



**Case # BZA-04-25-00857**  
**Charleston County BZA Meeting of June 2, 2025**

**Appellant:** LaDon Paige c/o Jessica Monsell, Esq. of the Keibler Law Group LLC

**Property Location:** 1184 Bees Ferry Road, Unit 103 – St. Andrews Area

**TMS#:** 301-00-00-809

**Zoning District:** Hunt Club Planned Development (PD-73E)  
Zoning District

**Parties in Interest:** Ross Appel, Esq. of McCullough Khan Appel  
representing the property owner of TMS # 301-00-00-809 (Hunt Club Medical LLC)

**Appeal of an Administrative Decision:**

*“Whether the [Charleston County Zoning and Planning Department and/or its Director] decision to grant the Permit [ZONE-03-25-22114 for the interior upfit for “Chillaxe Vaper”] was an abuse of discretion and contrary to the lawful commercial use restrictions of PD-73E.”*

**Requirement:**

*The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 3 Development Review Procedures, Article 3.13 Appeals of Zoning-Related Administrative Decisions, Sec. 3.13.8 Approval Criteria; Findings of Fact states, “An appeal shall be sustained only if the Board of Zoning Appeals finds that the administrative official erred. The decision of the Board of Zoning Appeals shall be accompanied by specific, written findings of fact and conclusions of law clearly stating the reason for the decision. Those written findings shall be delivered to Parties in Interest by certified mail, published once in a newspaper of general circulation in the county, and permanently filed in the Zoning and Planning Department.”*

The Hunt Club Planned Development (PD-73E) guidelines apply to this property.



## CHAPTER 3 | DEVELOPMENT REVIEW PROCEDURES

### ARTICLE 3.13 APPEALS OF ZONING-RELATED ADMINISTRATIVE DECISIONS

#### Sec. 3.13.1 Authority

The Board of Zoning Appeals shall be authorized to hear and decide appeals only on zoning-related matters where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the administration of any of the zoning-related regulations of this Ordinance. The Board of Zoning Appeals shall have no authority to hear or decide appeals from Administrative Decisions made pursuant to [CHAPTER 8, Subdivision Regulations](#), or from enforcement-related decisions and actions made pursuant to [CHAPTER 11, Violations, Penalties, and Enforcement](#), of this Ordinance.

#### Sec. 3.13.2 Right to Appeal

Appeals of Administrative Decisions on zoning-related matters may be filed by any officer, board, or bureau of the County, or by any Person with a substantial interest in a decision of an administrative official.

#### Sec. 3.13.3 Application Filing; Timing

Applications for Appeals of Administrative Decisions on zoning-related matters shall be submitted to the Zoning and Planning Director on forms available in the Zoning and Planning Department. Appeals of Administrative Decisions shall be filed within 30 calendar days from the date of the Administrative Decision.

#### Sec. 3.13.4 Effect of Filing

Upon filing a Complete Application for an appeal of an Administrative Decision on a zoning-related matter, any permits, decisions, or determinations that are the subject of the appeal shall be temporarily suspended. Any work or performance of any activity that has been undertaken pursuant to an appealed permit, decision or determination, shall be subject to [CHAPTER 11, Violations, Penalties, and Enforcement](#), of this Ordinance.

After a Complete Application for an appeal has been filed, an appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Appeals, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings may not be stayed other than by a restraining order which may be granted by a court of record, with notice to the officer from whom the appeal is taken, and with due cause shown.

#### Sec. 3.13.5 Record of Administrative Decision

The official whose decision is being appealed shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed is taken.

#### Sec. 3.13.6 Public Hearing Notice

Newspaper and Parties in Interest Notice of the Board of Zoning Appeals' public hearing shall be provided in accordance with the requirements of [Sec. 3.1.6, Notices](#), of this Chapter. Neighbor and Posted Notice of the Board of Zoning Appeals Public Hearing shall be provided in accordance with the requirements of [Section 3.1.6, Notices](#), if applicable.

#### Sec. 3.13.7 Board of Zoning Appeals Review and Action

- A. The Board of Zoning Appeals shall hold at least one public hearing on the appeal, and within a reasonable time following the close of the public hearing, take final action based on the procedures and requirements of this Section.



- B. In exercising the appeal power, the Board of Zoning Appeals shall have all the powers of the official from whom the appeal is taken, and the Board of Zoning Appeals may reverse or affirm, wholly or in part, or may modify the decision being appealed.
- C. If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct issuance of a permit. The Board of Zoning Appeals in execution of the duties specified in this Chapter may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction. The Board of Zoning Appeals may defer action for a period of time not to exceed 90 days from the date of deferral.
- D. A quorum of the Board of Zoning Appeals shall be achieved when the number of members in attendance equals more than one-half of the total membership of the Board of Zoning Appeals. At least two-thirds of the members present and voting shall be required to reverse any order, requirement, decision, or determination of any administrative officer or agency.

