

**AN ORDINANCE
AMENDING THE CHARLESTON COUNTY ZONING AND LAND
DEVELOPMENT REGULATIONS ORDINANCE, NUMBER 1202, AS
AMENDED, CHAPTER 5, OVERLAY AND SPECIAL PURPOSE ZONING
DISTRICTS.**

WHEREAS, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Sections 6-29-310, et seq., 6-29-510 et seq., 6-29-710 et seq. and 6-29-110 et seq., of the Code of Laws of South Carolina, 1976, as amended, authorizes the County of Charleston to enact or amend its zoning and land development regulations to guide development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, and general welfare; and

WHEREAS, the Charleston County Planning Commission has reviewed the proposed text of Section 5.16, JA-MHC-O, James Island Maybank Highway Corridor Overlay Zoning District; Section 8.4.2.A.4.j and Section 8.5.2.B.9, of Article 8; and Section 9.5.4, Table 9.5.4.A.3, of Article 9; and related map amendments of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) in accordance with the procedures established in State law and the ZLDR, and has recommended that the Charleston County Council adopt the proposed text and map amendments of the ZLDR as set forth herein; and

WHEREAS, upon receipt of the recommendation of the Planning Commission, County Council held at least one public hearing and after close of the public hearing, County Council approves the proposed text amendments based on the Approval Criteria of Section 3.3.6 of Article 3.3 of the ZLDR;

WHEREAS, County Council has determined the proposed text and map amendments meet the following criteria:

- A. The proposed amendments correct an error or inconsistency or meet the challenge of a changing condition; and
- B. The proposed amendments are consistent with the adopted Charleston County Comprehensive Plan and goals as stated in Article 1.5; and
- C. The proposed amendments are to further the public welfare in any other regard specified by County Council.

NOW, THEREFORE, be ordained it, by the Charleston County Council in meeting duly assembled, as follows:

SECTION I. FINDINGS INCORPORATED

The above recitals and findings are incorporated herein by reference and made a part of this Ordinance.

SECTION II. TEXT AND MAP AMENDMENTS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE

The Charleston County Zoning and Land Development Regulations Ordinance is hereby amended to include the text and map amendments of Chapter 5, Overlay and Special Purpose Zoning Districts, and related ZLDR amendments, which are attached hereto as Exhibit "A" and made a part of this Ordinance by reference.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately following third reading by the County Council.

ADOPTED and APPROVED in meeting duly assembled this 19th day of November, 2020.

CHARLESTON COUNTY COUNCIL

By: _____
J. Elliott Summey
Chairman of Charleston County Council

ATTEST:

By: _____
Kristen L. Salisbury
Clerk of Charleston County Council

First Reading: October 20, 2020
Second Reading: November 10, 2020
Third Reading: November 19, 2020

EXHIBIT "A"

**ARTICLE 5.16 JA-MHC-O,
JAMES ISLAND MAYBANK HIGHWAY CORRIDOR OVERLAY ZONING DISTRICT**

Sec. 5.16.1 Statement of Findings

The MHC-O, Maybank Highway Corridor Overlay Zoning District, was first established as part of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) when it was adopted on November 20,

2001. The MHC-O only included unincorporated properties along Maybank Highway on Johns Island. In 2006, the MHC-O was amended to implement the recommendations of the 2003 *Charleston County Comprehensive Plan Five-Year Review*, but still only included unincorporated properties along Maybank Highway on Johns Island. In 2015, as part of the adoption of the Comprehensive Plan Five-Year Review, County Council included the priority recommendation to coordinate with the City of Charleston to review the MHC-O District and extend the overlay boundary onto James Island. The JA-MHC-O, James Island Maybank Highway Corridor Overlay Zoning District, implements that recommendation.

The original MHC-O is a primary gateway to Johns Island and acts as one of the main thoroughfares for destinations such as Kiawah Island, Seabrook Island, and Wadmalaw Island. The JA-MHC-O, James Island Maybank Highway Corridor Overlay Zoning District, is a separate overlay zoning district with a boundary that includes the Maybank Highway segment on James Island, where the corridor traverses a municipal golf course, large-scale mixed use developments, and popular local shopping and entertainment destinations. Maybank Highway on James Island carries a high volume of vehicular traffic each day. Moreover, some of the properties in this corridor are located within the jurisdictional limits of the City of Charleston, while some are located within unincorporated Charleston County. The JA-MHC-O was adopted to implement pedestrian and traffic safety measures, address infrastructure deficiencies, improve the visual character of the corridor, and create consistency between Charleston County and the City of Charleston regarding zoning land development regulations.

