



Planning Commission

April 3, 2024

Comprehensive Plan Amendment

#ACP24-000001

Zoning Map Amendment

#REZ24-000001

Town of Kiawah Island Zoning Ordinance Amendment Request
ACP24-000001 & REZ24-000001 Case History

Planning Commission Meeting: February 7, 2024
Planning Commission Workshop: March 6, 2024
Planning Commission Meeting: March 6, 2024
Planning Commission Meeting: April 3, 2024
Public Hearing and First Reading:
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)
Approximately 126.75 acres Deeded Acreage per Charleston County GIS
Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Adjacent Properties:

The Town of Kiawah Island Zoning Map designates the subject property as "R-1, Residential". The adjacent properties to the north and west across the Kiawah Island River are located outside Kiawah Island's jurisdiction in Unincorporated Charleston County, and Seabrook Island. The adjacent properties to the east are located in the R-3, Residential Zoning District also known as "The Cape" And "Ocean Pines." The Atlantic Ocean is located directly South of the parcel.

Application:

The request is to amend the Town of Kiawah Island Comprehensive Plan Map IX.2, Future Land Use, to change the future land use designation for the subject property located at Beachwalker Drive (TMS# 207-05-00-0011) commonly known as Captain Sam's Spit and for the subject area located at Beachwalker Drive (Beachwalker County Park Lease Site) (TMS #207-05-00-001) from "Low Density Residential" and "Medium Density Residential" to Conservation, Active Recreation and Open Space.

The request is to rezone the subject property Captain Sam's Spit (TMS# 207-05-00-0011) and to rezone the subject property (Beachwalker County Park Lease Site) (TMS#207-05-00-001) from R-1, Residential and Medium Density Residential to proposed Kiawah Conservation – Overlay Zoning District.

The subject property was acquired by KDP II, LLC on May 29, 2013 (Deed Book 0335 Page 077)

The subject property is partially developed. Beachwalker County Park which is located on a portion of this parcel, operates park and recreation uses for beach public access. Charleston County and the property owner entered into a 99-year lease agreement on July 1, 1976. The park amenities include, boardwalk, snack bar, outdoor showers, dressing areas, picnic area, and parking. The west most part of Captain Sam's Spit is designated as a 'critical habitat area' where dogs are prohibited year-round.

The subject property also contains an emergency beach access adjacent to the Kiawah River. This

emergency beach access is owned by the property owner with granted access to limited entities including the Town, Beach Patrol, CCPRC.

The remaining portions of this parcel remain undeveloped.

The subject property is a Dock Key Location pursuant to Sec. 12-78. Dock key Locations for a floating dock.

Previously executed development agreements provided the use types and development entitlements for the subject property. Prior to the Town's first development agreement, Charleston County approved the original planned development plan for Kiawah Island. The Town entered into the first development agreement in 1994, which established updated parameters for use, density, building height, setbacks, open space and related standards for select parcels owned by the developer. Consistent with the intent and goals of the original PDD and the 1994 DA, TOKI and the developer KIC entered a new DA in 2005 which updated development limits within new neighborhoods, reconfirmed standards for neighborhoods developed since the 1994 DA and adjusted select parcels based upon new survey information. The most significant revision from the 1994 DA was to eliminate the entitlement of 325 hotel rooms permitted in Parcels 13 and 12A.

Following this parcel history, the previously executed 2013 Amended and Restated Development Agreement By And Between Kiawah Resort Associates LP and the Town of Kiawah Island, provided development entitlements for this parcel. The 2013 ARDA designated Parcel 12A and 12 B where a portion of the subject property was R-3/C and a portion R-1, Residential.

A previously approved Preliminary Plat for the development of 50 residential lots was approved on July 8, 2015. This preliminary plat showing the proposed development of 50 residential lots expired July 6, 2023.

The subject property also has a long history of litigation regarding proposed installation of infrastructure proposed development of the site. The property owner applied for a permit to build an erosion control structure consisting of approximately 2,783-foot bulkhead and revetment along the Kiawah River on Captain Sam's Spit in order to facilitate residential development of the upland property development of the subject property.

With the expiration of the 2013 Amended and Restated Development Agreement, the subject property was rezoned in November 28, 2023. The subject property is currently zoned R-1, Residential where its Future Land Use Designation is Low Density Residential. (R-2, Residential and Medium Density Residential for Future Land Use Designation of TMS 207-05-00-001)

Future Land Use Categories:

Active Recreation and Open Space: "This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned. Some examples include the Tennis Center, Night Heron Park, and the Property Owners Beach and Recreation Center."

Low Density Residential: "This category is intended to promote, protect, and preserve lower density development of single family detached residential areas. In this designation, the maximum density must not exceed three dwelling units per acre. Infill lots or community re-development should be designed to be sensitive to the character of the surrounding area as well as have minimal impact to the density requirements set out in the Town's Land Use Planning and Zoning Ordinances. A typical area with a Low Density Residential designation would include Plantation Woods or The Settlement."

Zoning Classification:

The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single-family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The R-1 Zoning District has permitted use of single family detached and parks. Conditional uses of historical sites, and minor utility services which include electric or gas power distribution, and/or sewage collection service lines.

The purpose of the PR, Parks and Recreation District is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the parks/recreation use may be permitted as conditional or special exception uses.

The PR, Parks and Recreation Zoning District has permitted use of parks, historical sites, nature exhibitions, and botanical gardens or arboretums. Conditional or Special Exception uses include personal improvement education uses as golf or fine arts school; Recreation and entertainment as community recreation including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools), golf courses or country clubs, recreation or vacation camps, recreational equipment storage; utility services; food and beverage services as restaurant, general, including cafeterias, diners, delicatessens, or full-service restaurants or accessory uses to a golf course, clubhouse or recreational area (with and without alcoholic beverages)

References Documents:

Plat Book and Page: AH-073 (Recorded on March 17th, 1977)

Deed Book and Page: 0335-077 (Recorded on May 29th, 2013)

RECOMMENDATION BY THE PLANNING COMMISSION

Comprehensive Plan Amendment: Pursuant to §12-157 (4) of the *Land Use Planning and Zoning Ordinance* “The Planning Commission shall review the proposed amendment and adopt a resolution recommending that the Town Council approve, deny or approve with conditions the proposed amendment, based on the approval criteria of subsection (7) of this section. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment. Following an unfavorable finding on the application, the Planning Commission shall notify the applicant and report the reasons for the finding.

Zoning Map Amendment: Pursuant to §12-158 (3) of the *Land Use Planning and Zoning Ordinance* “The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission’s recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of the Planning Commission members present and voting shall be required to approve the amendment.

