

SPACE ABOVE RESERVED FOR RECORDING PURPOSES

UPON RECORDING, PLEASE RETURN TO:

TOWN OF BLUFFTON
Attn: Town Clerk
20 Bridge Street
Bluffton, South Carolina 29910

PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION BY:

FINGER, MELNICK, BROOKS & LABRUCE, P.A.
Attn: E. Richardson LaBruce
Post Office Box 24005
Hilton Head Island, South Carolina 29925

STATE OF SOUTH CAROLINA	)	EASEMENT AGREEMENT
	)	(New River Linear Trail & Carolina Oaks)
	)	Tax Map No. R614-028-000-5336-0000
COUNTY OF BEAUFORT	)	Tax Map No. R610-028-000-0018-0000

THIS EASEMENT AGREEMENT (the “*Agreement*”) is made and entered into on this ____ day of _____, 2025, (herein, the “*Effective Date*”) by and between the **TOWN OF BLUFFTON**, a South Carolina municipal corporation (the “*Town*” and/or the “*Grantor*”) and **K. HOVNANIAN’S FOUR SEASONS AT CAROLINA OAKS, LLC**, a South Carolina limited liability company (the “*Developer*”).

WITNESSETH

WHEREAS, the Town is the record owner of that certain parcel of real property commonly known as a portion of the New River Linear Trail, R610-028-000-0018-0000 and as more particularly described on **EXHIBIT “A”** hereto, which by reference is fully incorporated herein (the “*Linear Trail*”); and,

WHEREAS, the Developer previously owned certain real property adjacent to the Linear Trail of approximately 14.8 acres, more or less, and assigned Beaufort County Tax Map No. R614-028-000-5336-0000, as more particularly described on **EXHIBIT “B”** hereto and which by reference is fully incorporated herein (the “*Parcel*”). Developer conveyed the Parcel to Carolina Oaks Association in Deed Book 4356 at Page 1095, recorded August 2, 2024 in the Office of the Beaufort County Register of Deeds. Contained in this Deed, Developer reserved unto itself certain rights to construct additional amenities or improvements on the Parcel; and,

WHEREAS, the Parcel is subject to the terms and conditions of the *Development Agreement for the Jones Estate* recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 1315 at Page 1099, as amended and supplemented (the “*Development Agreement*”); and,

WHEREAS, Section XII.A of the Development Agreement requires the Developer to construct a pedestrian connection to access the Linear Trail from the Parcel and to thereafter maintain such access in a safe and usable condition; and,

WHEREAS, as illustrated by the “*Encroachment Exhibit*” provided to the Town by the Developer and attached hereto as **EXHIBIT “C”** and fully incorporated herein by reference, the Developer will require an approximately EIGHT HUNDRED NINETY-EIGHT (898 SQ. FT.) SQUARE FOOT permanent easement interest over a portion of the Linear Trail in order to facilitate the requisite pedestrian connection to and from the Parcel (the “*Easement Areas*”); and,

WHEREAS, the Town desires to show its support for the Project by conveying the requisite easements over the Easement Areas to the Developer subject to the terms and conditions more fully set forth herein; and,

WHEREAS, the Parties desire to execute this Agreement to clarify and/or set forth the scope of the easements granted to the Developer and the obligations of the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and no other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. **Incorporation of Recitals.** The above recitals are hereby incorporated herein as if restated fully and are hereby made an integral part hereof so that their contents are a substantive part of this Agreement.

2. **Permanent Easement.** Subject to the provisions of this Agreement, the Town hereby grants and conveys to the Developer, its successors, assigns, employees, licensees, agents, invitees, and contractors, as well as any future owner of the Parcel and such other persons whomsoever claiming under or through said parties (collectively, the “*Grantee*”) a conditional, non-exclusive, perpetual, commercial, and transmissible easements to construct, operate and maintain certain pedestrian pathway improvements, including but not limited to the right, privilege and authority, from time to time, to enter upon, construct, extend, inspect, operate, replace, relocate, repair, and perpetually maintain upon, over, along, across, through, and under the Easement Areas such (a) lights, fixtures, poles, support infrastructure, communications infrastructure, conduits, wiring, meters, boxes, enclosures, transformers, hand-holes, transformer enclosures, connection boxes and/or other subsurface or above-ground lighting and electric utility improvements (the “*Utility Improvements*”), (b) pathway, pedestrian bridge, emergency telephone or computer systems, and/or other walkway improvements (the “*Sidewalk Improvements*”), and (c) drains, embankments, ditches, culverts, flumes, pipes and any other improvements used or useful in the collection, conveyance, testing and drainage of surface and storm water runoff (the “*Drainage Improvements*”)(with the Utility Improvements, the Sidewalk Improvements, and the Drainage Improvements collectively, the “*Improvements*”), together with the right of ingress, egress, and access to and from and across and upon those portions of the Linear Trail immediately adjacent to the Easement Areas as may be necessary or convenient for the purposes connected therewith. Together with the right, from time to time, to install any or all of the Improvements in the Easement Areas near the easement/lot lines; provided, however, any damage to the property of the Town caused by the Grantee in the exercise of its rights hereunder shall be repaired by Grantee at its cost and expense.

