

Sumter City-County Zoning Board of Appeals

December 11, 2024

BOA-24-41, 420 Lakewood Dr. (County)

The applicant (James Geddings) is requesting a variance from the residential accessory structure setback requirements outlined in *Article 4.g.2.b.: (Residential Accessory Structures) Setbacks* of the Sumter County Zoning & Development Standards Ordinance (the "Ordinance") and any other variances as may be required in order to establish a new 700 sq. ft. detached garage in the side yard within the required side setback area. Residential accessory structures 1000 sq. ft. in size or less are required to be setback at least 5 ft. from side and rear property lines. The property is located at 420 Lakewood Dr., is zoned Residential-15 (R-15), and is represented by TMS# 223-00-01-047.



Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

December 11, 2024

BOA-24-41, 420 Lakewood Dr. (County)

I. THE REQUEST

Applicant: James Geddings

Status of the Applicant: Property Owner

Request: Variance from residential accessory structure setback requirements.

City Council Ward: District 3

Location: 420 Lakewood Dr.

Present Use/Zoning: Residential / Residential-15 (R-15)

Tax Map Reference: 223-00-01-047

II. BACKGROUND

The applicant is requesting a variance from the residential accessory structure setback requirements outlined in *Article 4.g.2.b.: (Residential Accessory Structures) Setbacks* of the Sumter County Zoning & Development Standards Ordinance (the “Ordinance”) in order to establish a new 700 sq. ft. detached garage in the side yard within the required side building setback area.

The subject property is shown in red on the location map to the right and is located within the Lakewood Subdivision accessed from US Hwy 15 S.



The property is improved with a 6,131 sq. ft. single family detach home. The driveway serving the house forms a loop, with the southern drive serving an existing attached side load garage that faces the southern property boundary line. The applicant is proposing to install a new detached

garage on the opposite side of the concrete pad drive area, with garage doors facing north towards the house. Plans submitted by the applicant indicate that the existing concrete pad area is located +/- 23.1 ft. from the southern property line, with the proposed width of the building to be located in this area at 20 ft. In accordance with Ordinance requirements, residential accessory structures must be located at least 5 ft. from applicable property lines. Thus, variance approval by the Zoning Board of Appeals (BOA) is required in order to the applicant to establish the proposed structure in the desired location.



Figure 1: Site Photo (Source: Microsoft Open Street Map)

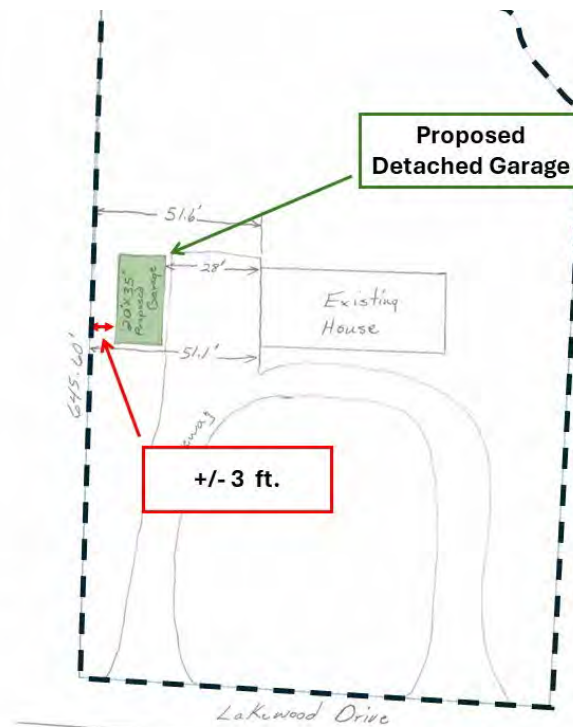


Figure 2: Plot Plan Sketch Submitted By Applicant

After the variance application was submitted, Planning Department staff were provided actual notice of restrictive covenants applicable to the subject property that prohibit the establishment of the structure at the proposed location. Said restrictive covenants are recorded at the Sumter County Register of Deeds in *Deed Book: L10, Page: 1521* and are applicable to the lots shown on the plat prepared by Joseph R. Edwards, R.L.S. recorded at the Sumter County Register of Deeds in *Plat Book: Z-43, Page 124*. The subject property is shown on this plat as Lot 169. See Exhibit 1 for Restrictive Covenants and see Exhibit 2 for Plat.

The 2nd restrictive covenant from the above-referenced document states the following:

- 2. No building shall be located on any residential lot, which is nearer than 75 ft. to the front line, or nearer than 25 feet to any side lot line or nearer than 100 ft. from the edge of pond. Said setback lines being shown on the hereinabove referred plat.***

Local governments and their appointed bodies are subject to the provisions found in *SC Code Section 6-29-1145* which prohibit approval of a permit conflicting with private restrictive covenants if the local government has received actual notice that such covenants exist. This section of SC Code (in full) is attached as Exhibit 3. Recommended conditions pertaining to applicable restrictive covenants are outlined in the Staff Recommendation section of this report.