DECISION ON AMENDMENT BY THE TOWN COUNCIL

Pursuant to §12-157 (6) of the *Land Use Planning and Zoning Ordinance* Following receipt of a copy of the proposed comprehensive plan text or land use diagram amendment from the Planning Commission, along with the Planning Commission's report and recommendation, the Town Council shall schedule one or more public hearings in accordance with State Law to decide whether to adopt the amendment. For amendments to the land use diagram, personal and posted notice also shall be given in the manner provided in section 12-156. Any time after the close of the public hearing, Town Council shall act to approve, approve with conditions, or deny the proposed comprehensive plan amendment, based on the approval criteria of subsection (7) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment.

Pursuant to §12-158 (5) of the *Land Use Planning and Zoning Ordinance* “After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.”

APPROVAL CRITERIA AND STAFF REVIEW FEBRUARY 7, 2024

Pursuant to §12-157 (7) of the *Land Use Planning and Zoning Ordinance*, Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the comprehensive plan. Any amendment to the land use diagram and/or other maps shall be consistent with the vision and goals in the text of the comprehensive plan.

Pursuant to §12-158 (6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- A. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;**
- B. The proposed amendment is consistent with the purposes and intent of this article;**
- C. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;**
- D. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.**

Planning staff reviewed the proposed amendment request and outlined the following conclusions relative to the approval criteria.

- The proposed zoning and future land use designation align with the existing land use patterns for the subject property.
- The proposed rezoning supports the goal to *“Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.”* and to *“Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.”*
- The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.

Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval.

PLANNING COMMISSION MEETING FEBRUARY 7, 2024

Planning staff presented the proposed amendments for the subject property, communicating that there are additional components regarding the subject property that the Commission should consider in evaluating the rezoning of the subject property. Subsequently the Planning Commission briefly discussed next steps,

commenting on recent activities associated with the subject parcel. The Planning Commission voted to table action on the proposed amendments until the March 6th Planning Commission meeting. The Planning Commission shared interest in receiving more information on the moving parts of the Captain Sam's parcel including the proposed conveyances of the property owner to the Kiawah Island Community Association, and information regarding interpretation of 2013 Amended and Restated Development Agreement as it pertains to applying restrictive covenants, and to ensure there is additional public engagement opportunity before considering this rezoning request. Planning staff did share that Town Council has been made aware of the issues regarding 2013 ARDA conveyances pursuant to Section 16(f) and those were issues that Town Council would, if any, take action on. Members of the Planning Commission also expressed interest in conservation zoning for the subject property. Planning staff shared a medium for public engagement would be scheduled where these interest and concerns can be further discussed before the Planning Commission takes any action.

The Planning Commission voted to table the proposed amendments by a vote of 6 to 0.

PLANNING COMMISSION WORKSHOP MARCH 6, 2024 (12:30 PM)
PLANNING COMMISSION MEETING MARCH 6, 2024 (2:00PM)

After the February 7, 2024 Planning Commission meeting, planning staff scheduled a public engagement session for March 6th. Additionally planning staff prepared materials for the purposes of interests shared during the February 7th meeting which included discussion around conservation. Furthermore, based on the discussions and considerations from the February 7th Planning Commission meeting for the future land use designation and zoning classification for the subject property, planning staff outlined conclusions for the Planning Commission to consider at the March 6th Planning Commission Workshop. The workshop provided an opportunity for public input and the Commission to gain better understand of alternative solutions. Planning staff introduced a proposed overlay zoning district and shared pending subdivision applications for review regarding the subject property.

The Planning Commission voted to table the proposed amendments by a vote of 6 to 0 until the April 3, 2024 Planning Commission meeting.

APPROVAL CRITERIA AND STAFF REVIEW APRIL 3, 2024

Pursuant to §12-157 (7) of the *Land Use Planning and Zoning Ordinance*, Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the comprehensive plan. Any amendment to the land use diagram and/or other maps shall be consistent with the vision and goals in the text of the comprehensive plan.

Pursuant to §12-158 (6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- B. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;**
- C. The proposed amendment is consistent with the purposes and intent of this article;**
- D. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;**
- E. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.**

Based on the discussions and considerations from the February 7th and March 6th Planning Commission meetings for the future land use designation and zoning classification for the subject property, planning staff outlined several conclusions for the Planning Commission to consideration of a recommendation.

- A. Planning staff recommends the Planning Commission consider all the planning tools and techniques, currently known pieces of information and explore the rezoning process through workshop to define the desired standards which would include lot coverage, height, setback, and more particularly allowable land uses. This approach allows to recognize the base zoning standards and ideal land uses and consider a mixture of tools and techniques to identify the most appropriate zoning classification and land use designation.
- B. Planning staff also recommends the Planning Commission consider the concept of an overlay zone based on the complexities of the subject property's land use patterns.
- C. Planning staff highlights recent subdivision applications, which if approved create four parcels from the subject parcel. The Planning Commission approved one subdivision application for the Oceanfront Highlands at the March 6th Planning Commission Meeting. The April 6th Planning Commission meeting agenda contains two additional subdivision applications which impact the subject parcel considered for rezoning. The property owner has submitted for the subdivision of marsh areas to be conveyed to Kiawah Island Community Association and the formal delineation of Parcel 12A and Parcel 12B of the subject parcel. These subdivision applications if approved would establish four parcels as outlined below.
 - o Oceanfront Highlands of Parcel 12B (To be conveyed to KICA) (*APPROVED March 6th)
 - o Marsh Areas of Parcel 12B (To be conveyed to KICA)
 - o Parcel 12 B (Residual Lands)
 - o Parcel 12 A
- D. Active Recreation and Open Space Future Land Use Category "This This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned."
- E. Conservation Future Land Use Category "This category is used to promote, protect, and preserve the various natural resources located within the limits of the Town. These lands typically include highland areas surrounded by marsh or water, small islands, and fragile natural land. Ultimately, this category consists of lands which are outside the Ocean and Coastal Resource Management critical line that have been designated as unsafe or unsuitable for permanent structures or development. Furthermore, these lands have either been publicly or privately obtained through preservation or conservation easements that significantly restrict development. An example includes Little Bear Island to the east of the Ocean Course."
- F. The purpose of the PR, Parks and Recreation Zoning District is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the parks/recreation use may be permitted as conditional or special exception uses. The maximum height standard for this district is 2 stories/35'. The maximum lot coverage for this zoning district is 70%. In addition to utilities, recreation and entertainment type uses as parks, sports activities, swimming areas, historical sites, nature exhibitions, the PR, Parks and Recreation District also conditionally or through special exception could allow restaurants.
- G. The purpose of the KC, Conservation Zoning District is to protect and preserve areas which are outside the OCRM critical line or define other sensitive areas, which are unsafe or unsuitable for

permanent structures or developments. This district prohibits development, however, uses permitted in the KC district shall be limited to boardwalks for beach access, unpaved temporary parking and non-habitable structures controlled by the Town relating to public health, safety and welfare. Accreted lands shall also become part of this district.