Sec. 5.16.2 Purpose and Intent

The purpose of the JA-MHC-O is to create a corridor that is well-planned, attractive, and preserves and improves existing development patterns where appropriate through the implementation of traffic safety measures and land use and design standards. It is also intended to ensure safe and efficient vehicle, pedestrian, and bicycle movement through pedestrian and traffic safety measures and access management standards, and to address stormwater runoff, drainage, and flooding issues along the corridor.

A separate regional planning effort involving numerous public and private stakeholders was conducted concurrent with the preparation of this JA-MHC-O. This planning effort, named *Dutch Dialogues Charleston*, culminated in a final report released in September 2019. The report addresses “long-term planning to manage the risks and the opportunities provided by the Lowcountry’s dynamic water systems.” It should be noted that implementation of recommendations included in the *Dutch Dialogues Charleston Final Report* may result in future amendments to the JA-MHC-O.

Sec. 5.16.3 Applicability of the Overlay Zoning District

- A. **Standards.** The standards of this Article shall apply to all development of unincorporated properties within the JA-MHC-O, as shown on the map titled “James Island Maybank Highway Corridor Overlay Zoning District,” except Single-Family Detached Dwellings. In case of conflict between the regulations of this Article and other regulations in this Ordinance, the regulations of this Article shall control.
- B. **Variations.** The following requirements are ineligible for Zoning Variations in addition to those listed in Sec. 3.10.1, Applicability; Limitations, of this Ordinance:
 - a. Sec. 5.16.6.B, Vehicle Access;
 - b. Sec. 5.16.6.D, Pedestrian Access and Sidewalks; and
 - c. Sec. 5.16.6.E, Right-of-Way Buffer Requirements.

Sec. 5.16.4 COORDINATION WITH ADJACENT JURISDICTIONS

A letter of coordination from the City of Charleston shall be required as part of all land development applications in the JA-MHC-O with the exception of applications for Single-Family Detached Dwellings. The purpose of this coordination is to ensure that development is consistent with similar requirements adopted for the JA-MHC-O by the City of Charleston.

Sec. 5.16.5 USES

- A. *Permitted Uses.* Permitted uses shall include those uses allowed in the applicable Zoning District as shown on the Overlay Zoning District map titled “James Island Maybank Highway Corridor Overlay Zoning District,” and as described in Table 6.1.1, Use Table, with the exceptions described in this Section.

- B. *Prohibited Uses.* The following uses shall be prohibited on all parcels included in the JA-MHC-O: Vehicle Sales (new or used), Vehicle Rental and Leasing Service, including associated vehicle storage areas; Manufactured Home Dealers; Indoor/Outdoor Shooting Range; Pawn Shop; Convenience Store; Warehouse Club or Superstore; Billboard; Sexually Oriented Business; Restaurant, Fast Food; Restaurant with drive-through lanes/windows; Vehicle Storage; Towing Facility; Impound Yard; Car Wash; Truck Stop; Short-term Lender; Self-Service Storage; and Service Station, Gasoline containing more than four fuel dispensing stations.
- C. *New or Unlisted Uses and Interpretation.* The Zoning and Planning Director shall be authorized to make use determinations whenever there is a question regarding the category of use based on the definitions contained in Chapter 12, Definitions, of this Ordinance.
- D. *Nonconforming Uses.* The requirements of Article 10.2, Nonconforming Uses, of this Ordinance apply to all development subject to the JA-MHC-O, provided, however, that the following requirements shall apply in place of those contained in Sec. 10.2.4, Loss of Legal Nonconformity Status, subsection A:
 - a. *Abandonment.* If a Nonconforming Use is replaced with another use or is discontinued for any reason for a period of more than 36 consecutive months, the use shall be considered abandoned. Once abandoned, the legal nonconforming status of the use shall be lost and re-establishment of a Nonconforming Use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the JA-MHC-O.
- E. *Accessory Uses.* Accessory Uses shall be allowed pursuant to Art. 6.5, Accessory Uses, of this Ordinance.