Ordinance Requirements:

Article 4.g.2.b.4

4. Setbacks – Note: accessory structures over 1,200 sq. ft. in size must be a minimum of 10 ft. from all side and rear property lines

- a. Interior Lots: Front – N/A; Sides – 5 ft.; Rear – 5 ft

The Request:

The applicant is requesting a variance from the residential accessory structure setback requirements outlined in *Article 4.g.2.b.: (Residential Accessory Structures) Setbacks* of the Sumter County Zoning & Development Standards Ordinance (the “Ordinance”) and any other variances as may be required in order to establish a new 700 sq. ft. detached garage in the side yard within the required side setback area. Residential accessory structures 1000 sq. ft. in size or less are required to be setback at least 5 ft. from side and rear property lines.

III. FOUR PART TEST

In order to grant the requested variance, the request must meet all parts of a State-mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;

- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request. In granting a variance, the Board may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

Staff Review:

1) There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The property is +/- 2.74 acres in size and located in the Lakewood Subdivision. The property is improved with a 6,131 sq. ft. single family detach home. The driveway serving the house forms a loop, with the southern drive serving an existing attached side load garage that faces the southern property boundary line.

2) These conditions do not generally apply to other property in the vicinity.

The property is similar in size to other lots on the same side of Lakewood Dr. in this area of the subdivision. While not uniform throughout, other lots have driveways near a side property line serving an existing side load garage.

3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The Ordinance prevents the applicant from constructing a new detached garage in the desired location.

4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

The purpose of regulating structure setbacks is to ensure compatibility, ensure minimum open space around a structure, facilitate safe access, and avoid negatively impacting surrounding properties. Exceeding building setback limits without demonstrating a true hardship is detrimental as it hinders the effectiveness of the Ordinance requirements and undermines the expressed intent of the ordinance citywide.

IV. STAFF RECOMMENDATION

Staff recommends the following conditions if the BOA makes all the necessary findings to approve this request.

1. Submission of plat prepared by a licensed surveyor showing the property boundaries, proposed structure placement, and distance from structure to surveyed boundaries.
2. Submission of duly recorded amended restrictive covenants that release the subject property from any provision preventing construction of the proposed structure within 25 ft. for the side property line and written approval from the applicable HOA entity for the construction of the proposed structure.

V. DRAFT MOTIONS FOR BOA-24-41

1. I move the Zoning Board of Appeals **approved** BOA-24-41, subject to the findings of fact and conclusions developed by the BZA and so stated:
2. I move the Zoning Board of Appeals **deny** BOA-24-41, subject to the following findings of fact and conclusions:
3. I move the Zoning Board of Appeals enter an alternative motion for BOA-24-41.

VI. BOARD OF APPEALS – December 11, 2024

5. No structure of any temporary character, trailer, mobile home, basement, tent, shack, garage, barn, or any other outbuilding shall be placed on any of the hereinabove referred lots or at any time used as a residence, either temporarily or permanently.

-2-

6. No livestock, poultry, or other animals shall be used, bred, or kept on any lot. However, dogs, cats, or other animals customarily designated as household pets may be kept, provided such household pets do not create an annoyance or nuisance to the neighborhood, do not otherwise detract from the desirability of the neighborhood as a residential area and provided further, that such household pets not be used or bred for commercial purposes.

7. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which shall become an annoyance or nuisance to the neighborhood.

8. No business or commercial activity of any kind, character, or nature shall be conducted on or from any of the hereinabove referred lots.

9. No lot shall be used or maintained as a dumping ground for trash, rubbish or other garbage. Trash, garbage or other waste shall be kept at all times in closed sanitary containers, which shall be placed and kept behind the house, out of sight of the street as far as is possible and in a clean and sanitary condition. All incinerators or other equipment for the storage or disposal of leaves or rubbish shall be kept in a clean and sanitary condition and operated in such a manner as not to constitute a nuisance or an annoyance to the neighborhood.

10. No inoperative motor vehicles, boats, utility trailers, or of like nature are permitted on any of the said hereinabove referred lots, in excess of thirty (30) days.

11. No signs or billboards shall be erected or allowed on any lot except one sign advertising sale or rent thereof, which sign shall be no larger than two (2) feet by three (3) feet and designed and displayed no higher than three (3) feet from the ground elevation.

12. No individual sewage disposal system shall be permitted on any lot hereinabove referred unless such a system is designed, located and constructed in accordance with the requirements, standards and recommendations of the South Carolina Public Health Authority. Approval of such system as installed shall be obtained in advance from the South Carolina Health Department.

13. These covenants shall run with the land hereinabove referred to and shall be binding on all parties hereto and all persons claiming under them until fifteen (15) years, after which time the said covenants hereto shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the hereinabove referred lots has been recorded, agreeing to change the said covenants in whole or in part.