### **Sec. 3.13.8 Approval Criteria; Findings Of Fact**

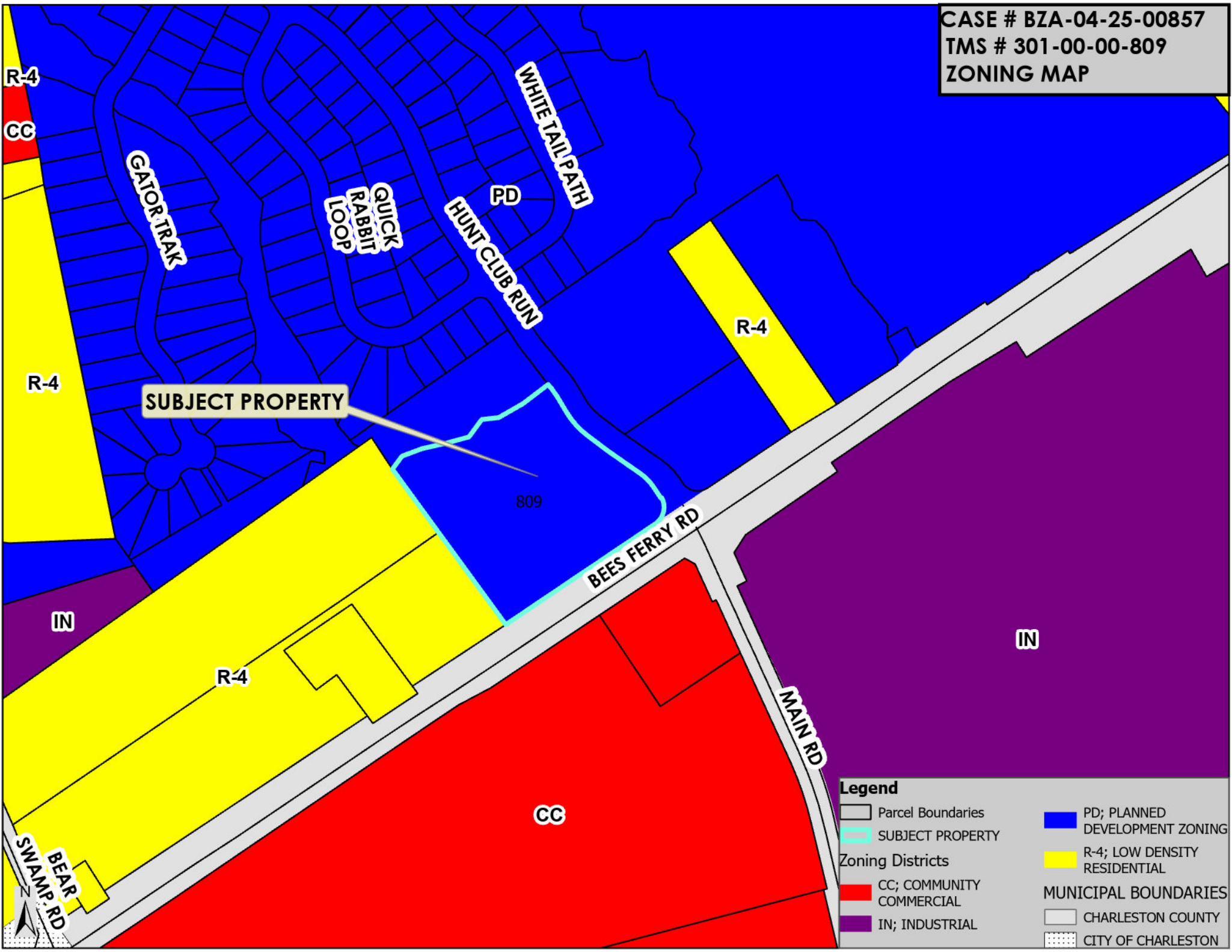
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An appeal shall be sustained only if the Board of Zoning Appeals finds that the administrative official erred. The decision of the Board of Zoning Appeals shall be accompanied by specific, written findings of fact and conclusions of law clearly stating the reason for the decision. Those written findings shall be delivered to Parties in Interest by certified mail, published once in a newspaper of general circulation in the county, and permanently filed in the Zoning and Planning Department.

### **Sec. 3.13.9 Appeals**

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Any Person with a substantial interest in a decision of the Board of Zoning Appeals or any officer, board, or bureau of the County may appeal a final decision of the Board of Zoning Appeals to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.



