



## Green Space Advisory Committee

### Chair

MICHAEL McSHANE

### Vice Chair

ALICE HOWARD

### Committee Members

TOM DAVIS

LAUREL RHOTEN

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# Green Space Advisory Committee Agenda

Friday, August 16, 2024, at 2:00 PM

Virtual Only Public Meeting

Link: <https://www.zoomgov.com/j/1614365177?pwd=OY4TNWfYoVawOphXPH88ARwsC4d24x.1>

1. CALL TO ORDER
2. FOIA – PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
3. APPROVAL OF AGENDA

### AGENDA ITEMS

4. FEE SIMPLE APPLICATION: MITCHELVILLE ROAD, HILTON HEAD ISLAND. DISCUSSION OF APPLICATION AND COMPLETED DUE DILIGENCE
5. ADJOURNMENT

## **RESOLUTION 2024/18**

**RECOMMEND COUNCIL APPROVE A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE THE DOCUMENTS NECESSARY AND TO PROVIDE FUNDS TO CONTRIBUTE TO THE PROCUREMENT BY THE APPLICANT OF FEE SIMPLE REAL PROPERTY LOCATED ON HILTON HEAD ISLAND, KNOWN AS THE MITCHELVILLE TRACT (PIN# R510 005 000 0007 0000), NOT TO EXCEED THE FINAL VALUE AS DETERMINED BY A NEW APPRAISAL AFTER THE COMPLETION OF AN UPDATED PLAT, RESOLUTION OF ALL LEGAL ISSUES/CLAIMS, CONTINGENT UPON FULL LEGAL DESCRIPTION, AND SHALL REQUIRE THAT ANY FUNDS RECEIVED FROM GRANTS, PRIVATE, FEDERAL, OR STATE FUNDING BE USED SOLELY TO REIMBURSE THE EXPENDITURE OF THE GREEN SPACE PROGRAM**

**WHEREAS**, the Mitchelville Tract (the “Property”) is one of the last remaining large, undeveloped parcels of land located on Hilton Head Island and abuts an existing town owned park that provides water access and recreation to the general public; and

**WHEREAS**, the Property is located in Historic Mitchelville on the shores of the Port Royal Sound of Hilton Head Island, which has historic and cultural significance; and

**WHEREAS**, the Beaufort County Council recognizes the need to preserve land that provides scenic, natural, environmental, recreational, rural, and open space character which is deemed essential to the County’s economic viability, environmental resilience, and overall quality of life; and

**WHEREAS**, the Beaufort County staff received a Fee Simple Application from the Town of Hilton Head Island requesting 100% funding from the Green Space Program which was presented to the Green Space Advisory Committee at their December 6, 2023, meeting, where the GSAC voted to recommend due diligence and negotiations to the Community Services and Land Use Committee; and

**WHEREAS**, the Beaufort County Community Services and Land Use Committee authorized staff to engage in due diligence and negotiations during their December 12, 2023 meeting; and

**WHEREAS**, the Beaufort County staff began conducting due diligence and negotiations to further evaluate the property and application against the Beaufort County Green Space Program Criteria to calculate the procurement benefits and overall value; and

**WHEREAS**, while Beaufort County and Town of Hilton Head staff undertook due diligence and negotiations, a consent order to quiet title and partition land by sale was filed on March 25, 2024 (“Exhibit A”), placing a court mandated deadline requiring all purchase agreements be submitted by April 30, 2024, placing very specific restrictions and requirements on submissions; and

**WHEREAS**, the Beaufort County staff presented the existing due diligence documents and their evaluation to the Green Space Advisory Committee during their April 26, 2024 meeting; and

**WHEREAS**, the Green Space Advisory Committee reviewed the staff evaluation, existing due diligence, and consent order, and voted to recommend conditional approval for the grant of Green Space funds to contribute to the procurement of the Property, not to exceed the final valuation as determined by a new appraisal after the completion of an updated plat, contingent upon full legal description; and

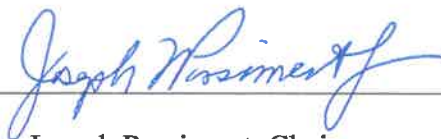
**WHEREAS**, the Green Space Advisory Committee additionally recommended that all funds acquired through other grant/funding opportunities be used solely to reimburse the Green Space Program grant in order to leverage program funds, because matching funds were not offered by the Town of Hilton Head or others; and

**WHEREAS**, Beaufort County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the Interim County Administrator to execute the necessary documents to contribute to funding for the procurement of a government owned fee simple acquisition of real property for the purposes of purchasing development rights and providing public passive recreation access.