3. **Compliance with Laws and Regulations.** Developer shall operate and shall ensure that all Grantees operate on and within the Easement Areas and the Linear Trail in a safe and workmanlike manner, in accordance with generally accepted construction practices in the State of

South Carolina. Developer shall perform all work and operate within the Easement Areas in full and complete compliance with all applicable federal, State and local laws, ordinances, statutes, regulations, and permits (collectively, the “*Regulations*”), including but not limited to such Regulations pertaining to the protection of wetlands, groundwaters, and the environment. Developer shall be solely responsible for any violation of any Regulation and agrees to promptly pay any fines or penalties imposed because of such violations. The Developer shall be solely responsible for obtaining all necessary easements, rights-of-entry, permits, and/or approvals from Dominion Energy of South Carolina, Inc. (“*Dominion*”) prior to any construction, maintenance, development, or work within the Easement Areas or the Linear Trail.

4. **Maintenance.** Developer, at its sole cost and expense, shall and hereby agrees to maintain any and all Improvements within the Easement Areas in a safe, neat, and orderly manner, free of debris and hazardous conditions, and further agrees to repair, replace, and renovate such Improvements when reasonably necessary.

5. **Damage and Interference.** In no event shall a Grantee materially interfere with the Town’s or the public’s use of the Linear Trail. Developer shall be solely responsible for the protection and safety of the general public within the Easement Areas and Developer shall take all reasonably necessary precautions to ensure that the general public is protected from any harm arising from or connected with the Grantee’s use of the Easement Areas. The parties to this Agreement agree that Developer shall be responsible for patching any asphalt, concrete or other all-weather surface disturbed by a Grantee during the life of this Agreement and shall restore any impacted portions of the Linear Trail to its prior condition, including but not limited to re-seeding grassed areas.

6. **Notice Prior to Commencing Work.** Prior to commencing any work, maintenance, or development within the Easement Area, the Developer shall provide the Town with at least seven (7) days’ prior written notice; provided, however, in the event of a bona fide emergency, Developer shall provide the Town with whatever notice is reasonable under the circumstances.

7. **AS IS, WHERE IS.** The easements granted hereunder are made on an “**AS IS**” basis without any representation or warranty as to the condition of the Easement Areas or any improvements thereon. The Parties acknowledge and agree that the Town is under no obligation to maintain or repair any Improvements in the Easement Areas, now existing or to be constructed, for the benefit of a Grantee or any other persons. Further, the Developer shall not modify, alter, construct, make or remove any Improvements constructed within the Easement Area or permit the same without the prior written consent of the Town.

8. **Indemnification.** Developer shall defend, indemnify and hold harmless the Town, its affiliates, and its respective officers, members, employees, representatives, agents, successors and assigns (each an “*Indemnified Party*” and collectively, the “*Indemnified Parties*”), from and against all claims, demands, suits, actions, expenses, judgments, obligations, damages, charges, losses and liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, taxes, fees, costs, or expenses of whatever kind (including, without limitation, amounts paid to enforce the provisions of this Section and amounts paid in settlement, interest, court costs, costs of investigators, fees and expenses of attorneys, accountants, financial advisors and other experts, and other expenses) that may be imposed upon, incurred by or asserted against an Indemnified Party and arising out of or resulting from: (a) any negligent or tortious act, error or omission attributable in whole or in part to any Grantee; and (b) any failure by a Grantee to perform its obligations, either express or implied, under this Agreement; and (c) bodily injury, death of any person, or damage to real or tangible, personal or intellectual property resulting from any Grantee’s negligence or wrongful acts or omissions; and (d)

any breach of any of Grantee's representations, warranties or obligations under this Agreement. Notwithstanding the foregoing, the indemnification obligation set forth above shall not include any claims, demands, judgments, suits, actions, expenses, losses or liabilities, including costs and attorney's fees, which are caused solely by the negligence of the Indemnified Party seeking to enforce such obligation. This provision shall survive the termination of this Agreement for any claim arising during the term of the Agreement.