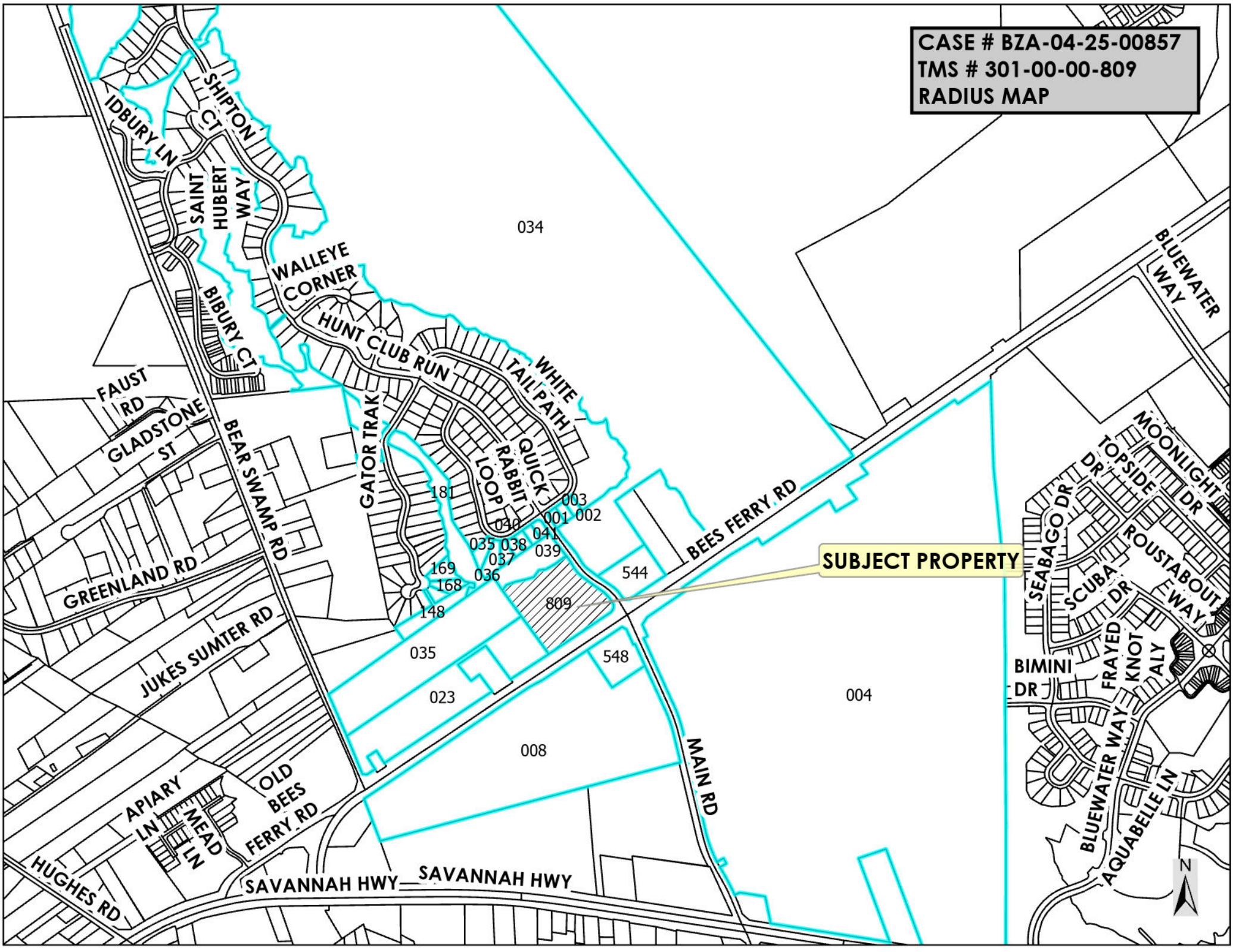
**Legend**

Parcel Boundaries	PD; PLANNED DEVELOPMENT ZONING
SUBJECT PROPERTY	R-4; LOW DENSITY RESIDENTIAL
CC; COMMUNITY COMMERCIAL	CHARLESTON COUNTY
IN; INDUSTRIAL	CITY OF CHARLESTON

**MUNICIPAL BOUNDARIES**



CASE # BZA-04-25-00857  
TMS # 301-00-00-809  
RADIUS MAP





CASE # BZA-04-25-00857  
TMS # 301-00-00-809  
AERIAL MAP

HUNT CLUB RUN

SUBJECT PROPERTY

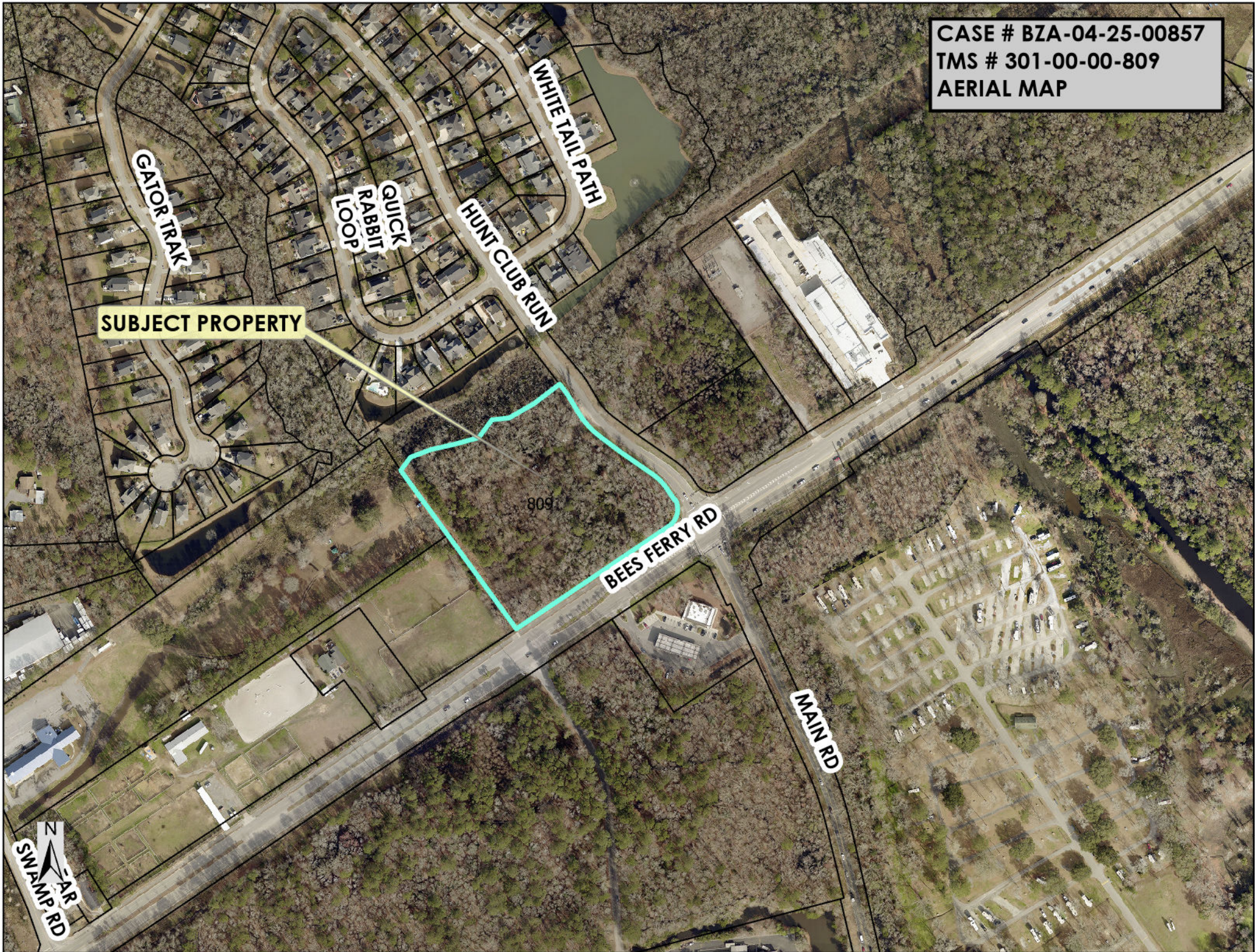
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BEE'S FERRY RD





