

CHATHAM COUNTY ZONING BOARD OF APPEALS

MPC STAFF REPORT

PETITIONER: Fred Wasson, Fred Wasson Residential Design, agent for Lynne and Don Howe

FILE NO: ZBA-0524-000480

ADDRESS: 6 Amberly Court

PIN: 10200 03060

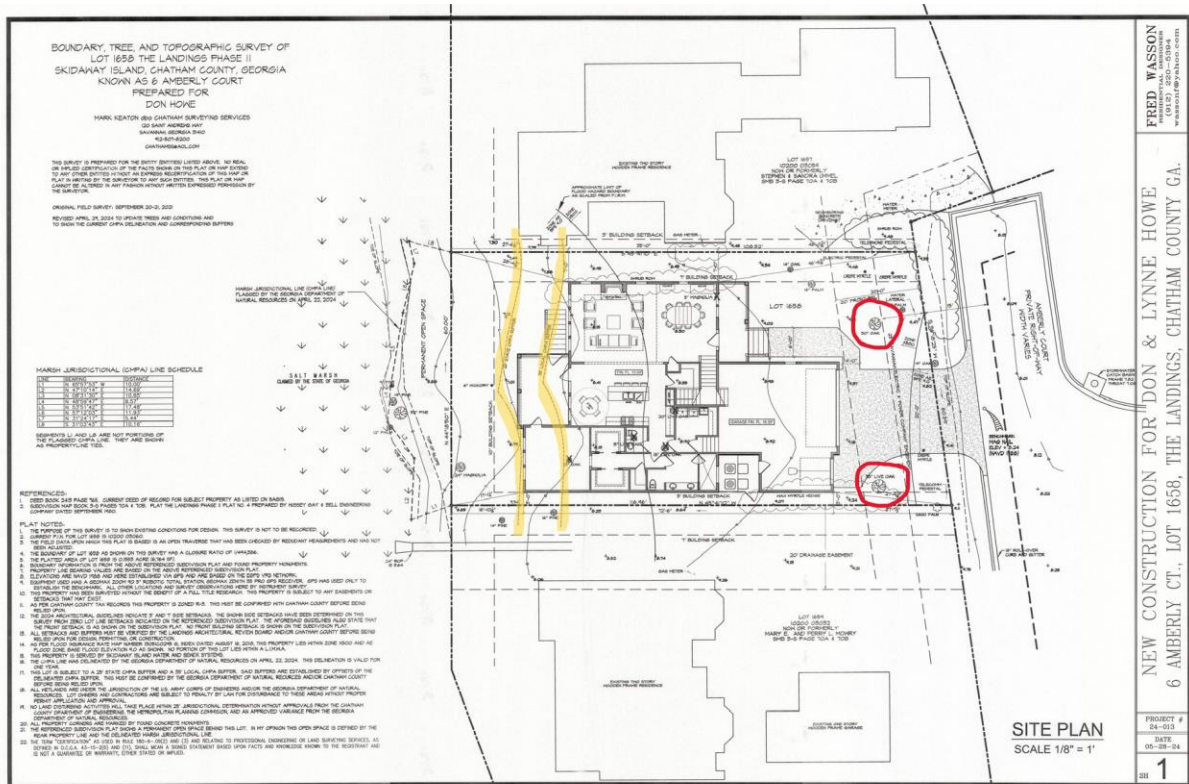
DATE: June 25, 2024

Nature of Request

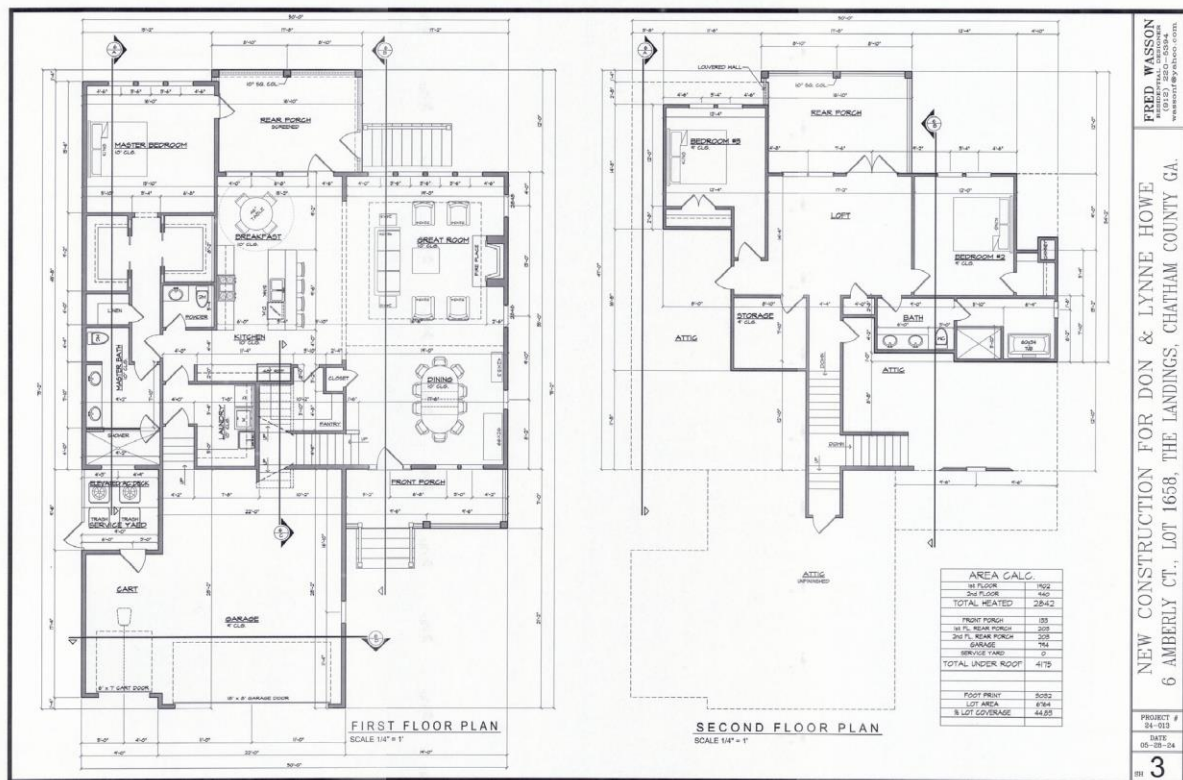
The Petitioner is requesting a variance from Chatham County's 10-foot riparian buffer required by the Environmental Overlay (EO) zoning district to construct a residential single-family structure on the vacant lot. The proposed home design only accounts for the required State riparian buffer of 25 feet. The property is 0.16 acres and located within the PUD/EO (Planned Unit Development - Environmental Overlay) zoning district at 6 Amberly Court.