14. Lakewood reserves the right to subject the real property in Lakewood Subdivision, including the lots referred to herein, to contracts with Black River Electric Cooperative, Carolina Power & Light Company, and Farmers Telephone Company for the installation of underground electric cables and/or the installation of street lighting, and telephone communication. The service for the street lighting and/or the monthly telephone and electric bills as used by the respective lot owners will be the responsibility of the owners of each building.

-3

15. Enforcement of the hereinabove referred covenants and conditions shall be by proceedings at law or in equity against any person violating or attempting to violate any covenant herein and the grantor or other property owners of the property described herein shall have the right to enjoin, restrain and prevent any and all such violations and recover damages for the same.

16. Invalidation of any one of the covenants hereinabove referred by judgment or Order of Decree of any Court shall in no wise effect any of the other provisions of these covenants, and all the remaining covenants not so affected, shall remain in full force and effect.

17. This Declaration and the covenants herein set forth shall be and are hereby made binding upon the present and future owners, purchasers and tenants, their successors, assigns, heirs, executors, and administrators.

IN WITNESS WHEREOF, Lakewood has caused the Restrictive Covenants herein to be executed in its name and its seal to be hereto affixed this 14th day of August, in the year of our Lord One Thousand, Nine Hundred and Seventy Eight.

Signed, Sealed, and Delivered in the presence of:

A.S. Bahnmueller
A.S. Bahnmueller

Rebecca A. Haley
Rebecca A. Haley

LAKWOOD
BY: Julian T. Buxton
Julian T. Buxton, Partner

W. Burke Watson
W. Burke Watson, Partner

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

PROBATE

PERSONALLY appeared before me A.S. Bahnmueller who on oath deposes and says that he saw the within named Lakewood by Julian T. Buxton, Partner and W. Burke Watson, Partner sign, seal and as its act and deed, deliver the within Restrictive Covenants, and that deponent, with Rebecca A. Haley witnessed the execution thereof.

SWORN to before me this 14th
day of August, 1978.

Rebecca A. Haley (L.S.)
Rebecca A. Haley

Notary Public for South Carolina
My Commission Expires: May 15, 1983

A.S. Bahnmueller
A.S. Bahnmueller

1521

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

78 AUG 15 PM 4 14

O.V. PLATER, JR.
CLERK OF COURT
SUMTER COUNTY, S.C.

129
Julien T. Burton
W. Burke Wilson
Attorneys

Restrictive Covenants

4:14 P Aug 78 15 day

I 70 v. Plater 1521

RESTRICTIVE COVENANTS

BRYAN. BAHNMULLER, KING.
GOLDMAN AND McELVEEN
ATTORNEYS AT LAW
SUMTER, SOUTH CAROLINA

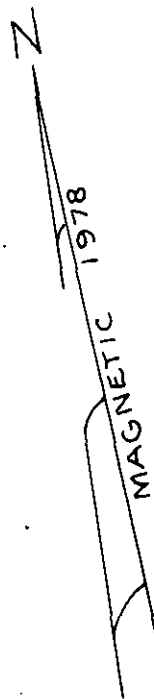
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2-41 245