CASE # BZA-04-25-00857  
TMS # 301-00-00-809  
AERIAL MAP



SUBJECT PROPERTY

809

BEE'S FERRY RD

MAIN RD

N  
SWAMP RD



**Case # BZA-04-25-00857**

**BZA Meeting of June 2, 2025**

**Subject Property: 1184 Bees Ferry Road, Unit 103 – St. Andrews Area**

**Appeal of an Administrative Decision:** *“Whether the [Charleston County Zoning and Planning Department and/or its Director] decision to grant the Permit [ZONE-03-25-22114 for the interior upfit for “Chillaxe Vaper”] was an abuse of discretion and contrary to the lawful commercial use restrictions of PD-73E.”*





# Subject Property





# Surrounding Businesses



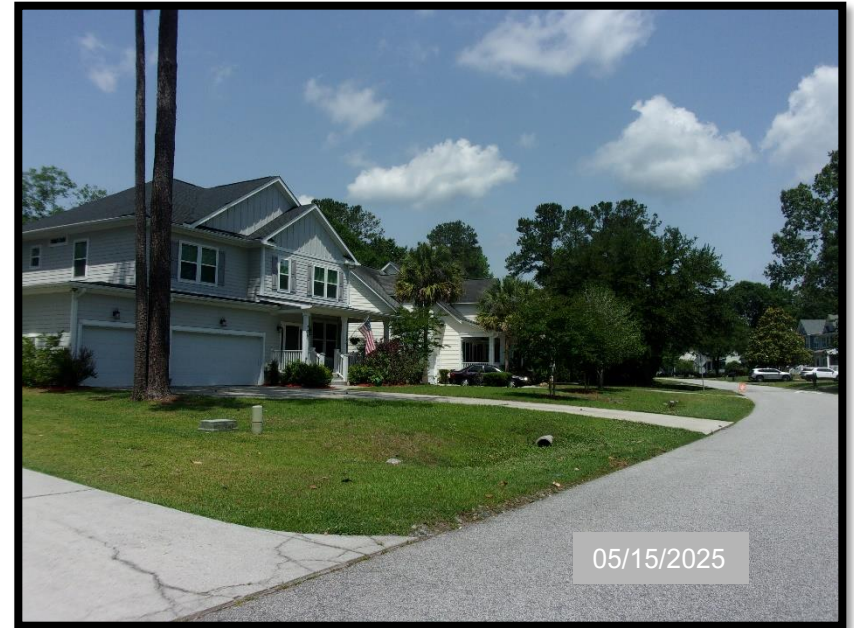
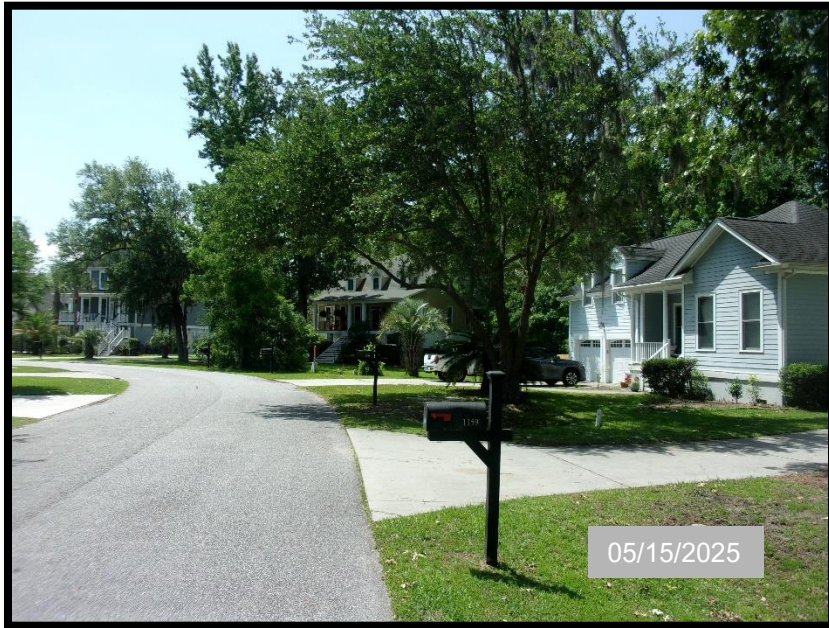