Sec. 5.16.6 DEVELOPMENT STANDARDS AND REQUIREMENTS

A. Residential Density

- 1. *Maximum Residential Density.* The Density/Intensity and Dimensional Standards listed in Table 5.16-2 of this Article shall apply to all properties in the JA-MHC-O.
- 2. *Calculation of Residential Density.* Residential density shall be calculated by dividing the number of Lots on a site by the net area (in acres) of highland of the site on which the Lots are located. Net highland acres includes all acreage that is not below the Office of Coastal Resource Management Critical Line or identified as freshwater wetlands. Site Plan Review and Subdivision applications shall include all freshwater wetland metes and bounds, and total freshwater wetland acreage based on a United States Army Corps of Engineers (USACE) Approved Jurisdiction Determination (AJD). Accessory Dwelling Units (ADUs) are not included in the calculation of residential density.

B. Vehicle Access. All Site Plan Review and Subdivision applications shall include access management plans demonstrating compliance with the driveway separation requirements described below:

- 1. *Driveway Separation.* For driveways directly accessing Maybank Highway, driveway separation shall be a minimum distance of 150 feet from the intersection of the right-of-way lines to the closest edge of driveways. Where the driveway separation is less than 150 feet the proposed driveway shall be designed as a right-in, right-out (RIRO) driveway and conform to the SCDOT standards for a Typical Right-in Right-out Driveway Design.
- 2. *Driveway Width.* Vehicular access from Maybank Highway and side (secondary) streets to properties shall be confined to access drives not exceeding 30 feet in width at the street line. Driveways which include a median strip to separate traffic flow in opposite directions shall not exceed 60 feet in width at the street line.
- 3. *Distance between Driveways.* The distance between the proposed driveway and an existing adjacent driveway shall be the greatest distance feasible.
- 4. *Limitation to Number of Driveways.* For parcels with a right-of-way frontage equal to or less than 150 feet in length, the development is limited to one driveway; for parcels with a frontage greater than 150

feet and less than 300 feet in length, the development is limited to two driveways; for parcels with a frontage equal to or greater than 300 feet, the development may have up to three driveways.

5. *Corner Lots.* Notwithstanding the above stated requirements, access drives on corner lots shall be located only on the side (secondary) street and such driveways shall be a minimum distance of 50 feet from the street intersection as measured from the edge of the intersecting roadway to the beginning of the driveway radius. However, the Zoning and Planning Director may require the access to be located on the primary street to avoid undue interference with, or hazard to, traffic on the roadways.
6. *Shared Access Requirements.* Shared access is encouraged between adjoining parcels. Driveways for all uses except Single-Family Detached Dwellings shall be located in a manner where they can be shared between adjacent parcels as described below:
 - a. The applicant must request a shared access with the adjacent property if the adjacent property does not contain a Single-Family Detached Dwelling.
 - b. Shared access should be located along a common property boundary, if feasible.
 - c. If the owner of the adjacent parcel does not agree to share access, the applicant shall provide one of the following to the Zoning and Planning Department:
 - i. A letter from the adjacent property owner denying access; or
 - ii. If the adjacent property owner refuses to provide a letter, an affidavit that documents attempts that the applicant made to request shared access and that the neighboring property owner refused to provide a letter. If this subsection applies, a new curb cut is permitted on the subject parcel only with a recorded agreement that the property owner will allow adjacent properties to share access when developed and/or redeveloped.
 - d. Shared access agreements shall be recorded with the Register of Deeds (ROD) Office.
 - e. Each parcel involved in a shared access shall be allowed an increase in building cover up to a maximum of 40 percent of the Lot.
7. *Transportation Coordination.* Prior to the issuance of a Certificate of Occupancy, the applicant must show conformance with all requirements included in Letters of Coordination from the South Carolina Department of Transportation (SCDOT), Charleston County Public Works Department, and the Charleston Area Regional Transportation Authority (CARTA).

C. Traffic Impact Analysis

All development applications requiring Site Plan Review shall be subject to the requirements of Article 9.9, Traffic Impact Studies.