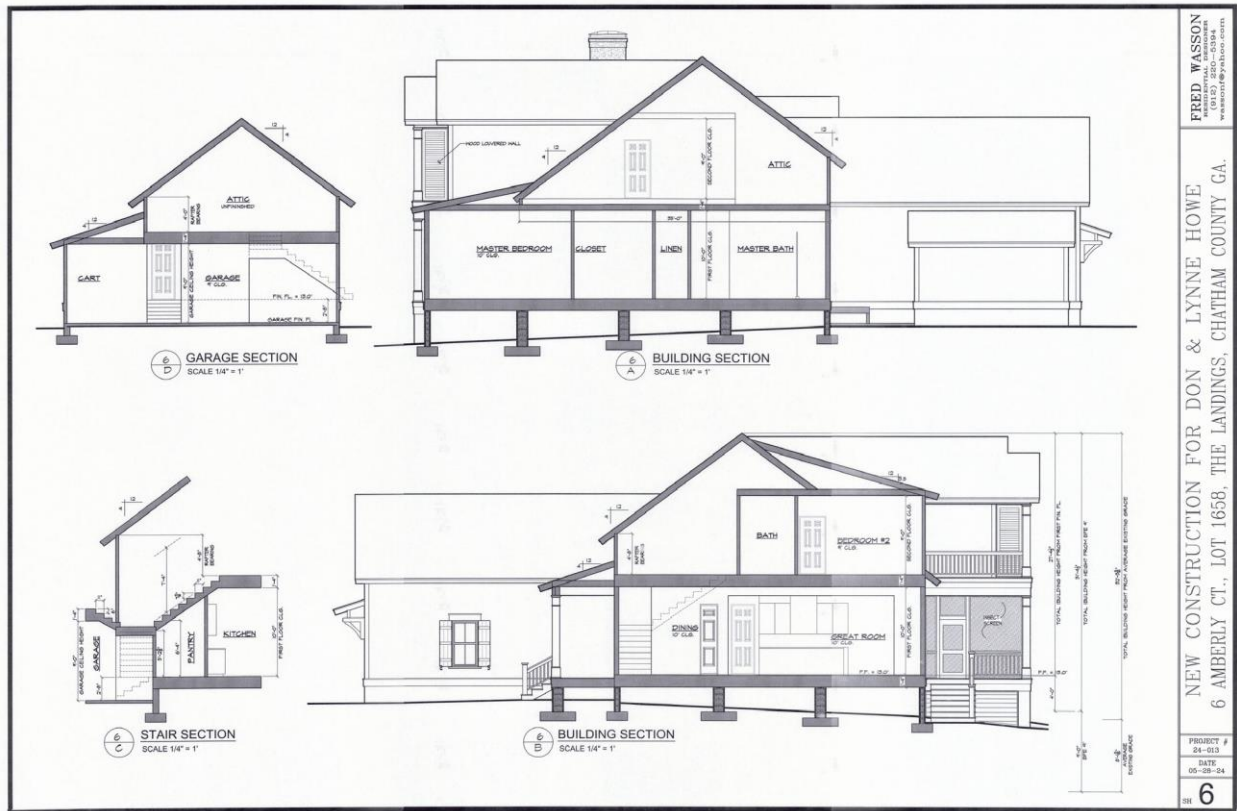
Aerial Map of 6 Amberly Court



Applicant Submission 'Site Plan' marked to identify 25-foot and 35-foot buffer (highlighted) and two oaks trees (circled)



Applicant Submission 'First Floor and Second Floor Plan'



Applicant Submission 'Building Sections'

Background:

For all properties built near marshland, a 25-foot riparian buffer is required by state law and an additional 10 feet are required as part of the Chatham County EO Zoning District for a total buffer of 35-feet. The Petitioner, Fred Wasson, on behalf of the property owners, Lynne and Don Howe, requested to eliminate Chatham County's 10-foot riparian buffer. The marsh jurisdictional line was established April 22, 2024, and is located behind the parcel. The proposed home design as shown above has a footprint of 3,032 square feet and extends into the County's ten feet of required riparian buffer. The previous owners of this parcel, Jill and Bob Kolbe, were previously granted a 10-foot variance from the Chatham County EO zoning district buffer in 2021 (ZBA- 1021-000186).

Previous staff recommend approval based on lot size and lack of perceived harm to the intent of the Zoning Ordinance, despite stating, "No hardship is created by the application of the standards of the relevant sections of the Zoning Ordinance. The proposed design of a single-family residence could be designed to meet the County's 35-foot minimum marsh land buffer setback requirement." Current Staff performed further investigation into the Petitioner's request and claims, the intent of the Environmental Overlay zoning district, and environmental conditions.