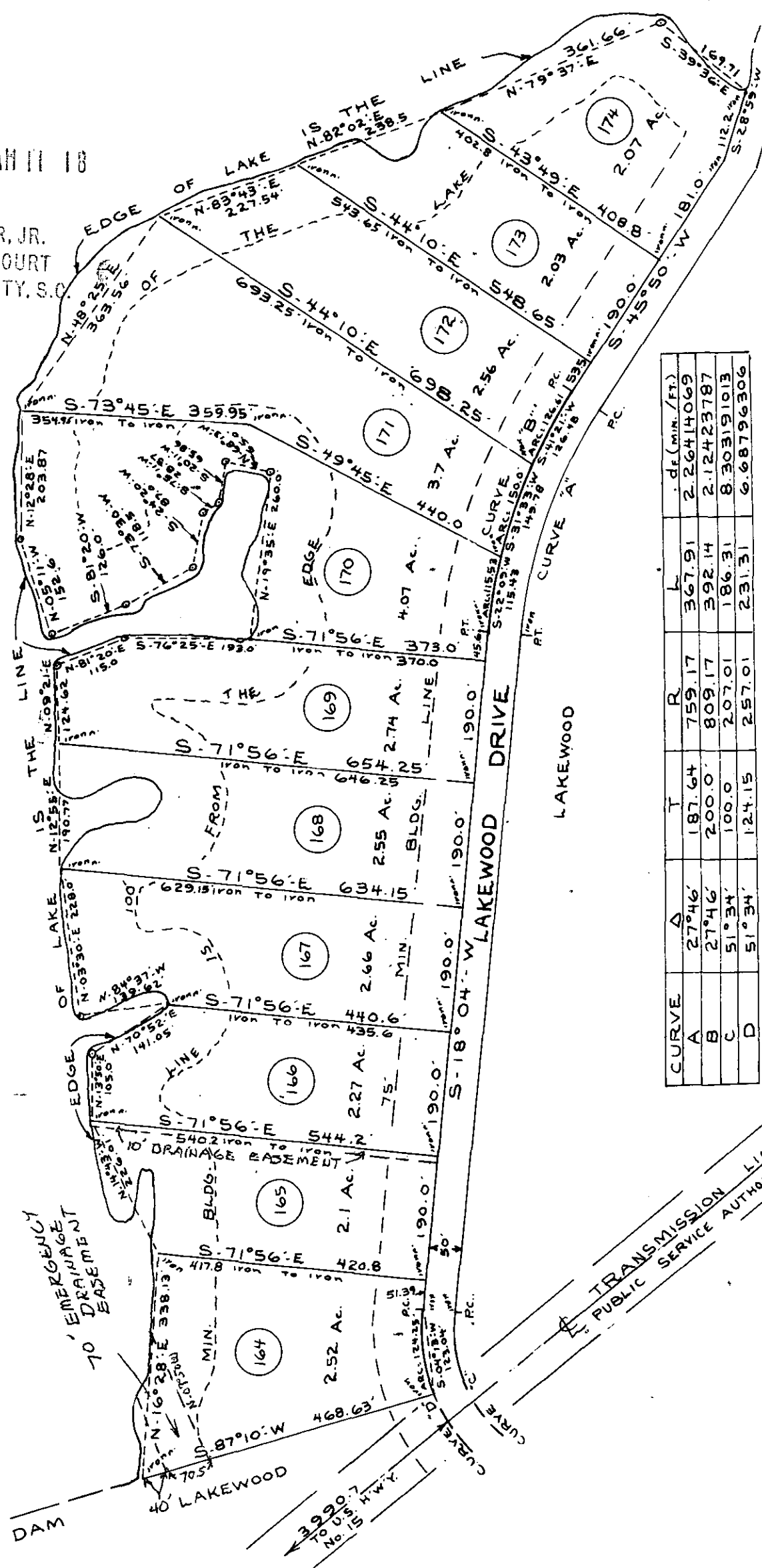
Exhibit 2.

78 JUL 26 AM 11 18

O.V. PLAYER, JR.
- CLERK OF COURT
SUMTER COUNTY, S.C.



LOWER LAKE



CURVE	Δ	T	R	L	DE (MIN./FT.)
A	27°46'	187.64	759.17	367.91	2.26414069
B	27°46'	200.0	809.17	392.14	2.12423787
C	51°34'	100.0	207.01	186.31	8.303191013
D	51°34'	124.15	257.01	231.31	6.68796306

NOTE: DRAINAGE EASEMENTS ADDED TO
LOTS 164 & 165

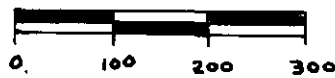
FEB. 15, 1979

Joseph R. Edwards R.L.S.

2-15-79
Joseph R. Edwards
R.L.S.

SOUTH CAROLINA, SUMTER COUNTY, PRIVATEER T.W.P.
PLAT OF
LAKEWOOD
SECTION No. 2

SCALE: 1" = 200'



DATA: 825.75 Ac. TRACT IN
BK. S-5 AT PG. 188

NOTE: ALL TIE LINES ARE
FROM IRON TO IRON

PRECISION: 1" in 5000'
AREA BY D.M.D. & GEOMETRY

TAX PARCEL XQ-11 PART OF A-1

MARCH 9, 1978
J.R. Edwards, R.L.S.
Sumter, S.C.

SECTION 6-29-1145. Determining existence of restrictive covenant; effect.**Exhibit 3**