D. Pedestrian Access and Sidewalks

1. *On-Site Pedestrian Access.* On-site pedestrian access shall comply with the requirements of this Ordinance and shall be included in site design illustrating access linkage to existing sidewalks, adjacent parcels, and within the development area. At-grade and grade-separated pedestrian walkways shall provide direct connections from the street to the main entrance and to abutting properties. Pedestrian walkways shall be designed and located in a manner that does not require pedestrians to walk through parking lots or within driveways.
2. *Maybank Highway Sidewalk Requirements.* When properties are developed or redeveloped in accordance with Sec. 3.7.1 of this Ordinance, a 10-foot sidewalk shall be constructed in accordance with the right-of-way buffer requirements of this Article. If the appropriate authority denies a request to construct a sidewalk in the public right-of-way, if the required sidewalk will not fit within the existing right-of-way, or if the location of a sidewalk within the public right-of-way would threaten the health of a Grand Tree or is compromised by the location of utilities or other necessary infrastructure, sidewalks shall be placed on private property and the property owner shall record an easement for the safe movement of pedestrians and the maintenance of the sidewalk.

The following shall apply:

 - a) Ten-foot sidewalks located as shown in Figure 1 shall extend the length of the entire Maybank Highway frontage;
 - b) The property owner shall obtain and submit all required encroachment permits as part of the Site Plan Review application;

- c) The property owner shall provide written documentation from the City of Charleston that the City will maintain the sidewalk(s) upon approval of Certificate(s) of Occupancy. This requirement is applicable regardless of whether the sidewalk is located in a right-of-way or within an easement. Such documentation shall be submitted as part of the Site Plan Review application;
 - d) When sidewalk is located on private property to meet this standard, the property owner shall record an easement for the safe movement of pedestrians and the maintenance of the sidewalk; and
 - e) Sidewalks shall be installed and inspected prior to issuance of Certificate(s) of Occupancy.
3. *All Other Roads.* Sidewalk requirements for all roads in the Overlay Zoning District other than Maybank Highway shall comply with the sidewalk and pedestrian access requirements contained in this Ordinance.

E. Right-of-Way Buffer Requirements

1. *Maybank Highway Right-of-Way Buffer.*
- a. *Buffer Requirement.* For properties with frontage on Maybank Highway, the right-of-way buffer shown in Figure 1 shall be required when such properties are developed or redeveloped in accordance with Sec. 3.7.1 of this Ordinance.
 - b. *Buffer Description.* The Maybank Highway right-of-way buffer shall be a minimum of 15 feet in depth, and include the following:
 - i. A five-foot planting strip including:
 - a) Two canopy trees or three understory trees per 100 linear feet compliant with the minimum standards of Section 9.5.6, Landscape Material Standards; and
 - b) Street lights subject to the following requirements:
 - 1) Street lights shall be provided as shown in Figure 1 at locations to be determined by the Zoning and Planning Director, provided, however, that property owners shall only be responsible for the street lights located in front of their properties;
 - 2) All required encroachment permits from the SC Department of Transportation shall be included as part of the Site Plan Review application;
 - 3) Property owners/applicants shall provide written documentation stating that they shall be responsible for bearing the costs of the conduit(s) for the required street light(s) and coordinating with Dominion Energy to erect the lights prior to the issuance of Certificate(s) of Occupancy;
 - 4) Street lights shall have octagonal heads as defined by the Dominion Energy's light palette and shall be placed on seventeen-foot tall fluted poles. Should these designs/light types no longer be in existence at the time of land development application, the Zoning and Planning Director shall determine the appropriate pedestrian scale fixture to be used;
 - 5) Street lights shall be installed prior to issuance of Certificate(s) of Occupancy; and

- 6) The property owner shall provide written documentation that the development/redevelopment will comply with the above-stated requirements. Such documentation shall be submitted as part of the Site Plan Review application.
- ii. A 10-foot sidewalk shall be installed subject to the requirements of Sec. 5.16.5.D.2, Sidewalk Requirements.

2. *Other Right-of-way Buffer and Sidewalk Requirements.* Right-of-way buffer and sidewalk requirements for all roads in the Overlay Zoning District other than Maybank Highway shall comply with Chapter 9 of this Ordinance.