9. **Revocation of Easements.** In the event that the Developer or a Grantee materially breaches this Agreement or otherwise exercises their rights hereunder in an unacceptable or objectionable manner, as determined in the sole and absolute discretion of the Town, and such acts of are either incapable of being cured or are not cured within seven (7) days of Developer's receipt of written notice from the Town regarding the same, the Town shall have the unilateral right to revoke and terminate this Agreement and the easements conveyed hereunder. In the event this Agreement is terminated by the Town, the Developer shall promptly remove all equipment, materials, litter, debris, fencing, and Improvements from the Easement Areas and restore the Easement Areas to their pre-existing condition as required in Section 5 hereof.

10. **Default and Remedies.** In addition to the remedies provided in Section 9 hereof, in the event of a default by either party hereto, the non-defaulting party may seek any and all remedies permitted by law or available in equity. For avoidance of confusion, such remedies shall include the right of self-help for the Town if the Developer shall continue to fail, after notice and the seven-day cure period, to perform any necessary maintenance required of it hereunder, and Developer hereby agrees to reimburse the Town for the expenses and costs incurred in correcting the same within thirty (30) days of receipt of statement itemizing said costs and expenses incurred by the Town.

11. **Transferability.** The parties to this Agreement hereby acknowledge and agree that the easements and other rights conferred by, and obligations imposed by, this Agreement are commercial easements and are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors and assigns.

12. **Town Council Approval.** Notwithstanding anything in this Agreement to the contrary, pursuant to Section 5-7-260 of the South Carolina Code of Laws, 1976, as amended, and Sections 2-13 and 2-19 of the Code of Ordinances for the Town of Bluffton, South Carolina, the Grantor acknowledges and agrees that the Town, as a South Carolina municipal corporation, may only convey interests in real property through the adoption of a written ordinance of the Bluffton Town Council at such duly held public meeting(s) of Town Council.

13. **Modifications.** The terms of this Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument in writing, signed by each party.

14. **Construction of Agreement.** Each party acknowledges that it has participated in the negotiation and drafting of this Agreement. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto or thereto by any court by reason of such party having or being deemed to have structured, dictated, or drafted any provision in the Agreement.

15. **Successors and Assigns.** All provisions of this Agreement shall run with the land and bind and inure to the benefit of each party and each party's respective heirs, executors, legal representatives, successors, successors in title and assigns. The words "Grantor" and "Grantee" shall include their heirs, executors, administrators, successors, and assigns, as the case may be. The

obligations, covenants, and responsibilities of the Developer and the Grantee hereunder shall only be conveyed, assigned, or transferred as part of the conveyance, assignment, or transfer of the Parcel.

16. **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

17. **Continuation of Other Easements.** Nothing within this Agreement shall be deemed to nor shall operate to extinguish any other easements held or possessed by the Parties, either individually or collectively, within the Easement Areas.

18. **Cooperation.** The parties to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intended purpose of this Agreement.

19. **Notice.** Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “Notice”) in writing and addressed to the other party at its address set out herein (or, in the alternative, for the Developer and/or its successors and assigns, at the address shown on the most recent tax bill for the Parcel issued by Beaufort County). Each party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), certified or registered mail, or first-class U.S. mail. Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section 19.

TO HAVE AND TO HOLD, subject to the conditions and limitations set forth above, all and singular, the rights, privileges, and easements aforesaid unto the Grantee, its successors and assigns, forever.

[Remainder of Page Intentionally Omitted. Signature Page(s) and Exhibit(s) to Follow.]