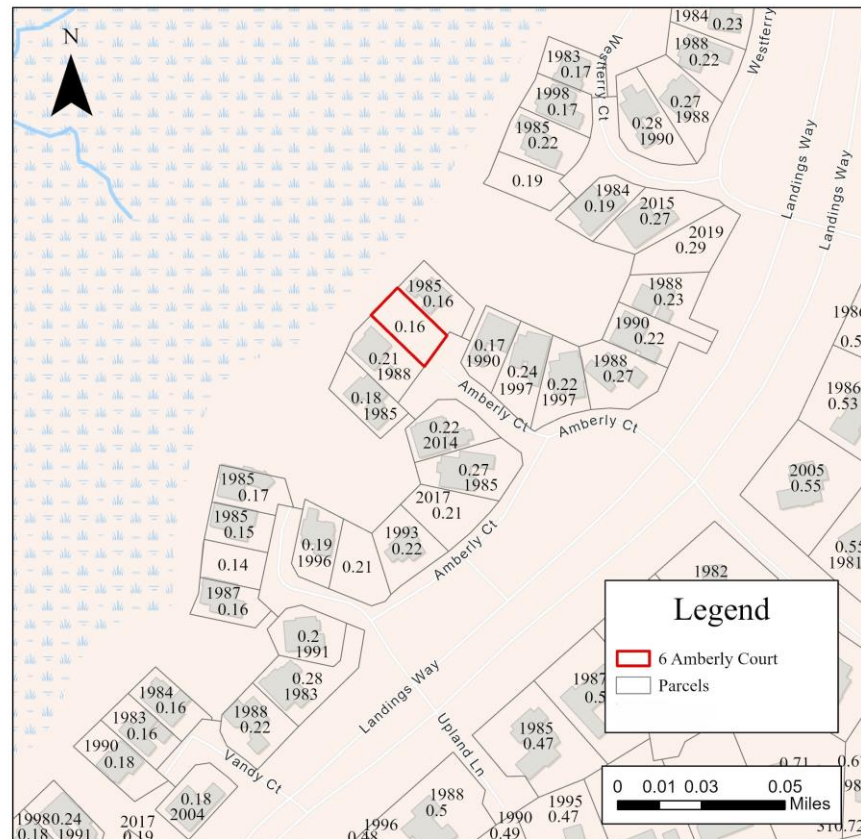
Findings:

1. The parcel is 0.155 acres and located within the PUD/EO Zoning Districts.
2. The parcel is part of The Landings subdivision and is a patio lot (number 1658).
3. The Petitioner stated in the application, *"You can see on the attached survey, the homeowners on either side of the lot do not meet the 35-foot buffer. While we know this does not set a*

precedence, the homes on either side are already closer to the marsh and have tower finished floor elevations and would be subject to greater flood damage than our proposed house plan as we will have a higher finish floor due to the current 3-foot free board requirement.”

Surrounding parcels along Amberly Court range in size from 0.14-0.28 acres. The lot adjacent to the subject parcel, 5 Amberly Court, is also 0.16 acres. Homes subject to the riparian buffer requirements along Amberly Court were built from 1985- 1988. The EO Zoning District Environmental Standards (Sec. 4-14.f) were revised 12/17/2010.