**NOW, THEREFORE, BE IT ORDAINED THAT BEAUFORT COUNTY COUNCIL**, duly assembled, does hereby authorize a Resolution authorizing the Interim County Administrator to execute the documents necessary and to provide funds to contribute to the procurement by the Applicant of fee simple real property located on Hilton Head Island, known as the Mitchelville tract (PIN# R510 005 000 0007 0000), not to exceed the final value as determined by a new appraisal after the completion of an updated plat, resolution of all legal issues/claims, contingent upon full legal description, and shall require that any funds received from grants, private, federal, or state funding be used solely to reimburse the expenditure of the Green Space Program.

Adopted this 28th day of May 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:   
Joseph Passiment, Chairman

ATTEST: 

Sarah W. Brock, Clerk to Council



# MITCHELVILLE ROAD - FEE SIMPLE

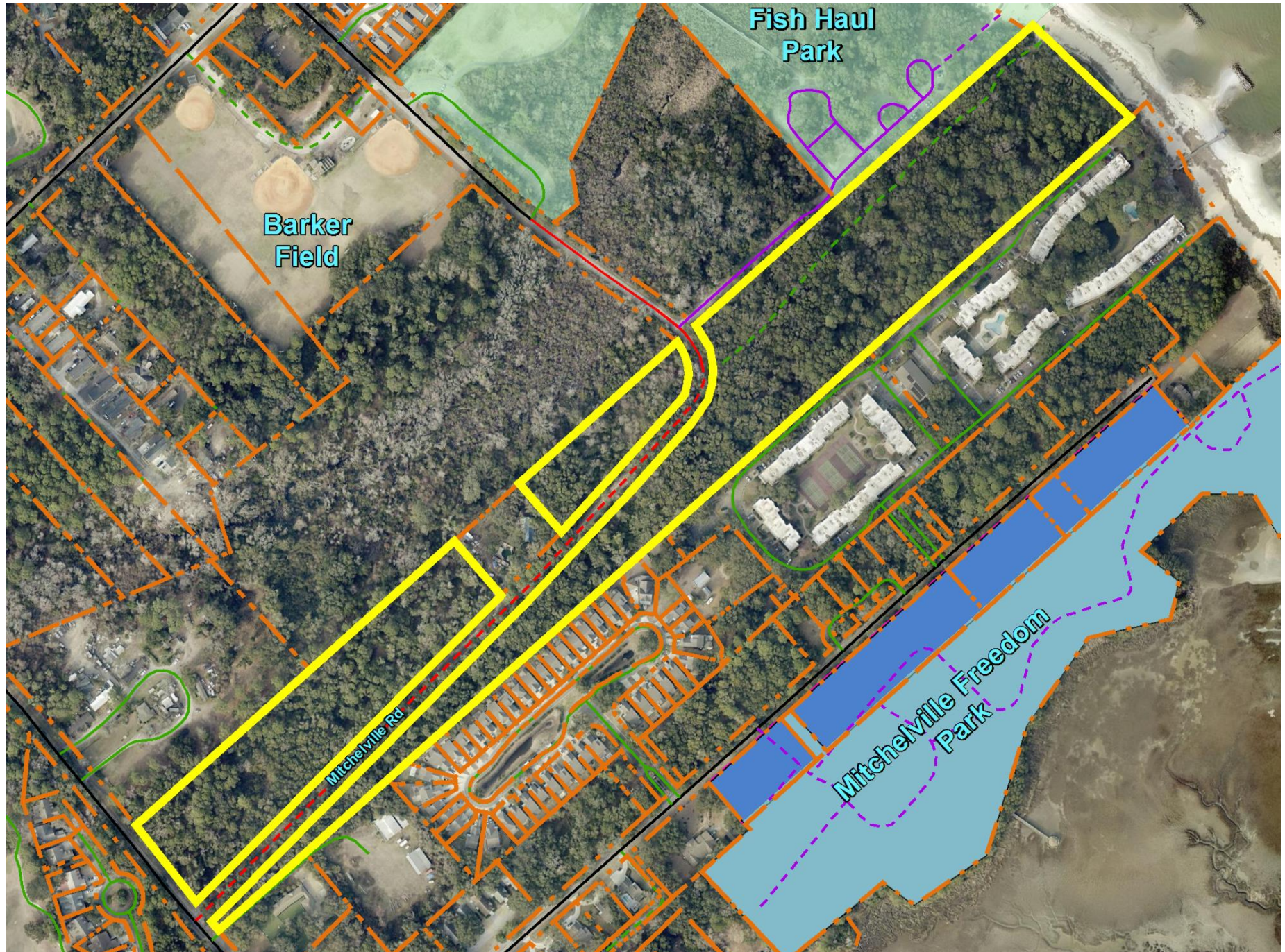
APPLICANT - TOWN OF HILTON HEAD ISLAND

25 +/- 2 Acres





# MITCHELVILLE ROAD - FEE SIMPLE





# Exhibit "A"

<b>STATE OF SOUTH CAROLINA</b>	)	<b>IN THE COURT OF COMMON PLEAS</b>
	)	<b>FOURTEENTH JUDICIAL CIRCUIT</b>
<b>COUNTY OF BEAUFORT</b>	)	<b>CIVIL ACTION NO. 2020-CP-07-02301</b>
	)	
<b>GEORGIA HARRISON,</b>	)	
<b>BARBARA HARRISON, JOYCE</b>	)	
<b>ELLEN HARRISON, WILLIAM S.</b>	)	
<b>HARRISON, III, STANLEY</b>	)	
<b>ROBERTS, and DIANA</b>	)	
<b>MENDHEIM, individually and as</b>	)	
<b>agent and attorney in fact,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>vs.</b>	)	
	)	
<b>STEPHANIE LORRAINE</b>	)	<b>CONSENT ORDER</b>
<b>KIRKLAND, GARY LAMONT</b>	)	
<b>KIRKLAND, KEITA NICOLE</b>	)	
<b>WHITE, CHERYL KIRKLAND,</b>	)	
<b>WILLIAM CHARLES KIRKLAND,</b>	)	
<b>PAULETTE KIRKLAND, PAUL T.</b>	)	
<b>ALLBRIGHT, CHRISTOPHER</b>	)	
<b>KIRKLAND AND SHAWN</b>	)	
<b>KIRKLAND,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

This action was originally filed on November 24, 2020, to quiet title and partition land by sale pursuant to the Clementa C. Pinckney Uniform Partition of Heirs' Property Act, codified at S.C. Code Annot. Section 15-61-310 *et. seq.* The case was referred to the undersigned Master in Equity on April 21, 2021.