WITNESS Grantor's Hand and Seal this ____ day of _____, 2025.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

GRANTOR:

TOWN OF BLUFFTON, a South Carolina
municipal corporation

(Signature of First Witness)

(L.S.)
Name: STEPHEN STEESE
Title: TOWN MANAGER

(Printed Name of First Witness)

(Signature of Second Witness or Notary Public)

(Printed Name of Second Witness or Notary Public)

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this ____ day of _____, 2025,
before me, the undersigned Notary Public of the State and County aforesaid, personally appeared
STEPHEN STEESE as TOWN MANAGER for the TOWN OF BLUFFTON, a South Carolina municipal
corporation, known or satisfactorily proven to me to be the person whose name is subscribed to the
within instrument, who, on behalf of the corporation, acknowledged the execution thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last
above mentioned.

(Signature of Notary Public) (SEAL)

Notary Printed Name: _____
Notary Public for the State of South Carolina
My Commission Expires: _____

WITNESS Grantee's Hand and Seal this ____ day of _____, 2025

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

GRANTEE:

K. HOVNANIAN'S FOUR SEASONS AT
CAROLINA OAKS, LLC, a South Carolina
limited liability company

(Signature of First Witness)

(Printed Name of First Witness)

(Signature of Second Witness or Notary Public)

(Printed Name of Second Witness or Notary Public)

(L.S.)

Name: _____

Title: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this ____ day of _____, 2025,
before me, the undersigned Notary Public of the State and County aforesaid, personally appeared
_____ as _____ for K. HOVNANIAN'S FOUR SEASONS AT
CAROLINA OAKS, LLC, a South Carolina limited liability company, known or satisfactorily proven to
me to be the person whose name is subscribed to the within instrument, who, on behalf of the company,
acknowledged the execution thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last
above mentioned.

(Signature of Notary Public) (SEAL)

Notary Printed Name: _____
Notary Public for the State of South Carolina
My Commission Expires: _____

EXHIBIT “A”
(Property Description for the Linear Trail)

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Bluffton County of Beaufort, South Carolina, containing 41.00 acres, more or less, shown and designated as “**Tract A**” on that certain survey entitled “*Property Survey for: New River Farms, L.P., et al., of: ‘Linear Park’, Location: Bluffton Township, Beaufort Co., South Carolina – Town of Bluffton*” prepared by James M. Anderson, S.C.R.L.S. 9213, certified by James M. Anderson & Associates, Inc., dated February 8, 2000, and recorded July 24, 2000, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 75 at Page 93.

This being a portion of the same property conveyed to the Town by deed of New River Farms, L.P., Holly Branch Farms, L.P., Jones Associates, L.P., the Barbara J. Bailey Limited Partnership, Dorothy Zetterower, Lillian R. Stephenson, and Christopher C. Ryals, as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Record Book 1367 at Page 1632.

Tax Map No. R610-028-000-0018-0000.

EXHIBIT “B”
(Property Depiction for the Parcel)