Acreage and Year Home Built along Amberly Court and Landings Way



Prepared by Anna B. McQuarrie on 6/6/2024

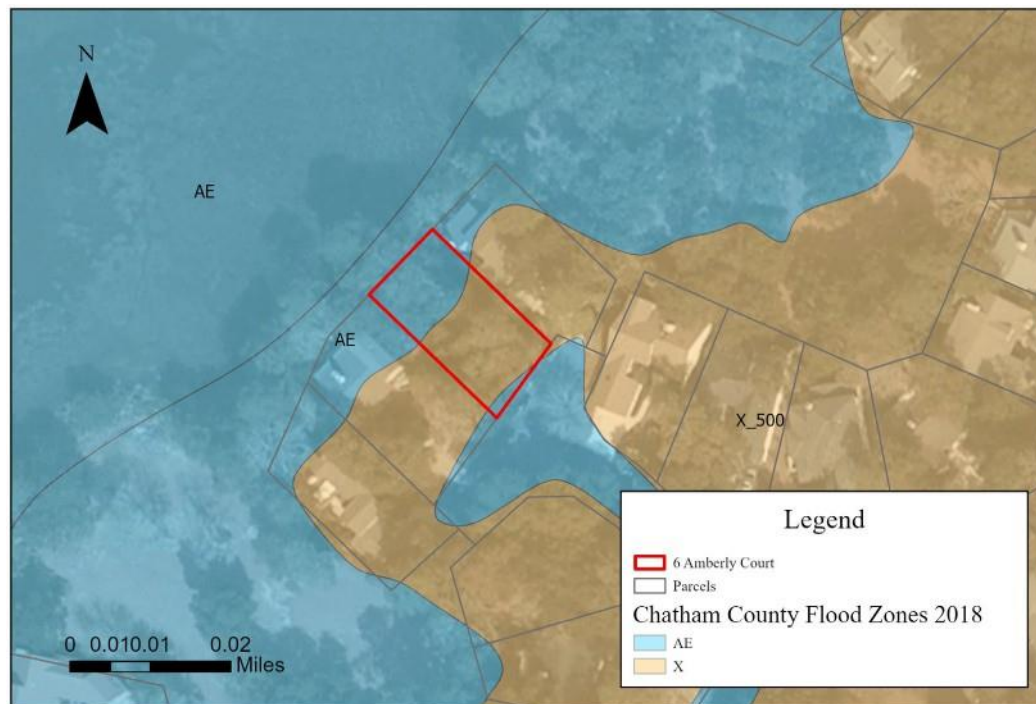
Data Source: SAGIS

Service Layers: Esri Community Maps Contributors, Savannah Area GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

4. Per The Landings Association Architectural Design and Development Guidelines (April 2022), the following standards apply to Patio Lot Dwellings:
 - a. Minimum Conditioned Space Living Areas: 2,000 square feet (one-story) and 2,300 square feet (two-story)
 - b. Front Setback: As platted
 - c. Side Setback: 3 feet and 7 feet
 - d. Rear Setback: 10 feet
 - e. Maximum Permitted Conditioned Space Living Areas: 2,900 square feet
 - f. Ground Floor Living Area: 2,200 square feet
 - g. Second Floor Living Area: Not to exceed 50% of Ground Floor Living Area
 - h. Total Living Area: 2,900 square feet

- i. Lot Coverage by all structures more than 8" above grade finish: 45% of lot area
 - j. Building width: 50 feet
 - k. Building height: 30 feet from base flood elevation for Flood Zone A, 31 feet from base flood elevation for Flood Zone V, and 34-feet from average existing grade for Flood Zone X
 5. The Petitioner stated in the application, *"The hardship created by not allowing us to meet the 25-foot buffer is due to the lot being a patio lot with a 10-foot rear set back. As you can see on the attached site plan. This is not a large home and it's a very typical patio home footprint. The fact that this site plan is very typical and a compact design and still cannot fit the 35-foot buffer is the hardship."*
- The proposed home design has a footprint of 3,032 square feet, 44.83% lot coverage, and a total heated area of 2,842 square feet. The design is 58 square feet from the maximum conditioned area allowed and can be reduced in size while still meeting the minimum of 2,300 square feet for a two-story patio home.
6. The design is conscious of two oak trees (30 feet and 35 feet) located on both sides of the proposed driveway.
 7. The Landings required front setback "as platted" is unknown.
 8. The parcel lies within the Flood Zones AE (Base Flood Elevation 9-feet) and X500.