- H. The subject property's existing land use pattern is consistent with the Active Recreation and Open Space category. [Active Recreation an Open Space Future Land Use Category] *"This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned. Some examples include the Tennis Center, Night Heron Park, and the Property Owners Beach and Recreation Center."*
- I. The subject property's existing land use pattern may also be consistent with the Conservation future land use category, principally the western portion of the subject property corresponding to referenced Parcel 12B. [Conservation Future Land Use Category] *"This category is used to promote, protect, and preserve the various natural resources located within the limits of the Town. These lands typically include highland areas surrounded by marsh or water, small islands, and fragile natural land. Ultimately, this category consists of lands which are outside the Ocean and Coastal Resource Management critical line that have been designated as unsafe or unsuitable for permanent structures or development. Furthermore, these lands have either been publicly or privately obtained through preservation or conservation easements that significantly restrict development. An example includes Little Bear Island to the east of the Ocean Course."*
- J. *Sec. 12-61. – Establishment of Zoning Districts. Table 2A Comprehensive Plan Land Use Categories and Zoning Districts* within the Land Use Planning and Zoning Ordinance lists the Comprehensive Plan's land use categories and the zoning districts which may be established in each category. Within the Active Recreation, Open Space and Conservation land use categories, both PR, Parks and Recreation and KC, Conservation are zoning districts that can be established.
- K. *South Carolina Code § 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques (C)* provides flexibility for local governments to utilize an array of zoning techniques in the implementation of the comprehensive plan.
- L. *South Carolina Code § 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques (C) (5)* states, *"overlay zone" or a zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide with the underlying zone boundaries;*
- M. The subject parcel has historically been split or identified into two distinct planning areas, "Parcel 12A" and "Parcel 12B" as referenced by the previously executed 2013 Amended and Restated Development Agreement. The subject parcel's two distinct planning areas differ in character and land use patterns.
- N. Parcel 12A can be characterized as being partially developed which includes the leased site portion of the parcel to Charleston County for the operation of Beachwalker County Park. Beachwalker County Park is open to the public. The subject area of Parcel 12A is bounded by the Kiawah River to the northeast. Immediately adjacent to the east of Parcel 12A are multifamily residential developments either under construction or proposed.
- O. Parcel 12B is bounded by the Kiawah River to the north, and the Atlantic Ocean to the south. Parcel 12B can be characterized as being undeveloped, and still in its natural state. Parcel 12B can also be characterized as environmentally sensitive due to critical area, marshlands and adjacency to the inlet to the east.

- P. The existing development and operations of Beachwalker County Park should be factored into consideration to allow Beachwalker County Park to remain as an allowed use as this provides public beach access. Consideration of a conservation zoning designation as well as the current residential zoning district creates nonconforming uses and nonconforming structures for this development as no development is allowed pursuant to the Town's KC, Conservation Zoning District.
- Q. Much of Kiawah's beach, including the subject property is characterized as critical habitat area pursuant to Chapter 6. Critical Habitat Areas of the town's municipal code. Sec. 16-602. – Designation of critical habitat area defines "critical habitat areas" as "*those areas identified by the South Carolina Department of Natural Resources (SCDNR), United States Fish and Wildlife Service (USFWS), and other natural resource agencies as providing active nesting areas, active areas of critical food sources, or specific habitat areas for endangered or threatened species.*" Species relative to Kiawah are the Rufa Red Knot, Loggerhead Turtle and the Piping Plover. Captain Sam's is listed as a designated critical habitat for the wintering Piping Plover. The Town also placed a critical habitat pet restriction for the subject property pursuant to Ordinance 2014-08.
- R. Parcel 12B planning area includes portions of which are planned or in process to be conveyed to the Kiawah Island Community Association. The portions planned for conveyance to Kiawah Island Community Association are prescribed in 2013 ARDA, Section 16(f) Captain Sam's Spit.
- S. The property owner has submitted a portion of the referenced to be conveyed lands, which include ocean front highlands measured from Mean High Water to the crest of the primary dune. With this proposed conveyance a subdivision plat (SBD24-000001) has been submitted to the Town for review and approval. The Planning Commission approved this subdivision plat on March 6, 2024.
- T. The Planning Commission should also consider this and pending subdivision applications for the subject parcel in which the Planning Commission may consider future land use designations and zoning classifications for these pending individual parcels to be conveyed lands.
- U. The property owner has submitted two subdivision plat requests (SBD24-000002 and SBD24-000003). Application #SBD24-000002 requests the subdivision of common named Parcel 12A and Parcel 12B. Application #SBD24-000004 is a proposed subdivision of the subject property for the purpose of conveyance of marsh areas to the Kiawah Island Community Association.
- V. Future development may be limited due to the constraints of providing adequate ingress or egress by the connection of a roadway to access the western highland portion of Parcel 12B.
- W. Within Parcel 12A is the current emergency beach access, which is used by town officials, and other personnel as Beach Patrol and Charleston County Parks and Recreation Commission. The planning department is currently reviewing submitted plans to relocate this existing emergency beach access further east away from the river side of the subject property with it showing evidence of erosion.
- X. Planning staff outline the recommended base zoning districts for the subject property. The proposed base zoning districts align to the existing land use patterns with consideration to contextual site conditions. Planning staff outlines the recommended new zoning district, the Kiawah Conservation Overlay Zoning District provides the flexibility to utilize special provisions for a unique planning area. The proposed new zoning district modifies the development standards for the subject area based on unique circumstances and contextual site conditions. Please note the proposed language of a new zoning category and corresponding amended sections of the zoning code.
- Y. Please note the provided supplementary materials regarding this application.

Town of Kiawah Island Planning Commission

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

April 3, 2024



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Timeline Update

- At the February 7th Planning Commission (PC) meeting, planning staff presented the proposed amendments for the subject property, conveying that there are additional components regarding the subject property that the PC should consider in evaluating the rezoning of the subject property.
- With brief discussion regarding next steps, the PC voted to table the applications until the March 6th meeting. Additionally, planning staff scheduled a public engagement session for March 6th.
- Planning staff prepared materials for the purposes of interests shared during the February 7th meeting which included discussion around conservation.
- Planning staff's review of the proposed amendment requests outline several conclusions or recommendations the PC should consider. Planning staff encourages, the PC to spend some time discussing these considerations as well as engaging with the community.
- At the March 6th meeting, the PC voted to table the applications until the April 3rd, Planning Commission meeting.