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and

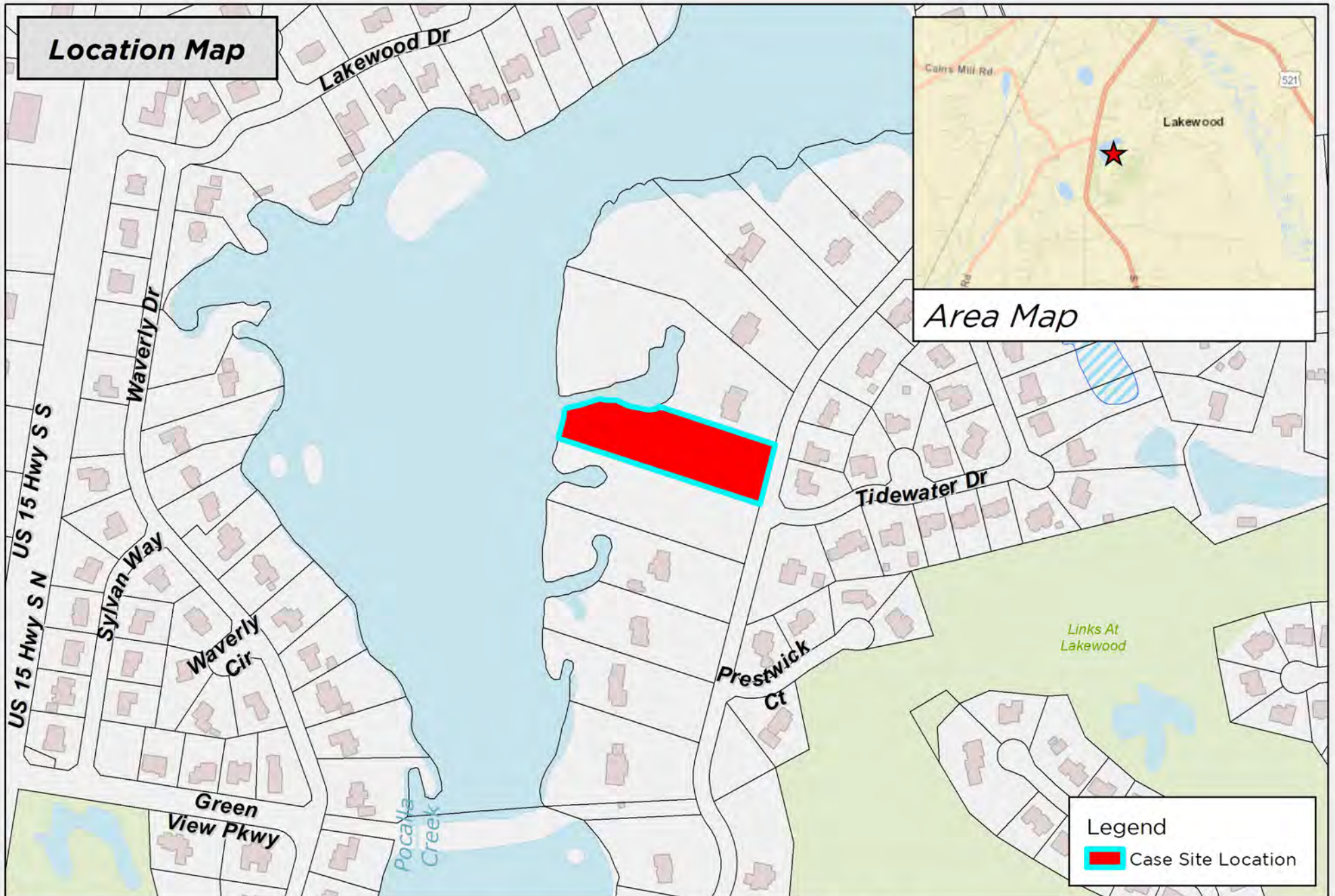
(3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, Section 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, Section 2, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), substituted "in the application or by written instructions to an applicant whether" for "if", rewrote subsection (B); and in subsection (C), added paragraph (1) defining "actual notice" and redesignated paragraphs (1) and (2) as paragraphs (2) and (3).

Location Map

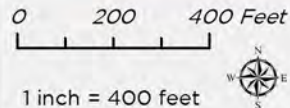


Area Map

Legend

 Case Site Location

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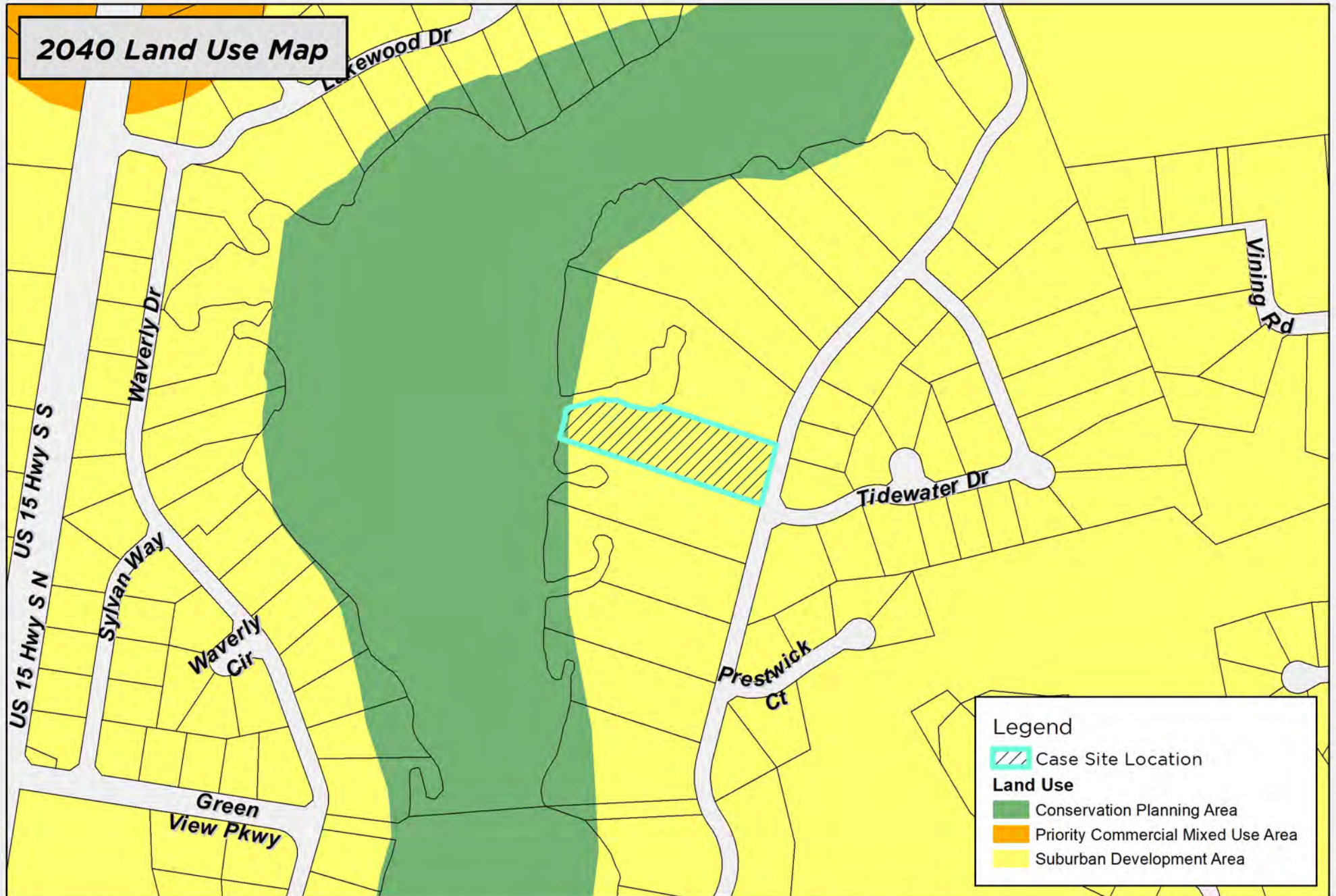