# Surrounding Businesses





# Hunt Club





**Appeal of an Administrative Decision**

**Case # BZA-04-25-00857**

**1184 Bees Ferry Road, Unit 103, St. Andrews Area**

**TMS # 301-00-00-809**

**Appellant: LaDon Paige c/o Jessica Monsell, Esq.**

**Appeal of an Administrative Decision:** *"...to grant a permit concerning 1184 Bees Ferry Road, Unit 103, for the interior upfit for "Chillaxe Vapor" (the "Permit")..."*

**Reason(s) Appellant believed the decision to be in error:** *"Whether the [Charleston County Zoning and Planning Department and/or its Director] decision to grant the Permit [ZONE-03-25-22114 for interior upfit for "Chillaxe Vapor"] was an abuse of discretion and contrary to the lawful commercial use restrictions of PD-73E."*

**Appellant contends that the correct interpretation of the *Charleston County Zoning and Land Development Regulations Ordinance* as applied to the property is:** *"Upon information and belief, in the first quarter of 2025, the Department correctly denied an application for the Permit on the grounds that the applicant for the subject commercial property is a seller of tobacco products, which is a nonconforming use for commercial property within PD-73E. Upon information and belief, in March 2025, the Permit was subsequently granted based on an interpretation of the meaning of the word "tobacconist" taken from Webster's Dictionary."*

**Appellant requests the following relief:** *"For the forgoing reasons, Appellant LaDon Paige respectfully requests that the decision to grant the Permit to allow a prohibited commercial activity in PD-73E be reversed."*

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**Chronology Summary and List of Exhibits for Appeal Case # BZA-04-25-00857**

- **September 28, 2021:** County Council approved amendments to Hunt Club Planned Development PD-73E with conditions specific to the allowed land uses on the portion of TMS# 301-00-00-034 that is designated for commercial use, where it is clarified that they *"are no longer requesting Repair and Maintenance Services (Vehicle Service, Limited, including Automotive Oil Change or Lubrication Ships, or Car Washes); Tobacconists; Hotel or Motels, and Retail Liquor Stores be included in the list of allowed uses. In addition, we are asking that Gas Stations and Convenience Stores be deleted as an allowed use, and, in conjunction with that request, the request to amend the provisions specific to Service Station/Gas Stations is withdrawn (canopy location and buffer requirements)." (see Exhibit 1).* The above uses had been requested, among others, in the application for amendment but were further modified in coordination with the community during the Planning Commission and Council adoption process and therefore agreed upon to be removed as conditions of approval (**see Exhibit 2**). "Retail Sales" has been an allowed use on the commercial portion of TMS# 301-00-00-034 since the adoption of the Hunt Club Planned Development in 1999.



- **October 26, 2021:** County Council approved extensive amendments throughout the Zoning & Land Development Regulations Ordinance, including consolidation of redundant and/or unnecessary land uses listed in the Land Use Table (6.1-1). In this consolidation, the specific land use “Tobacconist”, among others, were removed from the Land Use Table and considered under the general use of “Retail Sales”. This consolidation leaves only those “Retail Sales” uses that are subject to Conditions or Special Exception procedures to remain individually in the Land Use Table while all other “Retail Sales” uses are regulated in the same manner.
- **November 13, 2024:** Zoning Permit ZONE-11-24-21013 was issued to Monther Almadhrah “540 Tobacco and Vape” for:

“UPFIT OF SUITE 1043 [sic] "540 TOBACCO AND VAPE". A RETAIL ESTABLISHMENT ONLY. HOURS OF OPERATION 9AM-9 PM 7 DAYS A WEEK WITH ONE EMPLOYEE. AFTER UPFIT WORK IS COMPLETED. SEND COPY OF C.O. TO Z/P TO ESTABLISH THE BUSINESS. BUSINESS LICENSE REQUIRED. ANY NEW SIGNAGE WILL REQUIRE SEPARATE ZONING REVIEW AND APPROVAL.” **(See Exhibit 3)**