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COMPREHENSIVE PLAN AMENDMENT REQUEST

#ACP24-000001

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Town of Kiawah Island Comprehensive Plan Amendment Application

Planning Commission Recommendation: February 7, 2024
(No action taken by the Planning Commission)

Planning Commission Workshop March 6, 2024
Planning Commission Recommendation: March 6, 2024
(No action taken by the Planning Commission)

Planning Commission Recommendation: April 3, 2024

Public Hearing and First Reading: TBD

Second Reading: TBD

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

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Application Information

Comprehensive Plan - Future Land Use Map Amendment Application

Case # ACP24-000001:

Request to change the Future Land Use designation for the subject property located at Beachwalker Drive (TMS# 207-05-00-001 & TMS# 207-05-00-0011) from Low Density Residential and Medium Density Residential to Conservation, Active Recreation and Open Space.

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Comprehensive Plan Amendment Application

Future Land Use is intended to provide guidance for the location and types of proposed future land uses to support the Town of Kiawah Island's Land Use Planning and Zoning Ordinance.

The aspects of the Land Use Element establish a flexible yet predictable method for determining the appropriateness of proposed development to share the future of the Town.

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#ACP24-000001 Case Information

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)

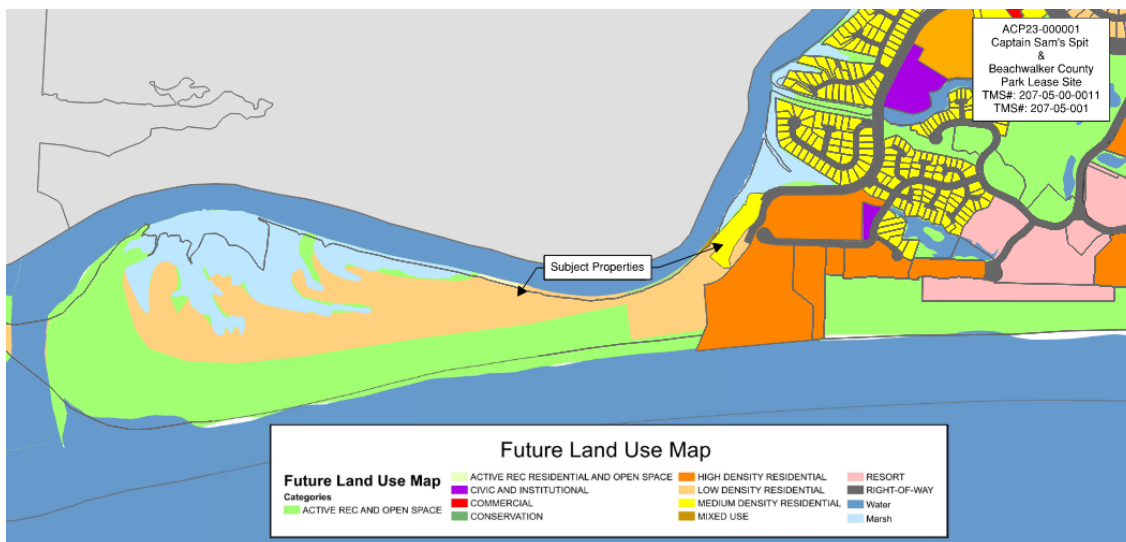
Approximately 126.75 acres Deeded Acreage per Charleston County GIS; Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Future Land Use Designation:

Low Density Residential (TMS# 207-05-00-0011)

Medium Density Residential (TMS# 207-05-00-001)

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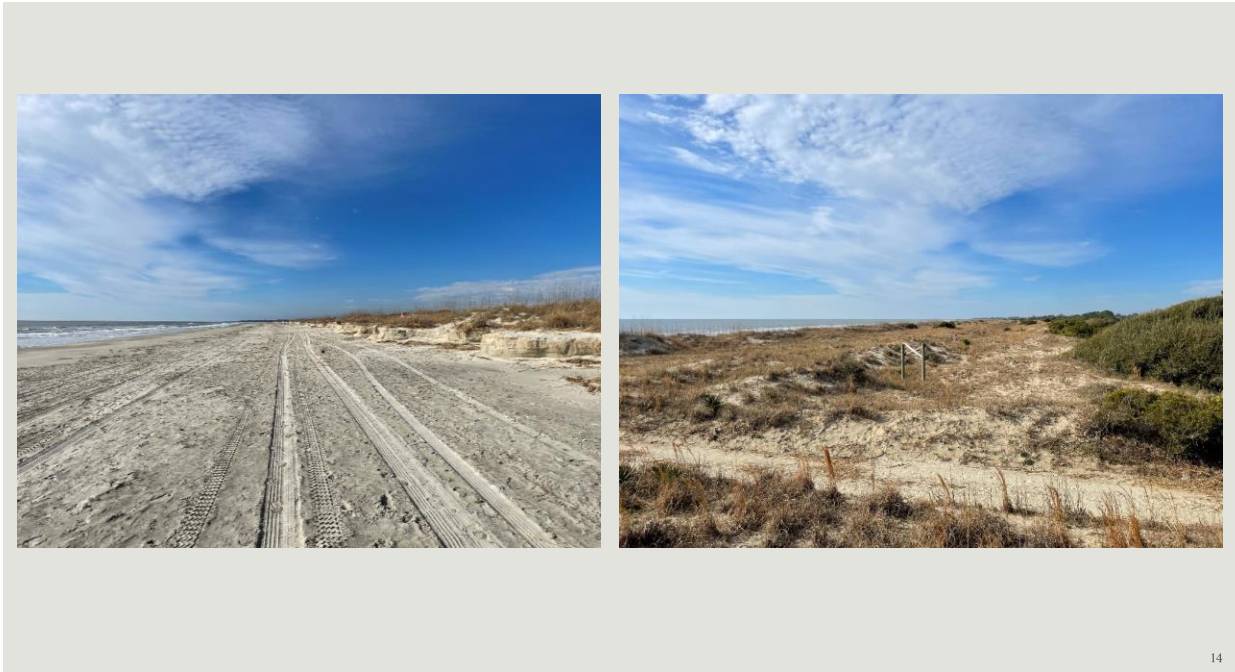
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Comprehensive Plan Amendment Application

The Town's Future Land Use Map, designates the subject property as **Low and Medium Density Residential**.

- The Comprehensive Plan defines **Low Density Residential** Future Land Use Category as "This category is intended to promote, protect, and preserve lower density development of single family detached residential areas."
- Typical development with Low Density Residential designations include Plantation Woods or The Settlement.
- The Comprehensive Plan defines **Medium Density Residential** Future Land Use Category as "This category is intended to provide and promote medium density development of single family detached and attached residential areas."
- Typical Development with medium density Residential designations include Inlet Cove or Night Heron Cottages.

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Comprehensive Plan Amendment Application

- The Comprehensive Plan defines **Active Recreation and Open Space** Future Land Use Category as "This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned."
- Typical development with an Active Recreation and Open Space designation: Tennis Center, Night Heron Park, and the Property Owners Beach and Recreation Center.