On October 20, 2021, the Defendants were notified by Order of their rights to purchase all of the Plaintiff cotenants' ownership interest in the property that is the subject of this action (the "Property") as allowed under the Pinckney Act. The Defendants had until December 22, 2021 to pay their

apportioned prices into Court, and by that Order, if the Defendants failed or refused to pay their apportioned prices into Court by December 22, 2021, then the Property was to be partitioned by sale at a purchase price of not less than \$9,100,000.00 and the Plaintiffs were authorized by that Order, to enter into, or ratify, a contract of sale of the Property for not less than that price. None of the Defendants paid their apportioned prices into Court by December 22, 2021.

On December 22, 2021, Defendants filed their Motion for Relief of Judgment and for Extension of Time to Tender Purchase Price and Right of First Refusal. On January 20, 2022, the Court denied said motion. Thereafter, Defendants filed a Motion for Reconsideration of the January 20, 2022 Order, and the Court denied that Motion for Reconsideration on March 7, 2022.

On March 9, 2022, the Defendants filed a Notice of Appeal to the Court of Appeals, which was assigned Case No. 2022-000277. That appeal was dismissed on March 15, 2023 and the Remittitur filed on April 5, 2023.

Just prior to the Court of Appeals' dismissal of Case No. 2022-000277, the Defendants herein filed a new Notice of Appeal on March 13, 2023, seeking the Court of Appeals' review of my Order of November 7, 2022 that denied the Defendants' September 7, 2022 motion entitled "Defendants' Motion For Stay And Waiver of Supersedeas Bond Or In the Alternative A Nominal Bond Pending Appeal" and of my Order of March 8, 2023 that denied the Defendants' Motion For Reconsideration of the November 7, 2022 Order. That appeal was assigned Case No. 2023-000438, and remains pending at the present time.