Flood Zones at 6 Amberly Court



Prepared by Anna B. McQuarrie on 6/6/2024

Data Source: SAGIS

Service Layers: Source: Esri, Maxar, Earthstar Geographics, IGN, and the GIS User Community

9. The Petitioner stated in the application, *“By allowing this variance request, the approval would not affect the flood insurance rate for the Chatham County since the 35-foot buffer requirement is already in place. The house placed ten feet closer to the marsh is not going to adversely affect the health of the marsh as this meets the DNR requirements and they are the experts on the matter.”*

This petition is regarding the Environmental Overlay District, which has the intent “to establish supplemental standards to bolster those currently in the Chatham County Zoning Ordinance in order to protect and enhance community character; b) provide for safe and orderly development; and c) protect environmental quality, especially the estuarine system that surrounds the community.” Further, “the 35-foot riparian buffer as measured from the Department of Natural Resources jurisdictional marsh line as established by the Coastal Resources Division in accordance with the Coastal Marshlands Protection Act of 1970 is required.” The CMPA declares the following:

1. *Georgia’s coastal marshlands have long been recognized by the General Assembly and the Board as a vital natural resource system, a vital area of the state, and essential to **maintain the health, safety, and welfare of all the citizens of the State.***
2. *The Coastal Marshlands Protection Act (CMPA) provides a grant of authority to the Board of Natural Resources and Coastal Marshlands Protection Committee to regulate certain activities that affect or have the potential to affect the coastal marshlands of the state, to ensure the values and functions of the coastal marshlands are not impaired and to protect the public interest.*
3. *Stormwater management measures, impervious surface coverage standards, and marshlands buffer design and maintenance measures as applied to projects which are subject to permitting under the Coastal Marshlands Protection Act are warranted so as to protect this vital area and to protect the public interest.*

The Chatham County Ordinance Environmental Overlay District intent is more aligned with the CMPA, than the GA Code § 12-7-6 (2020), which focuses on the “Control of Soil Erosion and Sedimentation” and requires a 25-foot riparian buffer. Protecting the marsh and waterways from soil erosion and sedimentation is critical to maintaining healthy wetlands, however, the CMPA recognizes marshlands as, “essential to maintain the health, safety, and welfare of all the citizens of the State.”

Environmental Conditions Analysis

Climate change is expected to change the coastal landscape in many ways. Skidaway Island, along with other coastal areas in the County, will face increasing levels of sea level rise by mid-century. This property backs into a salt marsh, which is expected to be inundated with water as sea level rises an expected 1-foot by 2040 and 1.6-2-feet by 2060. Saltmarshes are dynamic, not static, ecosystems and are expected to migrate upland as water rises. There is expected to be a loss of natural flood protection to properties if the marsh is unable to migrate, causing a phenomenon known as “coastal squeeze.” Development decisions require thoughtful consideration of future conditions as opposed to solely relying on historical development patterns and current environmental conditions.

The report “Vegetated Buffers in the Coastal Zone” was written for the Georgia Department of Natural Resources Coastal Resource Division and describes the benefits of saltmarshes and buffers in Coastal

Georgia. The excerpts below describe the benefits of salt marshes, and impacts of marsh migration, such as “coastal squeeze,” which can cause additional flooding. Buffer areas are critical to protect both the environment and property owners.

Wetland buffers maintain and protect the porous vegetated connections between wetlands and upland areas while preserving wetland ecological functions. In addition to protecting wetlands, these buffers perform many of the same beneficial services as the wetland itself. In marshes, this includes: slowing and spreading out stormwater runoff; filtering sediment, nutrients and pollutants; stabilizing the shoreline and preventing erosion; providing wildlife habitat; and moderating flooding from storm surges. Buffers adjacent to tidal marshes also provide potential migration space for areas affected by sea level rise (i.e., coastal squeeze) (Adamus 2007, Bason 2008).

The additional flooding caused by an increase in sea level can drown the vegetation at the seaward edge, converting it to open water. At the same time, the higher water level floods additional areas that were formerly high ground. If there are no barriers (e.g. sea walls), the upland edge converts to marsh vegetation and the entire area moves inland. If there is no area available for this migration to occur the marsh is lost due to a decrease in the intertidal area, a phenomenon known as “coastal squeeze.” Coastal marshes are particularly susceptible to this loss because they have gradual slopes, so a small change in the vertical dimension due to sea level rise translates to a relatively larger change in the horizontal dimension.