- **January 2025:** The Appellant contacted County Staff objecting to the issuance of the original Zoning Permit (ZONE-11-24-21013, for a “tobacco and vapes shop”) stating that PD-73E prohibits the use of “Tobacconist”. Staff notified the property management group of the potential conflict with the PD-73E guidelines. The property management group provided documentation supporting their claim that “vape shops” are not considered “tobacconists” and County staff put a hold on the permit until a determination could be made.
- **January 31, 2025:** County staff received a letter from attorney Ross Appel of McCullough, Khan, Appel, on behalf of the property owner Hunt Club Medical, LLC, “RE: Hunt Club Planned Development Appeal of Zoning-Related Administrative Decision.” **(see Exhibit 4).**
- **January – March 2025:** Appellant sent County staff several emails containing information collected from various sources, such as state law, ordinances from other jurisdictions’ regulating vape shops, CDC information, etc. During this time, County staff were also in contact with and received correspondence from attorney Ross Appel of a similar nature.
- **February 21 and March 7, 2025:** A revised Letter of Intent for “Chillaxe Vapor” along with a letter from attorney Ross Appel “RE: Legal Support for Letter of Intent Submitted on February 21, 2025” were received by County staff **(see Exhibits 5 and 6).**
- **March 21, 2025:** The Appellant submitted two FOIA requests; FOIA-2025-00289 requesting a copy of Zoning Permit ZONE-11-24-21013, and FOIA-2025-00292 requesting documentation concerning ZONE-11-24-21013, the letter County staff received from attorney Ross Appel, correspondence between the Applicant(s), their representative(s), and County staff regarding the original Zoning Permit and the revised Letter of Intent related to the new Zoning Permit ZONE-03-25-22114 **(see Exhibit 7).**



**March 24, 2025:** Zoning Permit ZONE-11-24-21013 was subsequently revoked due to issuance of the new permit, ZONE-03-25-22114.

Zoning Permit ZONE-03-25-22114 was issued to Saddam Adlailam for “Chillaxe Vapor”:

“FOR INTERIOR UPFIT ONLY FOR "CHILLAXE VAPOR"; RETAIL SALES WILL INCLUDED VAPE JUICES, VAPE DISPOSABLES, VAPE PODS, VAPE CBD, VAPE DEVICES SUCH AS VARIOUS CARTRIDGES, CBD GUMMIES, INCIDENTAL POINT OF SALE OFFERING SNACKS, NON-ALCOHOLIC DRINKS, CANDY, STICKERS, MAGNETS AND T-SHIRTS. NO TOBACCO PRODUCTS WILL BE SOLD. NO SMOKING OF ANY KIND WILL BE ALLOWED ON THE PREMISES. APPLICANT MUST OBTAIN ZONING PERMIT TO ESTABLISH BUSINESS FOLLOWING ISSUE OF CERTIFICATE OF OCCUPANCY FROM BIS AND PRIOR TO OPERATIONS. NO WINDOW SIGNS OR DISPLAYS ARE ALLOWED. WALL SIGNAGE REQUIRES SEPARATE REVIEW/PERMIT. BUILDING SERVICES PERMIT IS REQUIRED.” **(See Exhibit 8)**

- **March 25, 2025:** Response to FOIA-2025-00289 provided to LaDon Paige **(See Exhibit 7)**.
- **April 1, 2025:** Application for Appeal of Administrative Decision received by County staff, submitted by Jessica Monsell, Esq. of Keibler Law Group, LLC, on behalf of LaDon Paige **(See Exhibit 9)**.
- **April 8, 2025:** Staff processed the appeal application and scheduled the appeal to be heard at the June 2 BZA public hearing.
- **April 14, 2025:** The Property Owner’s attorney, Ross Appel, was contacted by Staff with notice the Zoning Permit was temporarily suspended due to the Appeal **(see Exhibit 10)**.
- **April 15, 2025:** Response to FOIA-2025-00292 provided to LaDon Paige and attorney Jessica Monsell **(See Exhibit 7)**.
- **April 25, 2025:** Supplemental Argument and attachment submitted on behalf of the Appellant. Letter in Opposition to Administrative Appeal and attachments received from Ross Appel on behalf of the property owner **(See Exhibits 11 and 12)**.

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### Staff Analysis

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Zoning Permit ZONE-03-25-22114 was approved and issued by the Planning Director based on the revised Letter of Intent provided by the Applicant, in which all references to “tobacco” were removed from the proposal.

Since the adoption of the Zoning and Land Development Regulations Ordinance in 2001, all permits issued are worded very specifically to contain either the terminology “tobacco” or “vape” (or any rendition of either term), or, when appropriate, both terms are used. There have been 19 permits issued to establish these types of retail shops in Charleston County using either one or both terms, and businesses are held to the extent of the permit language.

In response to the Appellant’s application “Statement of Case” (**refer to Exhibit 9**), the following responses are provided:

1. **Item II.** The Appellant states, “...*the Department correctly denied an application for the Permit on the grounds that the applicant for the subject commercial property is a seller of tobacco products...*”

**Response:** The original Zoning Permit, ZONE-11-24-21013, was issued on November 13, 2024, and was not “denied” or “revoked” until the new Zoning Permit was issued on March 24, 2025. The new Zoning Permit ZONE-03-25-22114 states “...no tobacco products will be sold. No smoking of any kind will be allowed on the premises...”.

2. **Item II.** The Appellant states, “...*the Permit was subsequently granted based on an interpretation of the meaning of the word “tobacconist” taken from Webster’s Dictionary.*”

**Response:** Article 12.2 *Interpretation* of the ZLDR states: “For the purpose of this Ordinance, certain words and terms used herein are defined as set forth in this Section. If not specifically defined herein, words and terms shall be defined in Merriam-Webster’s Collegiate Dictionary, 11<sup>th</sup> Edition.”

