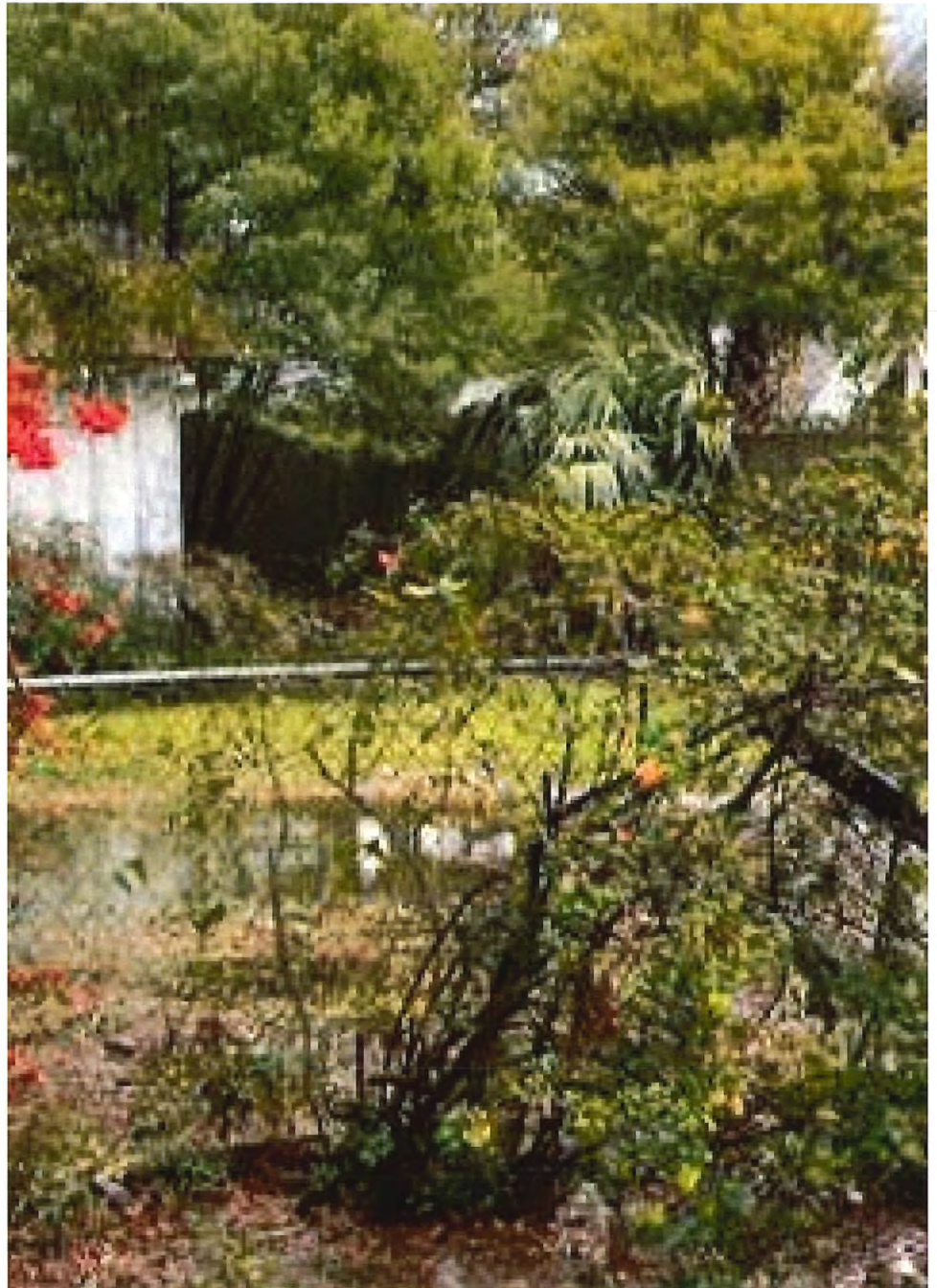


Photographs provided by  
the Applicant

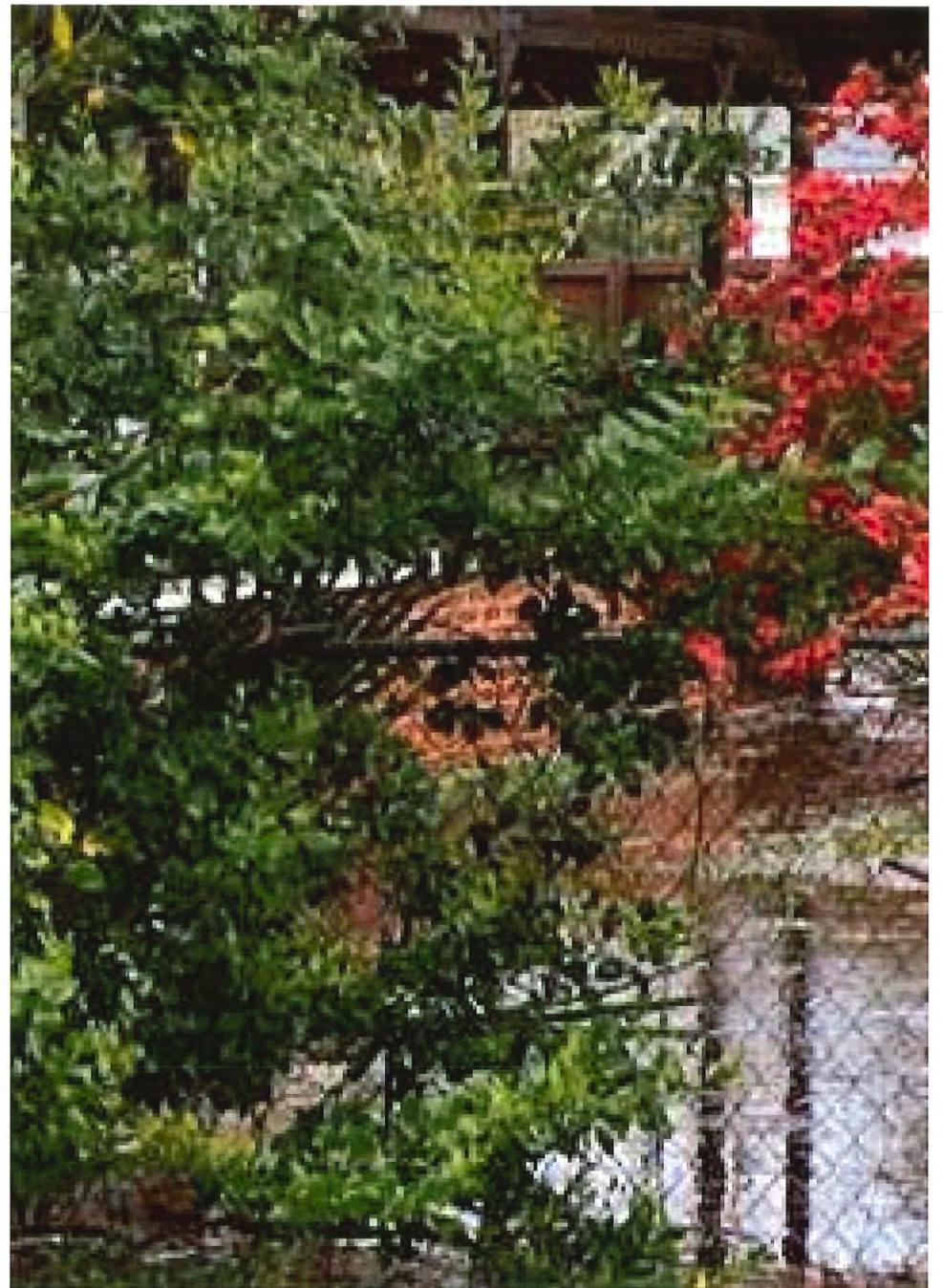


























Staff Review:

The applicants and property owners, Jennifer Berwick Slater and Mark W. Slater are requesting a variance to remove a 24" diameter breast height (DBH) Grand Live Oak Tree adjacent to an existing single-family residence at 20 Lolandra Avenue (TMS# 418-13-00-202) in the St. Andrews Area of Charleston County.