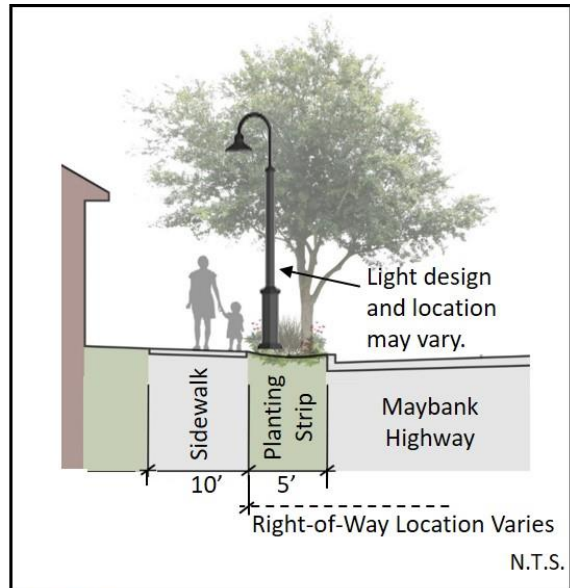


FIGURE 1
RIGHT-OF-WAY BUFFER, MAYBANK HIGHWAY

F. Signs

All signage must comply with the requirements of this Section in addition to the applicable requirements of Art. 9.11, Signs, of this Ordinance.

1. Free-standing Signs.

- a. All new freestanding signs must be designed as monument signs.
 - i. Signs shall have a maximum height of 8 feet and a maximum size of 40 square feet.
 - ii. Shared free standing signs shall be allowed with a maximum height of 10 feet and a maximum size of 60 square feet.
- b. All sign illumination:
 - i. Illuminated signs located adjacent to any residential area shall be controlled so as not to create excessive glare to properties within adjacent residential areas.
 - ii. Electronic Copy Readerboard signs and Billboards are prohibited.
 - iii. No illumination that simulates traffic control devices or emergency vehicles shall be used.
 - iv. All illumination must be from a steady, stationary light source.
 - v. Internal illumination:
 - a) Internally illuminated signs must be constructed of routed aluminum or similar opaque material so that only letters, numbers, and/or logos are illuminated.
 - b) Signs shall not have light reflecting backgrounds or letters.
 - c) Only matte finishes shall be used.
 - vi. External illumination:
 - a) Illumination shall be from a steady stationary light source, shielded and directed solely at the sign.
 - b) Light sources to illuminate signs shall be shielded as to not cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties.
 - c) The intensity of light shall not exceed twenty (20) footcandles at any point on the sign face.
 - d) The color of the light sources to illuminate signs shall be white.
 - e) Signs shall not have light-reflecting backgrounds or letters.

c. Nonconforming Signs

- i. All signs made nonconforming by the adoption of this Article on November 19, 2020 pursuant to Art. 10.5, Nonconforming Signs, of this Ordinance, must come into compliance with the requirements of this Article prior to the issuance of a Zoning Permit for: (1) a new business on the property; and/or (2) all changes other than re-facing and/or the required addition of pole covers as described in subsection ii below.
- ii. A Nonconforming Sign may be re-faced without complying with the sign requirements of this Article provided a pole cover is added to the existing poles in compliance with the following requirements:

- a) The pole cover shall be at least one-third the width of the sign cabinet; and
 - b) The pole cover shall be at least one-third the overall height of the pole sign, provided the pole cover shall not exceed 8 feet in height.
2. Wall Signs.
- a. The maximum size of a wall sign shall be in accordance with Table 9.11.4, Wall/Façade Signs, of this Ordinance.
 - b. In new multi-tenant developments, such as shopping centers and office parks, all tenant signs are to be similar in type, color, font size, font style, and method of illumination.
 - c. New tenant signs in existing multi-tenant developments shall be consistent with the type and method of illumination of existing tenant signs.