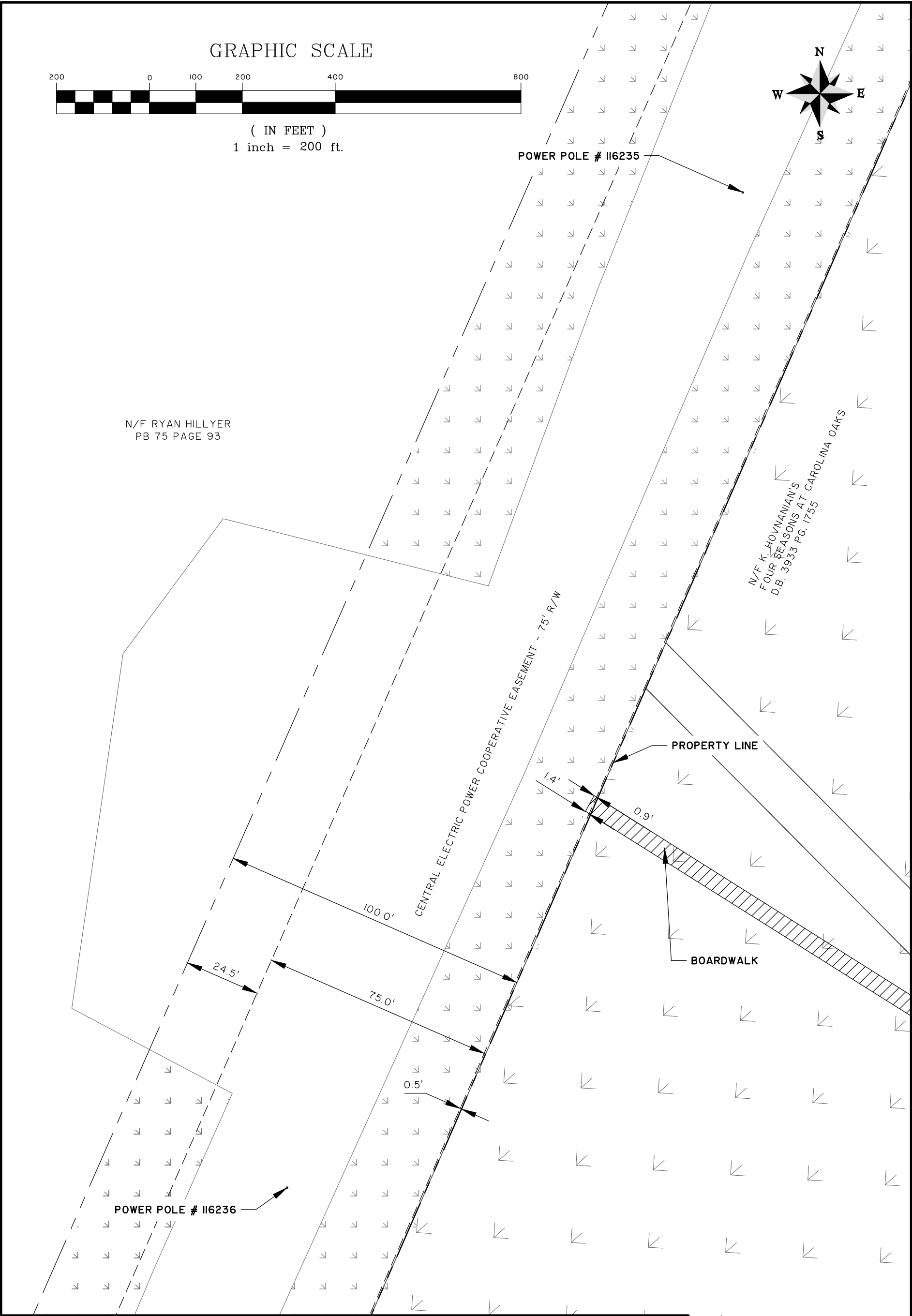
ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Bluffton Beaufort County, South Carolina described as “Common Area” containing 14.804 acres, more or less, TMP: R614-028-000-5336-0000 on a plat entitled “Subdivision Plat, Four Seasons Phase 5 A Portion of Parcels 4D & 4E Shubrick Lakes Tract, Town of Bluffton, Beaufort County, South Carolina” dated December 1, 2023, prepared by Thomas & Hutton Engineering Co., certified by Robert K. Morgan, RLS (SC#26957), and recorded in the Beaufort County Records in Plat Book 162 at Page 195 on December 14, 2023. For a more detailed description as to the location, courses, metes, bounds, distances; etc. reference may be had to the above recorded plat.

This being a portion of the same property conveyed to Developer by Magnolia Residential Investors, LLC, by (a) deed dated November 5, 2020 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, on November 12, 2020 in Record Book 3933 at Page 1755; (b) deed dated May 2, 2019 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina on May 15, 2019 in Record Book 3760 at Page 251; and (c) deed dated April 17, 2023 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina on April 24, 2023 in Record Book 4235 at Page 2427.

Tax Map No. R614-028-000-5336-0000

EXHIBIT “C”
(Easement Depiction)

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ENCROACHMENT EXHIBIT

BOARDWALK CROSSING

CLIENT:

K. HOVNANIAN HOMES

LOCATION: BLUFFTON, SC

DATE: 10/22/24

JOB NUMBER: J-16119

DRAWN BY: TJB

REVIEWED BY: JPM

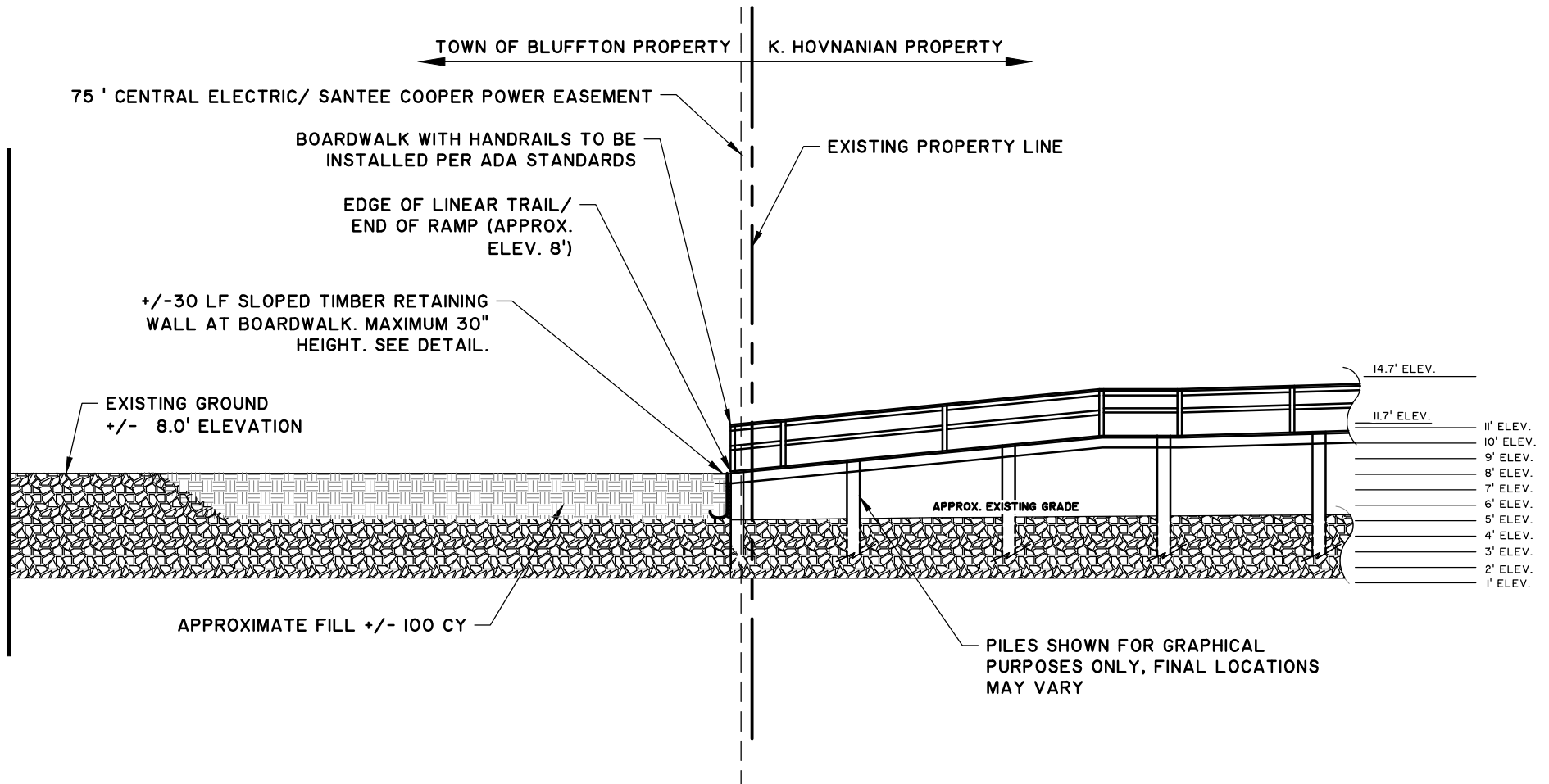
SHEET: 1 OF 1

SCALE: 1" = 30'