3. **Item II:** The Appellant states, “*However, resorting to a dictionary interpretation for the meaning “tobacconist” is unnecessary because the South Carolina Legislature has defined what constitutes “tobacco products” and a “tobacco retail establishment” within the State S.C. Code Ann. §16-17-501 states...*”

**Response:** SC Code Sec. 16-17-500, also cited as the ‘*Omnibus Tobacco Enforcement Act of 2023*’ (**See Exhibit 13**), is intended to establish regulations and penalties to prevent sales of tobacco and related products to minors, and in this effort, many terms that are often treated separately (i.e. tobacco, vape, e-liquid, e-cigarettes, etc.), are combined here in order to encompass a range of products and types of retail establishments that are prohibited to sell to minors. However, vape products, by definition, do not contain tobacco, but they may or may not contain nicotine; nicotine is derived from tobacco leaves.

Additionally, and more importantly, Section 4 of the Act states: “*Nothing in this act shall be construed to interfere with a political subdivision’s authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting.*”



Therefore, this Section has no bearing on the Charleston County Zoning and Land Development Regulations Ordinance, is not applicable to the way in which Charleston County defines land uses, administers its ordinances, nor restricts its ability to issue permits.

4. **Item III.** The Appellant states, *“The South Carolina Supreme Court has consistently held that when a statute speaks to an issue that is being regulated and applied by an administrative agency, the Court will reject the agency’s interpretation of a regulation if the interpretation is contrary to the plain language of the statute.... When a statute speaks to an issue, a court “cannot construe a statute without regard to its plain meaning and may not resort to a forced interpretation in an attempt to expand or limit the scope of a statute...”*

**Response:** Charleston County’s interpretation of the uses listed in PD-73E has been applied using plain language without resorting to a forced interpretation of tobacconist, vaping, or other smoke-related establishments. Merriam-Webster’s Collegiate Dictionary provides the following definitions:

- *“Tobacconist: A dealer in tobacco especially at retail.”*
- *“Vape: to inhale vapor through the mouth from a usually battery-operated electronic device, such as an electronic cigarette, that heats up and vaporizes a liquid or solid.”*

The final Letter of Intent prohibited tobacco sales and smoking onsite. “Vape shops” are considered “Retail Sales” which is expressly allowed in the guidelines of PD-73E. There is no mention of “vape shop” contained in the PD-73E guidelines. The interpretation provided by the Appellant attempts to force a “vape shop” within a definition of “tobacconist”.

5. **Item IV.** The Appellant states, *“The plain language of PD-73E prohibits certain nonconforming uses, which were the product of discussion and collaboration over many months among the property developers and owners within the Planned Development. These regulations and guidelines were ultimately approved by the Department, on or around September 28, 2021. Among those prohibited uses for the commercial spaces were “tobacconists.”*

The amendments approved by County Council on September 28, 2021, contained conditions of approval, one of which removed “tobacconist” (among other uses) from the list of allowed uses. While “tobacconists” were no longer included on the list of allowed uses, they were also not included on a list of “prohibited uses” as described by the Appellant. In addition, the use “vape shop” was not included anywhere in the PD-73E guidelines; neither allowed nor prohibited, because it is considered “Retail Sales”.

6. **Response to Item V.** The argument the Appellant presents in this section are all in reference to the definitions and regulations provided in the ‘*Omnibus Tobacco Enforcement Act of 2023*’ (**See Exhibit 13**) and are therefore not applicable as determined in Response #3 previously. In addition, the use of Merriam-Webster’s Collegiate Dictionary, to define terms not provided in the Zoning and Land Development Regulations Ordinance, is required of staff by ordinance, as described in number 2 above. Therefore, issuance of the Zoning Permits does not amount to an error in law.
7. **Item VI.** The Appellant states, *“...the Department has resorted to a forced interpretation of the meaning of a commercial use restriction in PD-73E. By granting the Permit, the Department’s decision was arbitrary, capricious, and controlled by an error of law, and the decision should*

*be reversed...An abuse of discretion occurs when a decision is “unsupported by the evidence or controlled by an error of law.”*

**Response:** It is the opinion of the Appellant that the Department provided a forced interpretation of uses allowed and those prohibited in PD-73E, however the Department has shown strict consistency in its application of interpretation of the term “vape shop”, which is a use that fall under “Retail Sales”. Contrary to the Appellant’s statements, the Applicant specifically limited the range of products to be sold excluding any tobacco products and smoking onsite.

**8. Item VII.** *The Appellant states, “Finally, the Department has the authority to prohibit certain commercial activities within a Planned Development. See e.g. Ani Creation, Inc. v. City of Myrtle Beach Bd. Of Zoning Appeals, 440 S.C. 266 (2023) (affirming the constitutionality of a zoning ordinance to prohibit smoke shops and tobacco stores in downtown Myrtle Beach).”*

**Response:** The reference made is out of context and factually untrue (**See Exhibit 14**). The case referenced is concerning the adoption of an overlay zoning district in the historic area of downtown Myrtle Beach prohibiting certain types of retail establishments (vape shops included), bringing issue of takings case(s). It does not refer to any planned developments in place at the time of adoption that were affected by the overlay zoning district.