G. Density, Intensity and Dimensional Standards.

The following Density/Intensity and Dimensional Standards shall apply to properties in the JA-MHC-O:

Table 5.16-2 Density/Intensity and Dimensional Standards	
MAXIMUM RESIDENTIAL DENSITY	8 Dwelling Units per acre [1]
MINIMUM LOT WIDTH	12 feet
MINIMUM SETBACKS	Equivalent to required buffers
OCRM CRITICAL LINE	50 feet
MAXIMUM BUILDING COVER	30% [2]
MAXIMUM INDIVIDUAL BUILDING FOOTPRINT	7,500 square feet [3]
MAXIMUM BUILDING HEIGHT	35 feet and 2-1/2 stories
<p>[1] Increased densities may be allowed pursuant to the requirements of Article 6.4.19 of this Ordinance.</p> <p>[2] Parcels involved in a shared access agreement are allowed a maximum building cover of 40 percent, per <i>Sec. 5.16.5.B, Vehicle Access</i>.</p> <p>[3] No individual building footprint shall exceed 7,500 square feet unless approved pursuant to the Special Exception procedures of this Ordinance.</p>	

H. Special Stormwater Requirements

Construction activities occurring on properties within the JA-MHC-O may be subject to Special Protection Area stormwater design criteria as described in the most recent edition of the *Charleston County Stormwater Program Permitting Standards and Procedures Manual*.

Related ZLDR Amendments: Chapters 8 and 9

CHAPTER 8 | SUBDIVISION REGULATIONS

ARTICLE 8.4 PRELIMINARY PLAT

§8.4.2.A.4 Application; Requirements

A. Requirements

The following shall be submitted:

- 4. The following information shall be required on each plat:
 - j. United States Army Corps of Engineers Jurisdictional Determination. A United States Army Corps of Engineers (USACE) jurisdictional determination is not required for approval of a subdivision plat application except: (1) as required for the Main Road Corridor Overlay Zoning District, James Island Maybank Highway Corridor Overlay Zoning District, and Johns Island Maybank Highway Overlay Zoning District; and (2) that an Accurate-Approved jurisdictional determination is required for areas located within proposed publicly dedicated rights-of-way and/or easements prior to Preliminary Plat approval. (...)

CHAPTER 8 | SUBDIVISION REGULATIONS

ARTICLE 8.5 FINAL PLATS

§8.5.2.B Application;

B. The Final Plat Shall Show the Following:

9. United States Army Corps of Engineers Jurisdictional Determination. A United States Army Corps of Engineers (USACE) jurisdictional determination is not required for approval of a subdivision plat application except: (1) as required for the Main Road Corridor Overlay Zoning District, James Island Maybank Highway Corridor Overlay Zoning District, and Johns Island Maybank Highway Overlay Zoning District; and (2) that an Accurate-Approved jurisdictional determination is required for areas located within proposed publicly dedicated rights-of-way and/or easements prior to Final Plat approval. (...)

Amend Sec. 9.5.4, Table 9.5.4.A.3, Buffer Types by Roadway, as follows:

Table 9.5.4.A.3, Buffer Types by Roadway			
ROADWAY	BUFFER TYPE	ROADWAY	
Abbapoola Road	S4	Magwood Road	S3
Ashley Hall Road	S1	Main Road (Limehouse <u>Bridge</u> to Maybank Hwy.)	S5
Hwy. 61/Ashley River Road (Saint Andrews Boulevard to Sam Rittenberg Boulevard)	S1	Main Road (Bees Ferry Road to Limehouse <u>Bridge</u>)	S4
Hwy. 61/Ashley River Road (Sam Rittenberg Boulevard to Mark Clark Expressway)	S2	Manse Road	S4
Hwy. 61/Ashley River Road (Church Creek to Muirfield Parkway/MacLaura Hall Ave.) [1]	S5	Mary Ann Point Road	S3
Hwy. 61/Ashley River Road (Muirfield Parkway/ MacLaura Hall Avenue intersection to Charleston County Line)[1]	S6	Mathis Ferry Road [1]	S4
Bears Bluff Road	S5	Maybank Highway Corridor Overlay District [Johns Island]	[2]
Bees Ferry Road	S4	Maybank Highway Corridor Overlay Zoning District [James Island]	[4]
Belvedere Road	S4	Maybank Hwy (Main Road to Rockville)	S5
Betsy Kerrison Parkway [1]	S5	Meeting Street	S1
Bohicket Road [1]	S5	Murraywood Road	S4
Botany Bay Road	S4	Old Georgetown Road	S4

4. Buffer type as described in the James Island Maybank Highway Corridor Overlay District