Although this case is currently on appeal, the parties now appear before this Court with a joint request for the Court to enter a Consent Order that allows the Petitioners to move forward with negotiations to sell the Property to a third party for the highest dollar amount that can be negotiated, with the caveat that Defendants will have the right to match the specific terms and conditions of the final agreement and acquire the Plaintiffs' 98.82 percent ownership interest according to the following timetable:

1. The Plaintiffs are free to (and encouraged to) proceed to negotiate a final written agreement for the sale and purchase of the Property at the highest price possible above \$9,100,000.00, which will benefit all heirs. Plaintiffs must provide copies of all purchase and sale agreements for the sale of the Property (including all amendments, exhibits and attachments) along with evidence of proof of funds from each proposed purchaser, to Defendants, in the manner set forth in Section 3 below, and to the Court no later than 4:00 pm EDT on April 30, 2024. The Court shall thereafter hold a hearing no later than May 14, 2024, regarding all purchase and sale agreements for the sale of the Property submitted by the stated deadline so the parties may state their respective positions on each agreement to assist the Court with its approval of an agreement for the sale of the Property (the "Approved Agreement"). While the purchase price will be a primary factor the Court will consider, the Court shall also consider other commercially reasonable factors



including, but not limited to, the following: (1) cash v. non-cash offer; (2) amount of earnest money; (3) length of due diligence period, including reservation of right to extend due diligence period; (4) timing, conditions and amount of any earnest money becoming nonrefundable, (5) maximum time to close; and (6) proof of funds acceptable to the Court; provided, however, that proof of funds related to any purchase and sale agreement with a town, municipality, governmental entity, or similar body may consist of a sworn certification by the chief administrative officer, such as a Town Manager or a County Administrator, that sufficient funds have been allocated for the acquisition of the Property. No purchase and sale agreement may be submitted to the Court for consideration to which a town, municipality, governmental entity, or similar body is a party that requires further approvals (including full funding authorization, resolutions, ordinances, approvals and allocated sourcing of the same) from the governing body; and any submissions of the same shall be considered null and void. The planned or intended use of the Property by a prospective purchaser shall not be a factor in the determination of the Approved Agreement. The Approved Agreement may provide that all parties to this action will convey their undivided ownership interests in the Property by limited warranty deed and that this Court will convey the interests of any other claimants by Masters' Deed. For

avoidance of doubt, Defendants are not prohibited from presenting Plaintiff with a purchase and sale agreement to purchase their undivided interests in the Property.

2. Any purchase and sale agreement for the sale of the Property to a third party negotiated by the Plaintiffs must contain provisions that acknowledge that (a) the purchase and sale agreement is subject to review and approval by the Court; and (b) the Court will provide the Defendants an option to acquire the Plaintiffs' undivided interests in the Property (the "Option") on the same terms and conditions set forth in such purchase and sale agreement for a purchase price equal to 98.828122% of the contract sales price for the Property; provided, however, (i) that regardless of the due diligence period provided for in the Approved Agreement, Defendants shall have a due diligence period that is the greater of (A) the due diligence period provided in the Approved Agreement, or (B) sixty (60) days from the date that Defendants exercise the Option; (ii) that regardless of the length of time between the end of the due diligence period and the date of closing of the sale of the Property under the Approved Agreement (the "Close Period"), Defendants shall have a Close Period that is the greater of (A) the Close Period provided in the Approved Agreement, or (B) fifteen (15) days; and (iii) that regardless of any proposed or intended use of the Property stated in the Approved Agreement,



Defendants shall have no restrictions regarding use of the Property and any provisions of the Approved Agreement regarding limitations on the use of Property are, as to the Defendants, null and void and of no effect. Defendants must exercise the Option by delivering written notice of such exercise to the Court and to counsel for the Plaintiffs no later than 4:00 PM EDT on the date that is ten (10) business days after the Court's approval of the Approved Agreement.

3. All purchase and sale agreements for the sale of the Property negotiated by the Plaintiffs shall be submitted to the Court for final approval and simultaneously shall be given to the Defendants by e-mail and overnight delivery of a copy of the purchase and sale agreement to the Defendants' attorney Charles E. Houston to his email address [chouston@houstonlawfirm.net](mailto:chouston@houstonlawfirm.net) and overnight delivery of a hard copy to his office address of The Houston Law Firm, LLC, 1011 Bay Street, Suite 2A, Beaufort, SC 29902, and to the Defendants' consulting counsel, Earsa R. Jackson, at her email to [EJackson@clarkhill.com](mailto:EJackson@clarkhill.com) with a hard copy overnighted to Earsa Jackson, Esq., Clark Hill, 901 Main Street, Suite 6000, Dallas, TX 75202. If Defendants timely exercise the Option, their written notice of exercise of the Option shall be accompanied by evidence acceptable to the Court of Defendants' financial ability to close the purchase of Plaintiffs' undivided interests in the Property pursuant

to the terms of the Approved Agreement. Upon the Court's approval of Defendants' financial ability to close the purchase of the Property, Plaintiffs must thereafter deal exclusively with Defendants during the applicable due diligence period and Close Period.