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Date: 11/20/2024
User Name: crobbins
Document Name: BOA-24-41



BOA-24-41
420 Lakewood Dr, Sumter, SC 29150
Tax Map # 223-00-01-047

2040 Land Use Map



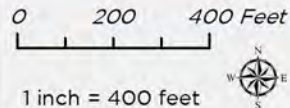
Legend

 Case Site Location

Land Use

-  Conservation Planning Area
-  Priority Commercial Mixed Use Area
-  Suburban Development Area

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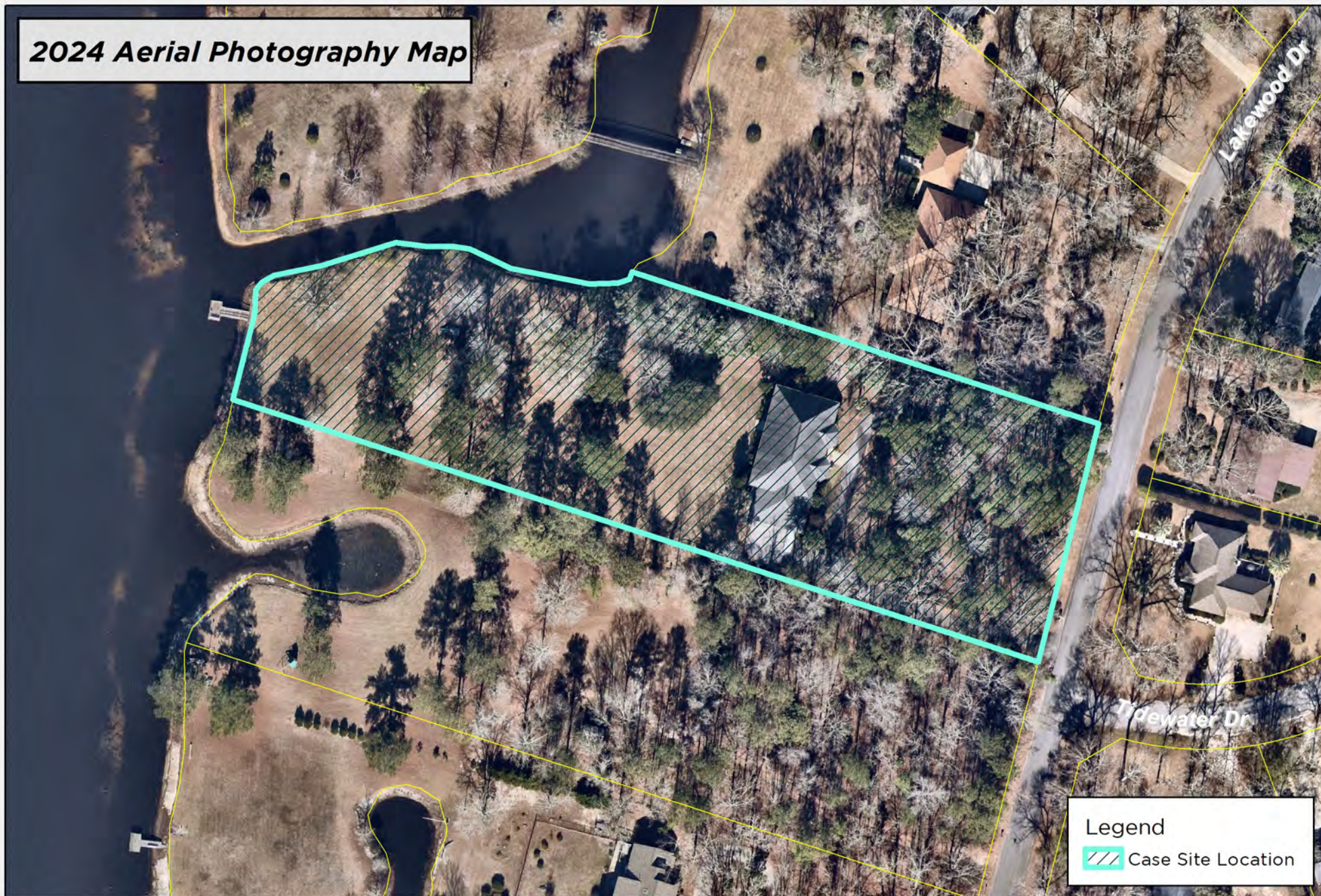