The subject property and adjacent properties to the east, south, and west are located in the St. Andrews Area Overlay (Community Commercial [CC]) Zoning District. The property north of the subject property is located in the Low Density Residential (R-4) Zoning District. The 0.17-acre (7,500 sq. ft.) property contains an existing 1952 single-family residence and a detached garage that was constructed in 1970. *The applicant's letter of intent explains, "We are requesting the removal of a live oak tree on right side of our home. Kyle Foster has visited the site to confirm the location of the tree."*

Applicable ZLDR requirement:

*The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.5.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."*

*Applicable ZLDR Chapter 12 Definitions, Article 12.1 Terms and Uses Defined:*

Arborist, Certified A Person certified by the International Society of Arboriculture.

Diameter Breast Height (DBH) The total diameter, in inches, of a Tree trunk or trunks measured at a point four and one-half feet above existing Grade (at the base of the Tree). In measuring DBH, the circumference of the Tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

Grand Tree Any Tree with a diameter breast height of 24 inches or greater, with the exception of Pine Tree and Sweet Gum Tree (*Liquidambar styraciflua*) species.

Staff conducted a site visit of the subject property on April 17, 2024. Please review the attachments for further details regarding this request.



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 0.17-acre subject property. The property contains an existing 1952 single-family residence. The 24" **DBH Grand Live Oak Tree is located 9' from** the foundation of the existing single-family residence. **The applicant's letter of intent states, "The live oak has roots that extend and are currently touching the foundation of our home. Additionally, our yard floods in a heavy rain in that area and this can not be corrected due to all roots in that area. The roots prevent proper/corrective grading."** 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 are unique to the subject property and may not generally apply to other properties in the vicinity. **The applicant's letter of intent states, "These conditions apply to our property and also affect our neighbors next door. Because we are unable to correct the grading, the flooding overflows into our neighbors' yard at 22 Lolandra."** 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. 9.2.5.B. Tree Removal to 20 Lolandra Avenue may unreasonably restrict the utilization of the property. **The applicant's letter of intent states, "This ordinance negatively affects our property. Without permission for removal, the foundation of our home is seriously being compromised. The tree will continue to grow causing further issues and continued flooding. We are asking for removal to protect our foundation. We don't want to wait until there is actual structural damage, when at this point, that can be avoided. It is clearly evident that will happen as the roots are currently touching the foundation."** Therefore, the request may meet this criterion.

§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: Authorization of this variance request may not be of substantial detriment



to adjacent properties or to the public good. Therefore, the character of the St. Andrews Area Overlay (Community Commercial [CC]) Zoning District may not be harmed. **The applicant's** letter of intent states, *"The authorization of a variance will absolutely not be a detriment to neighboring property, in fact the opposite is true. It will allow for the flooding to be corrected which currently affects their property. The character of the zoning district will not be harmed in any way."* 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. **The applicant's letter of intent states,** *"We are not asking for any kind of change. We are only seeking to protect the integrity of our home. Permission for removal of the tree will accomplish that."* 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 not be the result of the **applicant's own** actions. **The applicant's letter of intent** states, *"No. The tree was in existence when we purchased the home."* Therefore, the request may meet this criterion.

§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. 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-03-24-00766 [Variance request to **remove a 24"** DBH Grand Live Oak Tree adjacent to an existing single-family residence at 20 Lolandra Avenue (TMS# 418-13-00-202) in the St. Andrews 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 condition:

1. The applicant shall mitigate the removal of the 24" DBH Grand Live Oak Tree 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.