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Comprehensive Plan Amendment Application

- The Comprehensive Plan defines **Conservation** Future Land Use Category as “This category is used to promote, protect, and preserve the various natural resources located within the limits of the Town. These lands typically include highland areas surrounded by marsh or water, small islands, and fragile natural land. Ultimately, this category consists of lands which are outside the Ocean and Coastal Resource Management critical line that have been designated as unsafe or unsuitable for permanent structures or development. Furthermore, these lands have either been publicly or privately obtained through preservation or conservation easements that significantly restrict development. An example includes Little Bear Island to the east of the Ocean Course.

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Case # ACP24-000001:

Comprehensive Plan Amendment Applications: Recommendation by the Planning Commission

Pursuant to §12-157 (4) of the *Land Use Planning and Zoning Ordinance* “The Planning Commission shall review the proposed amendment and adopt a resolution **recommending that the Town Council approve, deny or approve with conditions the proposed amendment, based on the approval criteria of subsection (7) of this section.** The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. **A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment.** Following an unfavorable finding on the application, the Planning Commission shall notify the applicant and report the reasons for the finding.”

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Case # ACP24-000001:

Comprehensive Plan Amendment Applications: Decision on Amendment by the Town Council

Pursuant to §12-157(6) of the Land Use Planning and Zoning Ordinance “Following receipt of a copy of the proposed comprehensive plan text or land use diagram amendment from the Planning Commission, along with the Planning Commission's report and recommendation, **the Town Council shall schedule one or more public hearings** in accordance with State Law to decide whether to adopt the amendment. For amendments to the land use diagram, personal and posted notice also shall be given in the manner provided in section 12-156. Any time after the close of the public hearing, **Town Council shall act to approve, approve with conditions, or deny the proposed comprehensive plan amendment, based on the approval criteria of subsection (7) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment.**”

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APPROVAL CRITERIA

Pursuant to §12-157 (7) of the *Land Use Planning and Zoning Ordinance*, (7) Approval criteria. Approval criteria. Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the comprehensive plan. Any amendment to the land use diagram and/or other maps shall be consistent with the vision and goals in the text of the comprehensive plan

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STAFF REVIEW

After the February 7, 2024, Planning Commission meeting, planning staff scheduled a public engagement session for March 6th. Additionally planning staff prepared materials for the purposes of interests shared during the February 7th meeting which included discussion around conservation. The Planning Commission held a workshop on March 6th to better understand additional factors of the subject parcel regarding subdivision applications as well as potential solutions to future land use designation and zoning standards.

Furthermore, based on the discussions and considerations from the February 7th and March 6th Planning Commission meetings for the future land use designation and zoning classification for the subject property, planning staff outlined several conclusions for the Planning Commission to consider.

- Planning staff recommends the Planning Commission consider an array of tools and techniques in evaluating the most appropriate future land use designation and zoning classification.
- Planning staff recommends the Planning Commission consider the concept of an overlay zone based on the complexities of the areas land use patterns and site conditions.

21

STAFF REVIEW (continued)

- Planning staff highlights recent subdivision applications, which if approved create four parcels from the subject parcel. The Planning Commission approved one subdivision application for the Oceanfront Highlands at the March 6th Planning Commission Meeting. The April 6th Planning Commission meeting agenda contains two additional subdivision applications which impact the subject parcel considered for rezoning. The property owner has submitted for the subdivision of marsh areas to be conveyed to Kiawah Island Community Association and the formal delineation of Parcel 12A and Parcel 12B of the subject parcel. These subdivision applications if approved would establish four parcels as outlined below.
 - Oceanfront Highlands of Parcel 12B (To be conveyed to KICA) (*APPROVED March 6th)
 - Marsh Areas of Parcel 12B (To be conveyed to KICA)
 - Parcel 12 B (Residual Lands)
 - Parcel 12 A
- Planning staff recommends the Planning Commission consider the points raised during the March 6th Planning Commission workshop as identifying the desired uses and design standards which would include lot coverage, height, setback, and more particularly allowable land uses. This approach allows to recognize the base zoning standards and ideal land uses and consider a mixture of tools and techniques to identify the most appropriate zoning classification and land use designation for the subject property and or future subject parcels.

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STAFF REVIEW

- Planning Commission may consider taking action in the form of a recommendation simultaneously with the subdivision plats under consideration.
- Comprehensive Plan Future Land Use Categories correspond to Established Zoning Districts as described in *Table 2A. Comprehensive Plan Land Use Categories and Zoning District*.
- A future land use designation can be applied to each parcel individually or collectively.

Land Use Categories	Zoning Districts*
R-1	R-1, PR
R-2	R-1, R-2, PR
R-3	R-1, R-2, R-3, PR
Commercial	C, PR
Resort	RST-1, RST-2, PR
Community Support	CS, CS-2
Active Recreation	PR
Open Space	PR, KC
Conservation	PR, KC