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Document Name: BOA-24-41

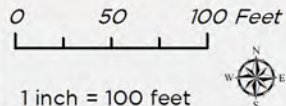


BOA-24-41
420 Lakewood Dr, Sumter, SC 29150
Tax Map # 223-00-01-047

2024 Aerial Photography Map




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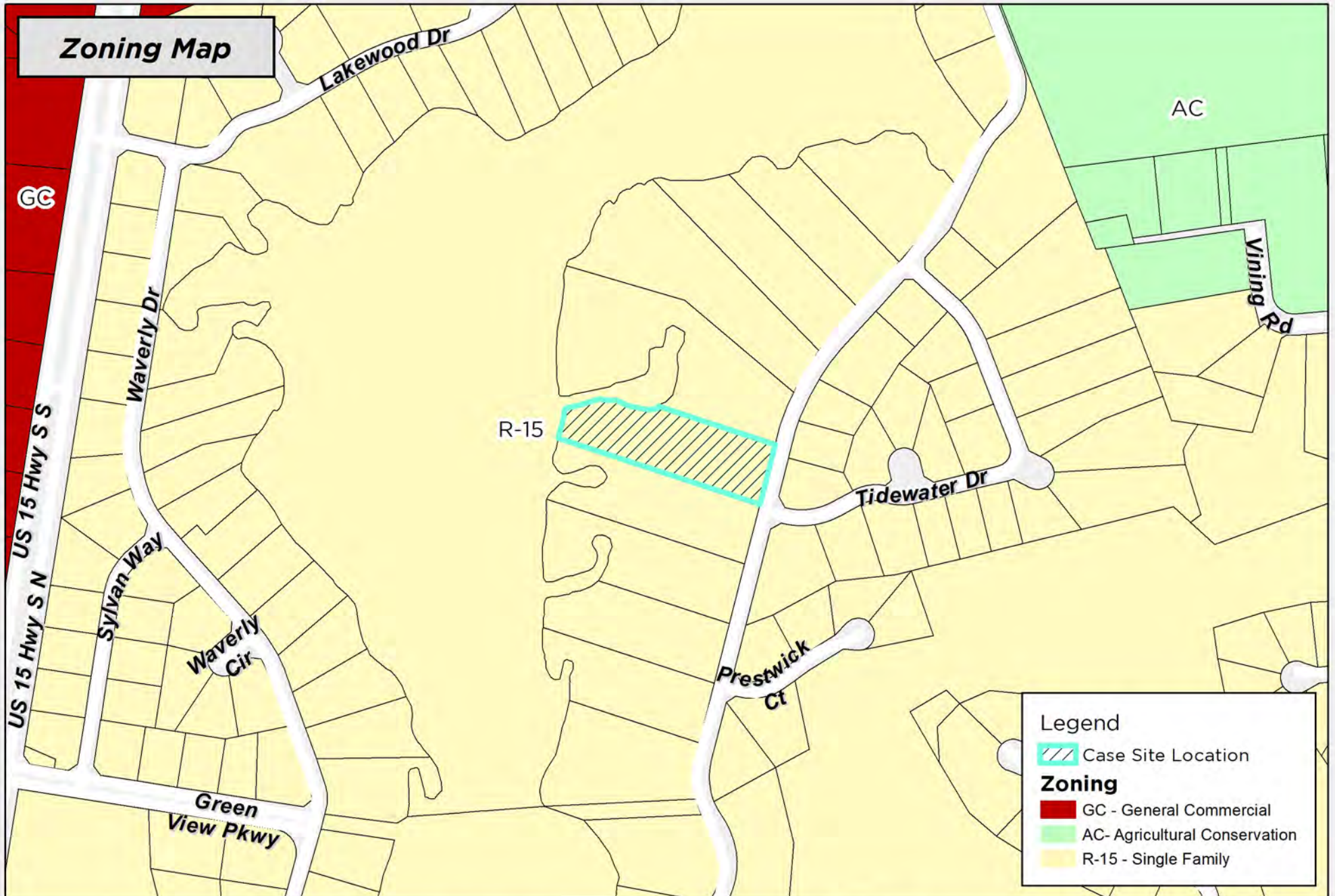