50 Park of Commerce Way
Savannah, GA 31405 • 912.234.5300

www.thomasandhutton.com



PREPARED FOR:
TOWN OF BLUFFTON
LINEAR TRAIL ENCROACHMENT EXHIBIT
BLUFFTON, SOUTH CAROLINA
10/22/24

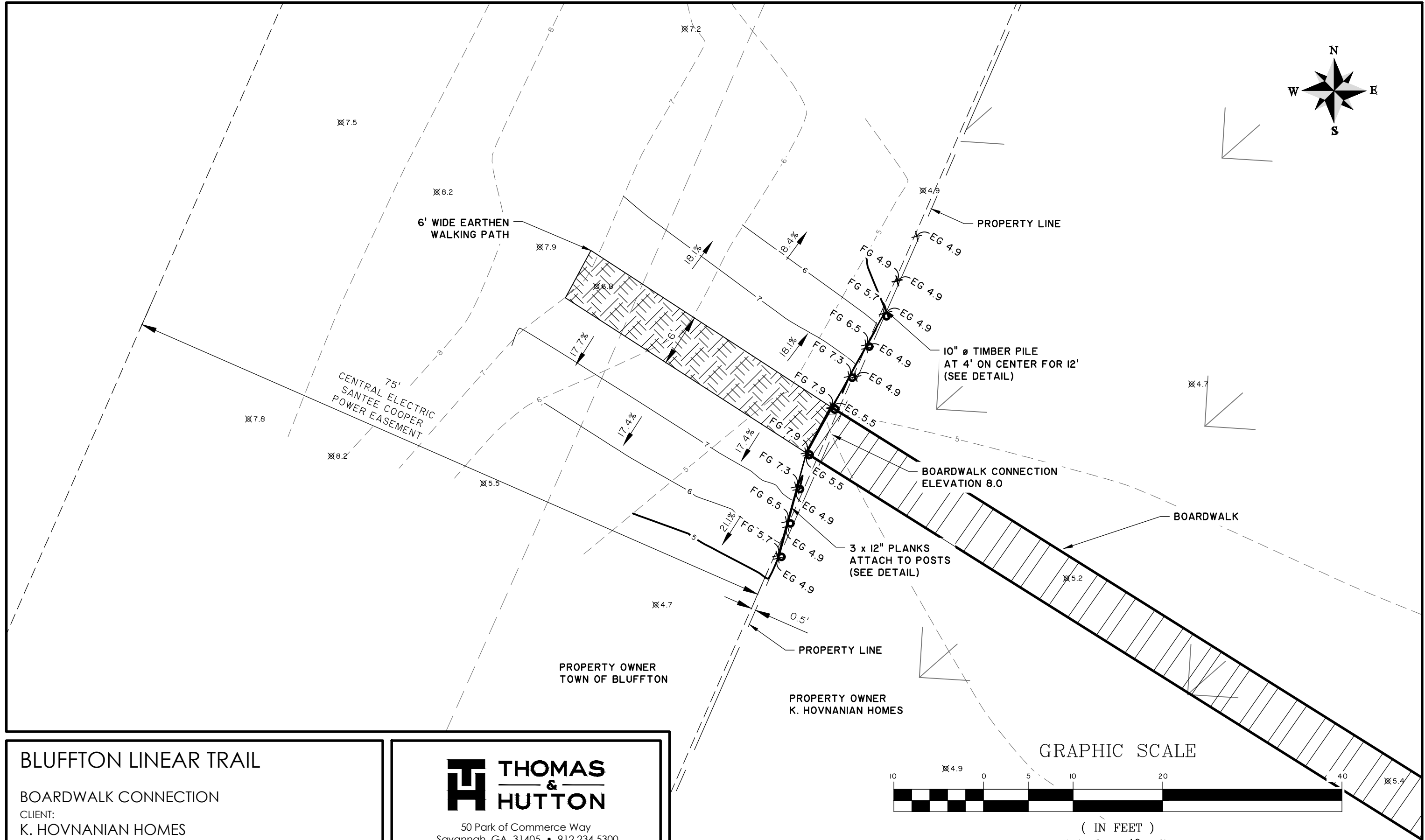


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This map illustrates a general plan of the development which is for discussion purposes only, does not limit or bind the owner/developer, and is subject to change and revision without prior written notice to the holder. Dimensions, boundaries and position locations are for illustrative purposes only and are subject to an accurate survey and property description.

Z:\1619\1619.1030\ENGINEERING\DRAWINGS\EXHIBITS\BOARDWALK\1619.1030 - BLUFFTON TRAIL GRADING.DWG - Oct 22, 2024 - 3:10 PM



BLUFFTON LINEAR TRAIL

BOARDWALK CONNECTION

CLIENT:
K. HOVNANIAN HOMES

LOCATION: BLUFFTON, SC
DATE: 10/22/24
JOB NUMBER: J-16119.1030

DRAWN BY: TJB
REVIEWED BY: JPM

SHEET: TP
SCALE: 1" = 10'



50 Park of Commerce Way
Savannah, GA 31405 • 912.234.5300

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STATE RECORDING FEE - S.C. CODE OF LAWS SECTION 12-24-40;
APPLICABLE COUNTY & MUNICIPAL TRANSFER FEE ORDINANCES