Myszewski, M and Alber, M. (2014). Vegetated Buffers in the Coastal Zone Prepared for GA DNR–Coastal Resources Division. <https://www.gcrc.uga.edu/wp-content/uploads/2019/09/Final-Vegetated-Buffers-in-the-Coastal-Zone.pdf>

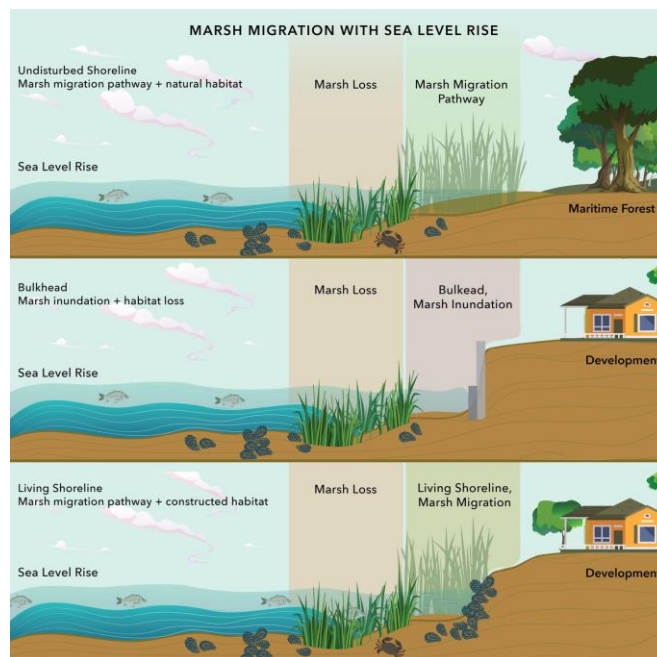


Illustration of Marsh Migration, Photo: Georgia Conservancy

Variance Criteria:

The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- (a) **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

No extraordinary or exceptional conditions pertain to this piece of property in size, shape, or topography. The lot is a similar shape to those along Amberly Court and Landings Way. Several surrounding properties, including the adjacent parcel, are approximately 0.16 acres.

- (b) **The application of this chapter to this particular piece of property would create an unnecessary hardship.**

The application of this chapter does not create an unnecessary hardship. The Landings is a PUD, and homes are subject to a distinct set of architectural design and development guidelines. Staff believe that a home can still be built to these standards while respecting the EO buffer requirements.

- (c) **Such conditions are peculiar to the particular piece of property involved.**

There are approximately 228 square miles of wetlands in Chatham County (Comprehensive Plan 2040, pg. 310). This is not a unique or special hardship because much of the County must consider wetlands for development purposes. Homes along Amberly Court with a 25-foot buffer were built over two decades before the EO Environmental Standards were updated and implemented in 2010. All new homes in an EO district are subject to the 35-foot riparian buffer.

- (d) **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

This variance would go against the intent of the Chatham County Zoning Ordinance. The purpose of the Environmental Overlay District is to, “to establish supplemental standards to bolster those currently in the Chatham County Zoning Ordinance in order to, a) protect and enhance community character; b) provide for safe and orderly development; and c) protect environmental quality, especially the estuarine system that surrounds the community. Protecting the function and value of coastal marshlands is part of the public interest. The parcel abuts to saltmarshes that provide valuable protection against flooding on Skidaway Island. If the variance is granted, wetlands will be less likely to protect the parcel, and those around it, from environmental hazards.

Recommendation

Based on the EO ordinance and variance criteria, MPC Staff recommends **denial** of the request for a variance to eliminate the Chatham County’s 10-foot required EO riparian buffer to construct a residential single-family structure on the lot.

Note: This recommendation could change subject to new information provided at the Zoning Board of Appeals meeting. Final decisions will be made by the Zoning Board of Appeals at the public hearing based on information provided at the meeting, as well as information submitted for the staff report.