4. If the Defendants fail or refuse to timely exercise the Option, then the Option shall conclusively be waived and discharged, and the Plaintiffs shall proceed forward with the Purchaser under the Approved Agreement on the same terms and conditions of the Approved Agreement. Any modification of purchase price or any terms of the Approved Agreement after the expiration of the Option requires Court approval and restarts Defendants' ten (10) business day Option. At closing, the net sales proceeds representing the Defendants' undivided ownership interests in the Property will be distributed to the Defendants by transmittal of such amounts to the Defendants' attorney's Trust Account or to the Office of the Clerk of Court for Beaufort County. Each party shall be responsible for payment of its own attorney's fees and costs incurred related to this case and the sale of the Property, including but not limited to broker, consulting, and attorney's fees.
5. In exchange for the Plaintiffs' agreement to allow the Defendants to have the Option set forth herein, the Defendants agree that if and



when a final purchase and sale agreement is reached for conveyance of the Property to a third party at a price above \$9,100,000.00 and is approved by the Court, upon the timely exercise of, or the expiration of, the Option, (a) all further claims for relief remaining in this case are waived and ended and this Consent Order shall bring this case to a close and end same at such time, except as to supplementary proceedings as may be necessary or desirable to facilitate the closing of the sale of the Property under the Approved Agreement and the distribution of the net proceeds of such sale, and to enforce the terms of this Consent Order; (b) the Defendants shall immediately dismiss their pending appeal to the Court of Appeals; and (c) Defendants waive any right (i) to appeal regarding any matters in this case, and (ii) to file any new actions regarding the Property. This agreement by all parties to end the case and all appeals upon the Court's approval of the Approved Agreement and the timely exercise of or expiration of Defendants' Option is binding on all parties whether or not the Defendants complete the purchase of the Plaintiffs' 98.828122 percent ownership interests in the Property. For avoidance of doubt, Plaintiffs, too, waive any right to appeal regarding matters in this case.

6. Regardless of whether the Defendants' Option is timely exercised or expires, Plaintiffs and Defendants shall reasonably cooperate with

each other to convey their undivided interests in the Property, including cooperation related to the closing on the purchase and sale of the Property, such as any necessary supplementary order in this matter; the timely execution and delivery of limited warranty deeds by all Plaintiffs and all Defendants to the ultimate purchaser of the Property under the Approved Agreement, be that the Defendants or the original contract purchaser; Master's Deed conveying to Defendants or to the original contract purchaser the undivided interest in the Property held by any persons or entities claiming any right, title, interest in, or lien upon the Property; reasonable requirements of a national title insurance company to obtain an ALTA Owner's Policy of Title Insurance; cancellation and satisfaction of record of any valid lis pendens affecting the Property; and dismissal of this matter with prejudice.

7. In the event the sale of the Property under the Approved Agreement does not timely occur, Plaintiffs must notify the Court and Defendants of the same within forty-eight hours of the same.
8. For avoidance of doubt, all rights of the Defendants under this Consent Order shall inure to any designee, joint venturer, or other party the Defendants cooperate with to submit a purchase and sale agreement for the Property.



9. If any party violates any term or provision of this Consent Order, and another party seeks to enforce compliance with this Consent Order by supplementary proceedings in this matter, the prevailing party shall be entitled to recover the reasonable costs of enforcing compliance with this Consent Order, including, without limitation, attorneys' fees and court costs.

AND IT IS SO ORDERED this \_\_\_\_ day of March, 2024.

s/ \_\_\_\_\_  
Marvin Dukes, III  
Master In Equity and Special Circuit  
Court Judge of Beaufort County

WE CONSENT:

/s/ Thomas C. Taylor

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March 22, 2024

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March 22, 2024

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COUNSEL FOR DEFENDANTS

March 22, 2024



Beaufort Common Pleas

**Case Caption:** Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,  
defendant, et al  
**Case Number:** 2020CP0702301  
**Type:** Order/Consent Order

So Ordered:

s/Marvin H. Dukes III #3069