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

<b>Property Information</b>			
Subject Property Address: 20 Lolandra Ave			
Tax Map Number(s): 418-13-00-202			
Current Use of Property: Residential			
Proposed Use of Property:			
Zoning Variance Description: Live Oak Tree Removal Permission			
<b>Applicant Information</b> (Required)			
Applicant Name (please print): Jennifer Berwick Slater & Mark W. Slater			
Name of Company (if applicable):			
Mailing Address: 1430 Sasangua Ln			
City: Charleston	State: SC	Zip Code: 29407	
Email Address: berwicksmiles@gmail.com		Phone #: 843-323-8061	
Applicant Signature: <i>J Berwick</i>		Date: 18 March 2024	
<b>Representative Information</b> (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company:			
Mailing Address:			
City:	State:	Zip Code:	
Email Address:		Phone #:	
<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:
FOR OFFICE USE ONLY:			
Zoning District: OD STA	Flood Zone: Shaded X (0511K)	Date Filed: 3-26-2024	Fee Paid: \$250.00 Check
Application #: BZA-03-24-00766	TMS #: 418-13-00-202	Staff Initials: BAC	



### 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.)

We are requesting the removal of a live oak tree on right side of our home. Kyle Foster has visited the site to confirm the location of the tree.

### 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:

The live oak has roots that extend and are currently touching the foundation of our home. Additionally our yard floods in a heavy rain in that area and this can not be corrected due to all roots in that area. The roots prevent proper/corrective grading.

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

These conditions apply to our property and also affect our neighbors next door. Because we are unable to correct the grading, the flooding overflows into our neighbors yard at 22 Lolandra.

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

This ordinance negatively affects our property. Without permission for removal, the foundation of our home is seriously being compromised. The tree will continue to grow causing further issues & continued flooding. We are asking for removal to protect our foundation. We don't want to wait until there is actual structural damage, when at this point, that can be avoided. It is clearly evident that will happen as the roots are currently touching the foundation.



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:

The authorization of a variance will absolutely not be a detriment to neighboring property, in fact the opposite is true. It will allow for the flooding to be corrected which currently affects their property. The character of the zoning district will not be harmed in any way.

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?

Yes. We are not asking for any kind of change - we are only seeking to protect the integrity of our home. Permission for removal of the tree will accomplish that.