**9. Item VII.** *The Appellant states, “...The stakeholders who have invested their hard-earned resources to build their homes and businesses within this Planned Development are counting on the Department to: (1) follow the law; (2) enforce the regulations and guidelines of PD-73E; and (3) decline any invitation to disregard the plain language of a statute that speaks directly to this issue when considering permit applications.”*

**Response:** The Department has in fact followed the law and administered the Hunt Club Planned Development from when it was adopted in 1999 to the present, and the Charleston County’s Zoning and Land Development Regulations Ordinance from 2001 to the present. While the Department works diligently to include all stakeholders at the table, it also must administer the Ordinance consistently, which is what has been done in this case.

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### **Conclusion**

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County staff administers the Zoning and Land Development Ordinance fairly and consistently across Charleston County, which includes making decisions that may not be popular or assumptive but are quite literal interpretations of the Ordinance and/or statute of state law at hand. South Carolina legislation expressly stating that application of said statute does not apply to zoning or land regulations will not be considered in the administration of the Ordinance at any time, no matter what the argument may be to prevent or allow an application to move forward.

While in retrospect, it may have been the Appellant and/or the community’s assumption that a “tobacconist” use designation and restriction could cover any and all renditions of a smoke-type retail store, it is not an assumption that County Staff has made in the past. Doing so would be arbitrary and capricious, and reprehensible by law.



## **Summary of Responses to Appellant's Statement of Case:**

### **1. Letter of Intent and Zoning Permit:**

- The final Letter of Intent prohibits tobacco sales and smoking onsite. "Vape shops" are considered "Retail Sales" which is expressly allowed in the guidelines of PD-73E. There is no mention of "vape shop" contained in the PD-73E guidelines. The interpretation provided by the Appellant attempts to force a "vape shop" within a definition of "tobacconist".
- The original Zoning Permit was not "denied" or "revoked" until the new Zoning Permit was issued on March 24, 2025. The new Zoning Permit ZONE-03-25-22114 states "...no tobacco products will be sold. No smoking of any kind will be allowed on the premises..."

### **2. Interpretation:**

- Article 12.2 *Interpretation* of the ZLDR states: "For the purpose of this Ordinance, certain words and terms used herein are defined as set forth in this Section. If not specifically defined herein, words and terms shall be defined in Merriam-Webster's Collegiate Dictionary, 11<sup>th</sup> Edition."
- It is the opinion of the Appellant that the Department provided a forced interpretation of uses allowed and those prohibited in PD-73E, however the Department has shown strict consistency in its application of interpretation of the term "vape shop", which is a use that fall under "Retail Sales". Contrary to the Appellant's statements, the Applicant specifically limited the range of products to be sold excluding any tobacco products and smoking onsite.

### **3. SC Code Sec. 16-17-500 ('Omnibus Tobacco Enforcement Act of 2023'):**

- The Act is intended to establish regulations and penalties to prevent sales of tobacco and related products to minors, and in this effort, many terms that are often treated separately (i.e. tobacco, vape, e-liquid, e-cigarettes, etc.), are combined here in order to encompass a range of products and types of retail establishments that are prohibited to sell to minors. However, vape products, by definition, do not contain tobacco, but they may or may not contain nicotine; nicotine is derived from tobacco leaves.
- Section 4 of the Act states: "*Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting.*" Therefore, this Section has no bearing on the Charleston County Zoning and Land Development Regulations Ordinance, is not applicable to the way in which Charleston County defines land uses, administers its ordinances, nor restricts its ability to issue permits.

### **4. Hunt Club Planned Development PD-73E allowed uses:**

- The amendments to Hunt Club PD-73E approved by County Council on September 28, 2021, contained conditions of approval, one of which removed "tobacconist" (among other uses) from the list of allowed uses. While "tobacconists" were no longer included on the list of allowed uses, they were also not included on a list of "prohibited uses" as described by the Appellant. In addition, the use "vape shop" was not included anywhere in the PD-73E guidelines; neither allowed nor prohibited, because it is considered "Retail Sales".

- Charleston County's interpretation of the uses listed in PD-73E has been applied using plain language without resorting to a forced interpretation of tobacconist, vaping, or other smoke-related establishments. Merriam-Webster's Collegiate Dictionary provides the following definitions:
  - *"Tobacconist: A dealer in tobacco especially at retail."*
  - *"Vape: to inhale vapor through the mouth from a usually battery-operated electronic device, such as an electronic cigarette, that heats up and vaporizes a liquid or solid."*

**5. Claimed "Abuse of discretion" in issuing the zoning permit:**

- Issuance of the Zoning Permits does not amount to an error in law based on all of the facts presented above.
- The Department has in fact followed the law and administered the Hunt Club Planned Development from when it was adopted in 1999 to the present, and the Charleston County's Zoning and Land Development Regulations Ordinance from 2001 to the present. While the Department works diligently to include all stakeholders at the table, it also must administer the Ordinance consistently, which is what has been done in this case.

Therefore, no error was found in issuing the Zoning Permit, based on the requirements of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) and the Hunt Club Planned Development Guidelines, PD-73E. Staff requests that the determination to issue the Zoning Permit (ZONE-03-25-22114) to establish "Chillaxe Vapor" be upheld.