Legend

 Case Site Location

BOA-24-41
420 Lakewood Dr, Sumter, SC 29150
Tax Map # 223-00-01-047

Zoning Map



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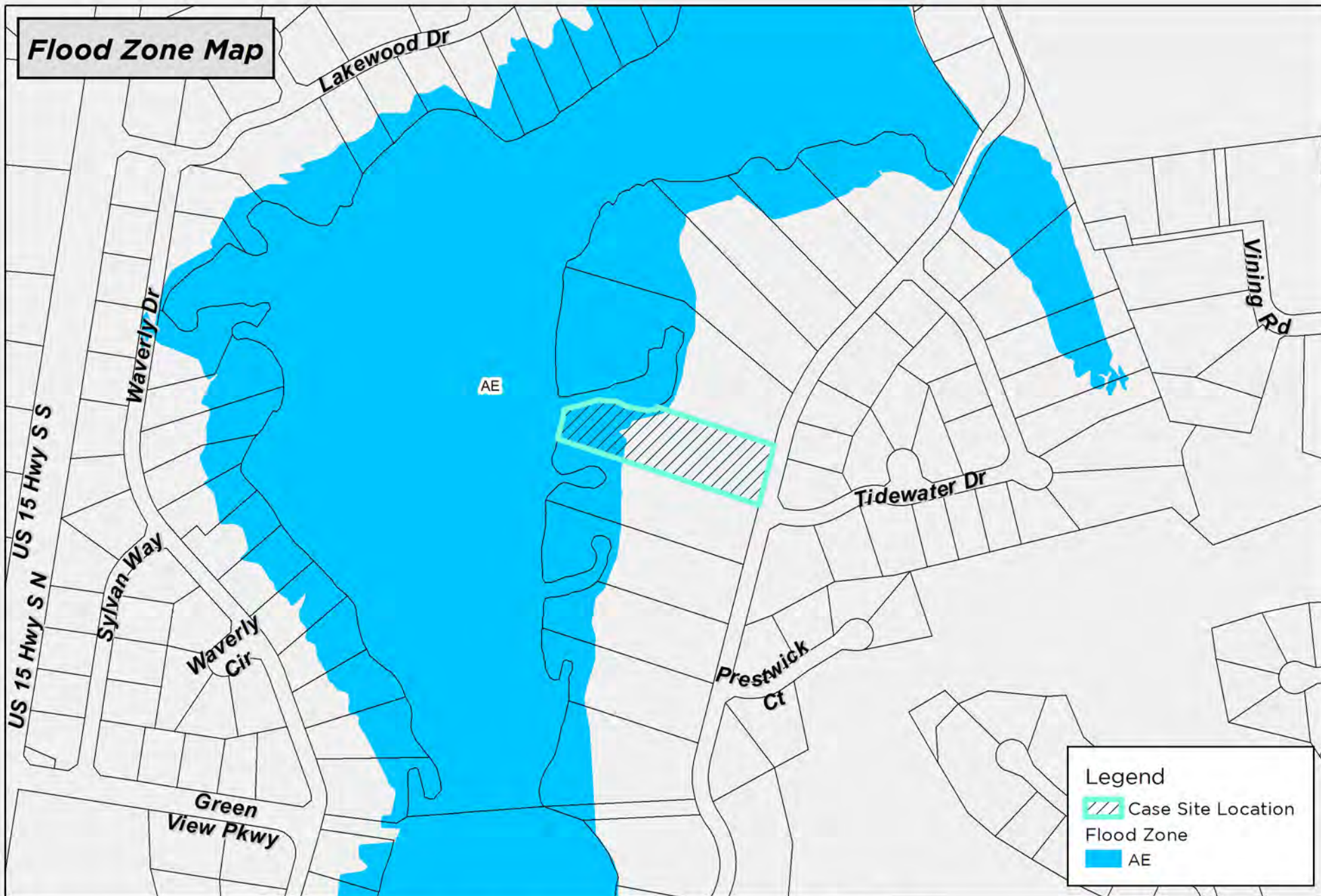
0 200 400 Feet
1 inch = 400 feet

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User Name: crobbins
Document Name: BOA-24-41

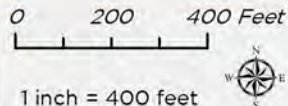


BOA-24-41
420 Lakewood Dr, Sumter, SC 29150
Tax Map # 223-00-01-047

Flood Zone Map



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