6. Is the need for the variance the result of your own actions? Explain:

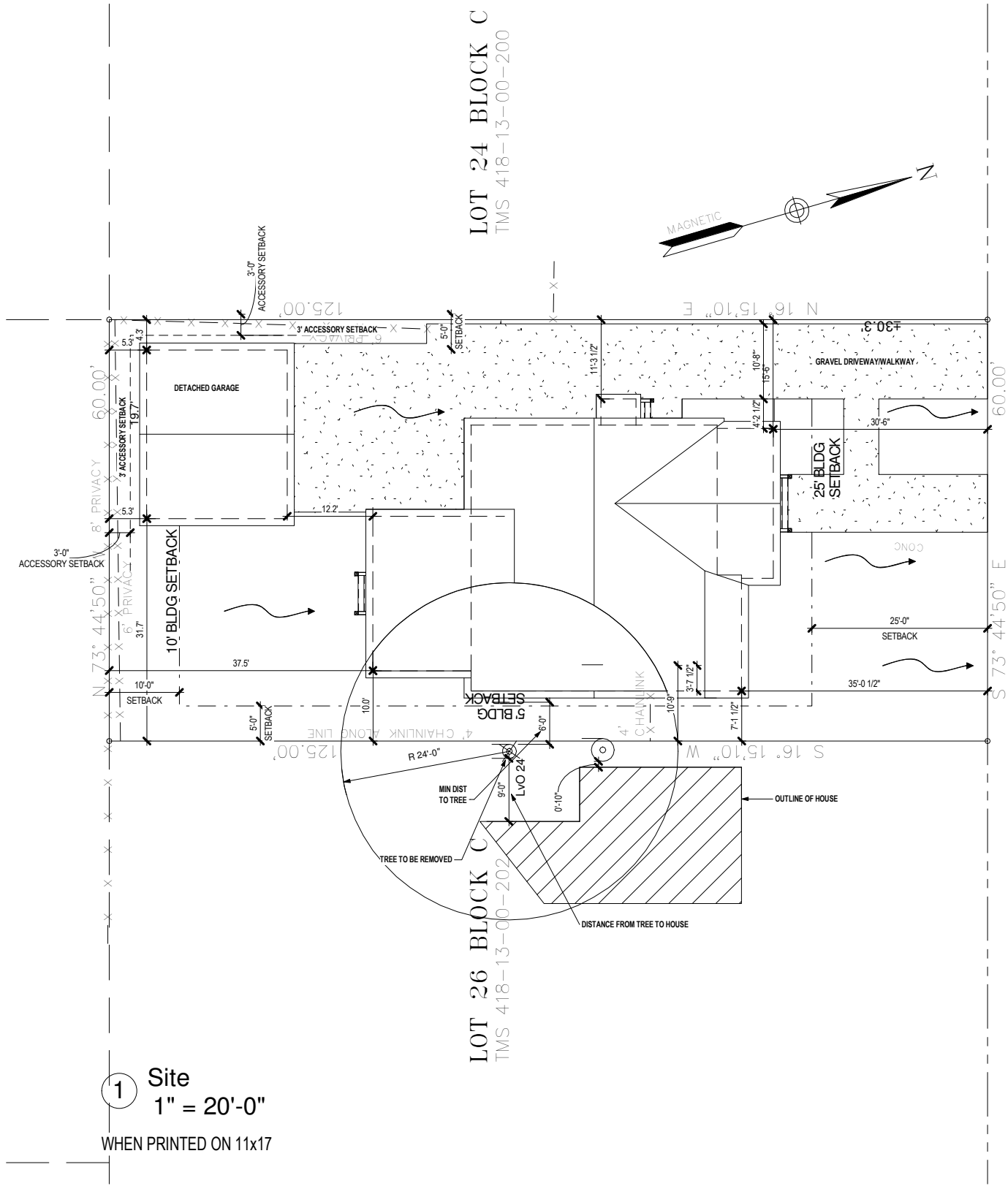
No. The tree was in existence when we purchased the home.

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

No. We are not asking for any kind of change other than the removal of tree.

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.

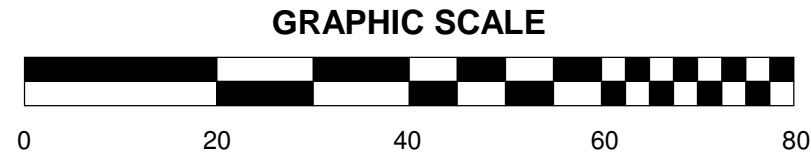




1 Site  
1" = 20'-0"  
WHEN PRINTED ON 11x17

LOLANDRA AVENUE (40' R/W)

LOT MAX	7,500 SQ FT 35%
HOUSE & PORCHES GARAGE	1,894 SQ FT 480 SQ FT
TOTAL	2,374 SQ FT 32%



REVISION DATE: 3/20/2024 2:24:02 PM

Sheet Name  
**Site**

Project Name & Address  
**Powers**  
22 Lolandra Ave  
Charleston, SC

Project # CC2234	Sheet <b>6.10</b>
Date 4/5/22	
Scale REFER TO GRAPHIC SCALE	

Copyright: Crosby Creations Drafting & Design Services LLC  
Designed By:

**Crosby Creations**  
Drafting & Design Services, LLC  
Jodi Crosby 843.514.7354  
4770 Hwy 165 Suite D Meggett, SC 29449  
www.crosby-creations.com jrosby@crosby-creations.com

Designed Exclusively for:

**Powers**



JODI CROSBY  
843.514.7354  
4770 HWY 165, SUITE D  
MEGGETT, SC 29449  
jrosby@crosby-creations.com  
CROSBY-CREATIONS.COM



Carolina Terrace Oct 2, 1930 at 11:48 a.m. 181.22

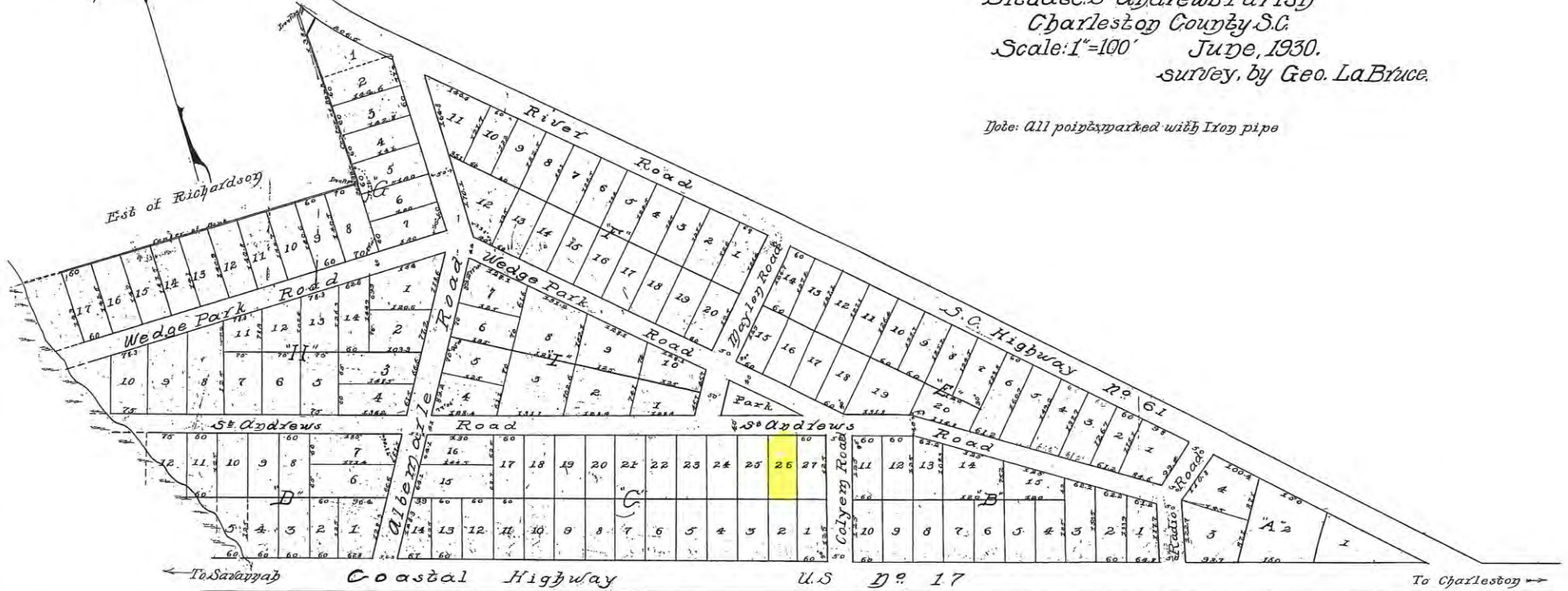
PLAN FILE 1  
DRAWER 9  
FOLDER 3  
DRAWING No. 22

R.M.C. Office, Charleston County S.C.  
Recorded Oct 2, 1930 at 11:48 a.m.  
Plat Book E page 117 This plat placed  
in records for Carolina Terrace  
Julius E. Cogwell R.M.C. Surveyor

# CAROLINA TERRACE

Situate: S<sup>th</sup> Andrews Parish  
Charleston County S.C.  
Scale: 1"=100' June, 1930.  
Survey, by Geo. LaBrice.

Note: All points marked with Iron pipe



Planned & Graded by *Geo. LaBrice*