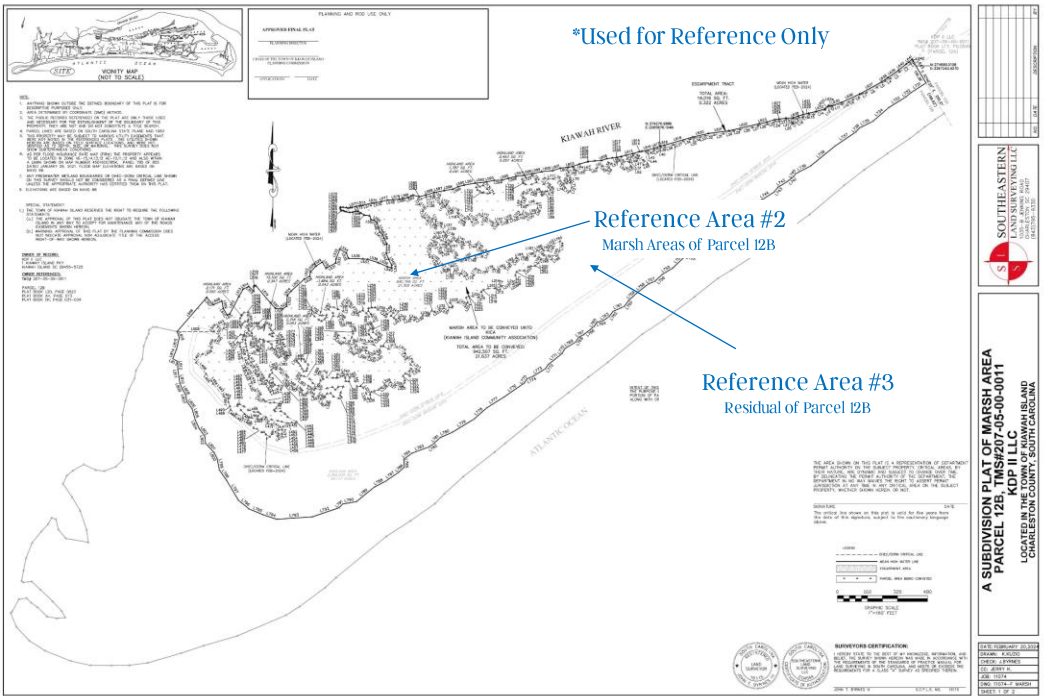
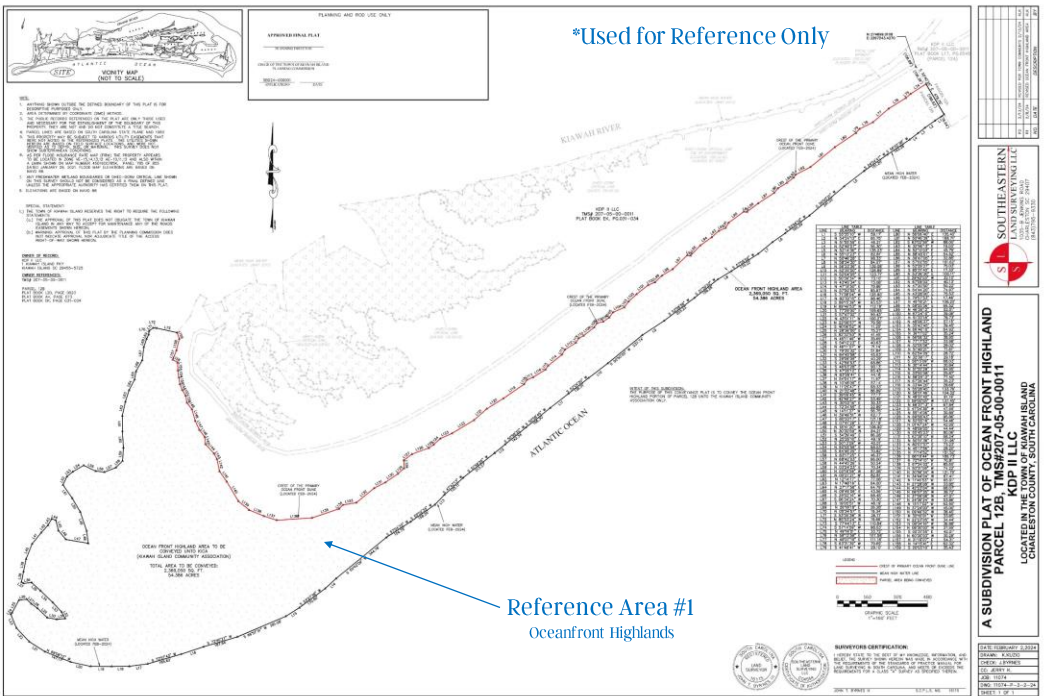
*Planned developments (PD) may be incorporated into any zoning district subject to criteria contained herein.

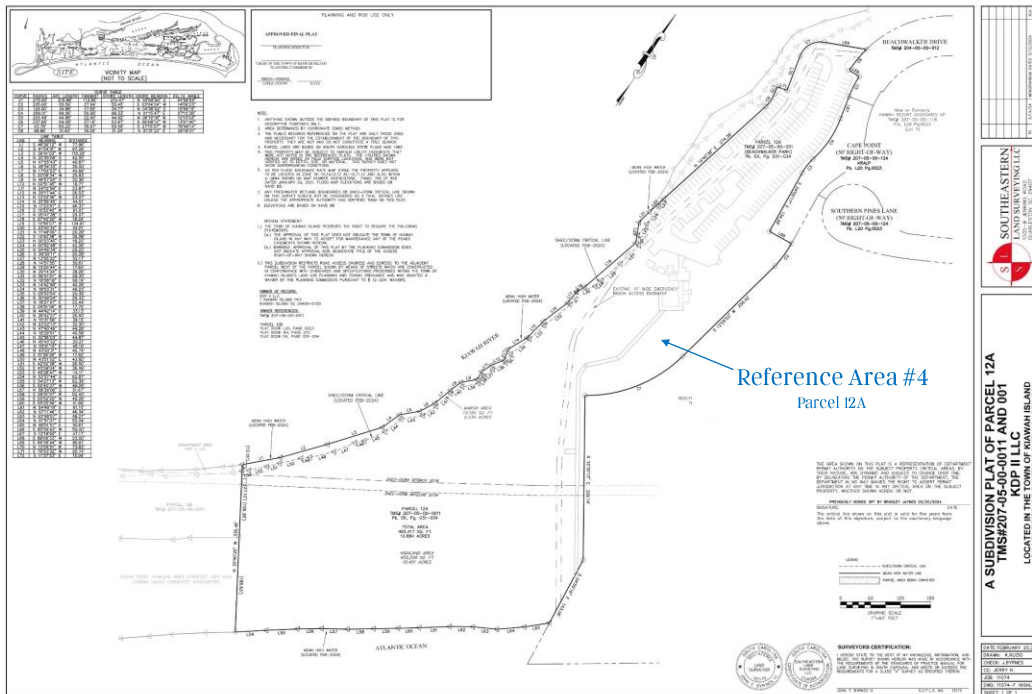
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STAFF REVIEW (continued)

- Future Land Use Designation
 - Planning staff recommends the subject property's, Future Land Use designation be Open Space / Conservation and or Active Recreation. Planning staff also encourages the Planning Commission to consider the current subdivision applications, which subdivide the parcel, if approved into four parcels to aid in the recommendation of the subject parcels Future Land Use Designation.
 - The Open Space Future Land Use Designation, aligns to PR, Parks and Recreation and the KC, Conservation zoning districts. The Open Space category, *"provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned."*
 - The Conservation Land Use Designation, aligns to PR, Parks and Recreation and the KC, Conservation zoning districts. The Conservation category, *"is used to promote, protect, and preserve the various natural resources located within the limits of the Town." and "have either been publicly or privately obtained through preservation or conservation easements that significantly restrict development."*
 - The Active Recreation Land Use Designation, aligns to the PR, Parks and Recreation Zoning District. The Active Recreation category, *"provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts."*

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STAFF REVIEW (continued)

- Proposed Future Land Use
 - Planning staff recommends the subject property's, Future Land Use designation be Open Space / Conservation and or Active Recreation. Planning staff also encourages the Planning Commission to consider the current subdivision applications, which subdivide the parcel, if approved into four areas.
- Please note the following staff recommendations of Future Land Use Designations, if the Planning Commission considers the approval of proposed subdivision applications.
 - Oceanfront Highlands of Parcel 12B (To be conveyed to KICA) (*APPROVED March 6th)
 - Marsh Areas of Parcel 12B (To be conveyed to KICA)
 - Parcel 12 B (Residual Lands)
 - Parcel 12 A

Reference Area	Subject Parcel (if approved)	Corresponding Future Land Use Category
#1	Oceanfront Highlands of Parcel 12B	Conservation
#2	Marsh Areas of Parcel 12B	Conservation
#3	Residual of Parcel 12B	Open Space
#4	Parcel 12A (location of Beachwalker County Park)	Active Recreation and Open Space

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STAFF REVIEW (continued)

Staff Review:

- The proposed zoning and future land use designation align with the existing land use patterns for the subject property.
- The proposed rezoning supports the goal to *“Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.”* and to *“Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.”*
- The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.

Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval.

ZONING MAP AMENDMENT REQUEST

#REZ24-000001

Town of Kiawah Island Comprehensive Plan Amendment Application

Planning Commission Recommendation: February 7, 2024
(No action taken by the Planning Commission)

Planning Commission Workshop March 6, 2024
Planning Commission Recommendation: March 6, 2024
(No action taken by the Planning Commission)

Planning Commission Recommendation: April 3, 2024

Public Hearing and First Reading: TBD

Second Reading: TBD

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

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Application Information

Zoning Map Amendment Application

Case # REZ24-000001:

Request to rezone the property located off Beachwalker Road (TMS # 207-05-00-0011& TMS# 207-05-00-001) from R-1, Residential Zoning District and R-2, Residential Zoning District to the Parks and Recreation (PR); Conservation (KC) and proposed KC-O, Kiawah Conservation Overlay Zoning District.

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REZ24-000001 Case Information

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

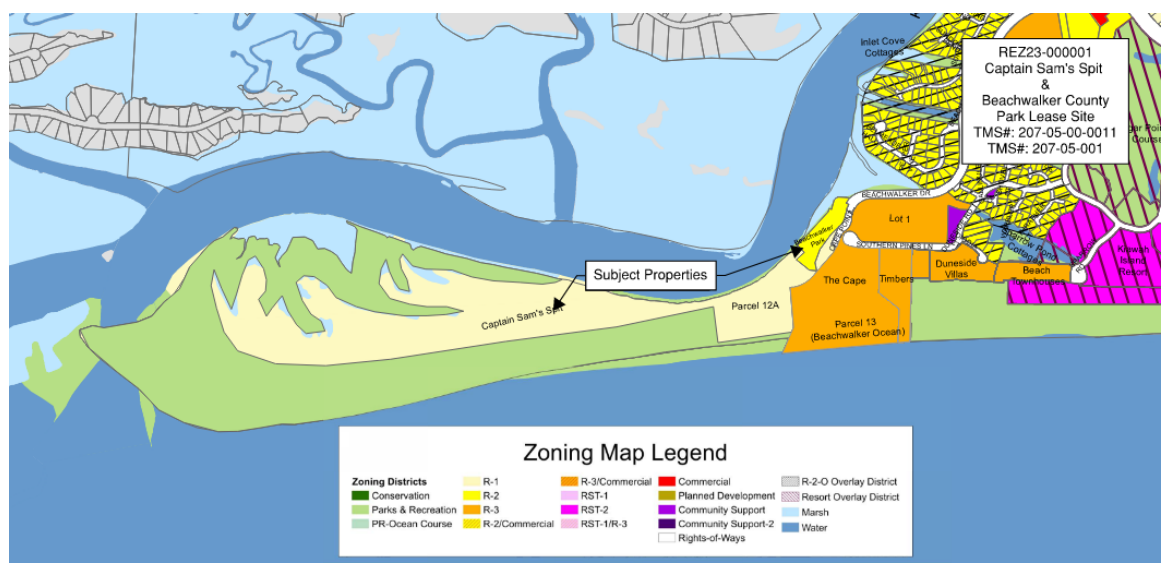
Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)

Approximately 126.75 acres Deeded Acreage per Charleston County GIS; Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Future Land Use Designation:

Low Density Residential (TMS# 207-05-00-0011)

Medium Density Residential (TMS# 207-05-00-001)





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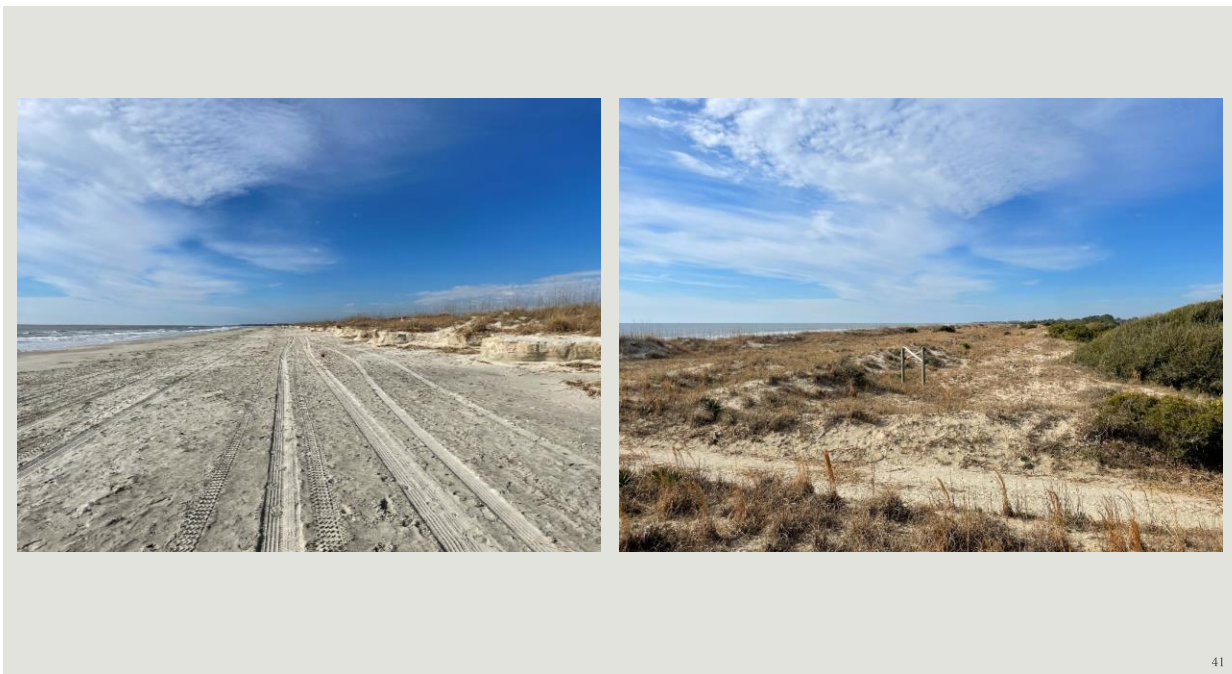
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Case # REZ24-000001:

Zoning Ordinance Text & Map Amendment Applications: Recommendation by the Planning Commission

Section 12-158(3) of the Zoning Ordinance states “The Planning Commission shall review the proposed text amendment and/or zoning map amendment and **take action, recommending that the Town Council approve or deny the proposed amendment**. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. **The Planning Commission’s recommendation shall be based on the approval criteria of subsection (6) of this section**. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. **A simple majority vote of the Planning Commission members present and voting shall be required to approve the amendment.**”

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Case # REZ24-000001:

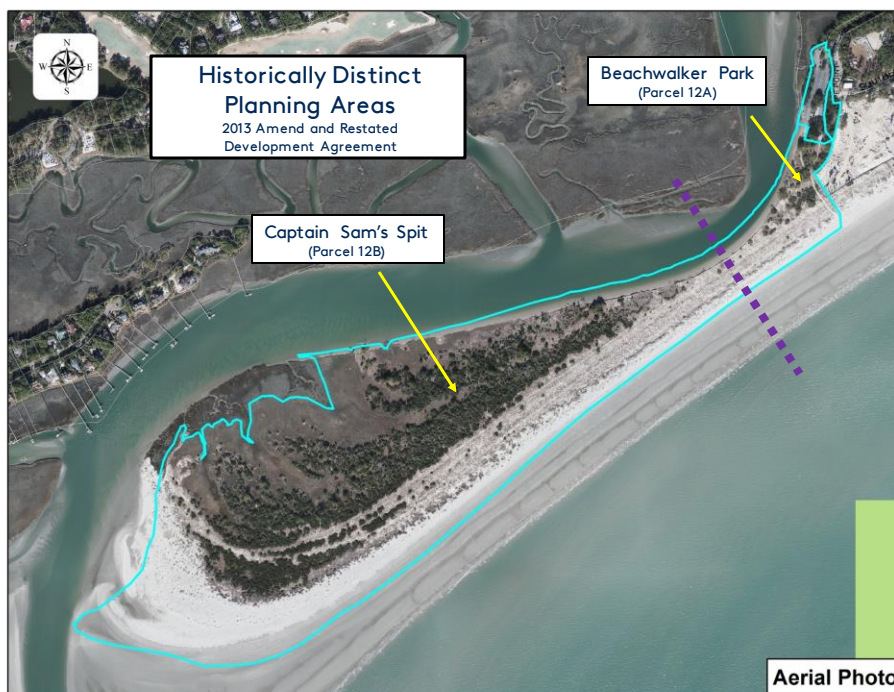
Zoning Ordinance Text and Map Amendment Applications: Decision on Amendment by the Town Council

Section 12-158(5) states “After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, **and any time after the close of the public hearing, take action to approve, approve with modifications or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.**”

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Significant Conditions

- The subject property was rezoned in November 2023 to R-1, Residential and R-2, Residential (leased BWCP site). Considerations to revisit the rezoning as the Comprehensive Plan is being developed. PC discussion of considering appropriate strategies to protect environmental character of sensitive properties.
- Historically two distinct planning areas (Captain Sam’s Spit & Beachwalker Park) as referenced in previously executed 2013 Amended and Restated Development Agreement which differ in character and land use patterns.
 - Captain Sam’s Spit (Parcel 12B) – Undeveloped; in natural state
 - Beachwalker Park (Parcel 12A) – Partially developed; existing Beachwalker County Park
- The subject property is bounded by the Kiawah River to the north and the ocean to the south. Adjacent inlet to the west and isthmus of the spit create dynamic site conditions.



Significant Conditions (cont.)

- Existing developments to the east are multifamily residential developments (planned or under construction).
- There is an existing emergency beach access, which is used by town officials, and other personnel as Beach Patrol and Charleston County Parks and Recreation Commission. The planning department is currently reviewing submitted plans to relocate this existing emergency beach access further east away from the river side of the subject property with it showing evidence of erosion.
- There are planned conveyances of portions of the subject property (oceanfront highlands and marshlands) to Kiawah Island Community Association based on the 2013 ARDA.
- Town Council is discussing parameters regarding § 16(f) Captain Sam's Spit of the 2013 ARDA and raised issues in which Town Council would, if any, act on.

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Significant Conditions (cont.)

- Future development may be limited due to the constraints of providing adequate ingress or egress by the connection of a roadway to access the western highlands portion of Parcel 12B.
- Parks and recreation zoning classification is consistent with the existing development patterns of the subject property.
- In addition to park and recreation lands uses, this zoning classification could also allow conditionally or through special exception restaurants
- The existing development and operations of Beachwalker County Park should be factored into consideration to allow Beachwalker County Park to remain as an allowed use providing public beach access. The existing R-2, Residential zoning, and consideration of a conservation zoning designation create nonconforming uses and nonconforming structures for this development.

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Land Use Planning Tools



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STAFF REVIEW

After the February 7, 2024, Planning Commission meeting, planning staff scheduled a public engagement session for March 6th. Additionally planning staff prepared materials for the purposes of interests shared during the February 7th meeting which included discussion around conservation. The Planning Commission held a workshop on March 6th to better understand additional factors of the subject parcel regarding subdivision applications as well as potential solutions to future land use designation and zoning standards.

Furthermore, based on the discussions and considerations from the February 7th and March 6th Planning Commission meetings for the future land use designation and zoning classification for the subject property, planning staff outlined several conclusions for the Planning Commission to consider.

- Planning staff recommends the Planning Commission consider an array of tools and techniques in evaluating the most appropriate future land use designation and zoning classification.
- Planning staff recommends the Planning Commission consider the concept of an overlay zone based on the complexities of the areas land use patterns and site conditions.

49

STAFF REVIEW (continued)

- Planning staff highlights recent subdivision applications, which if approved create four parcels from the subject parcel. The Planning Commission approved one subdivision application for the Oceanfront Highlands at the March 6th Planning Commission Meeting. The April 6th Planning Commission meeting agenda contains two additional subdivision applications which impact the subject parcel considered for rezoning. The property owner has submitted for the subdivision of marsh areas to be conveyed to Kiawah Island Community Association and the formal delineation of Parcel 12A and Parcel 12B of the subject parcel. These subdivision applications if approved would establish four parcels as outlined below.
 - Oceanfront Highlands of Parcel 12B (To be conveyed to KICA) (*APPROVED March 6th)
 - Marsh Areas of Parcel 12B (To be conveyed to KICA)
 - Parcel 12 B (Residual Lands)
 - Parcel 12 A
- Planning staff recommends the Planning Commission consider the points raised during the March 6th Planning Commission workshop as identifying the desired uses and design standards which would include lot coverage, height, setback, and more particularly allowable land uses. This approach allows to recognize the base zoning standards and ideal land uses and consider a mixture of tools and techniques to identify the most appropriate zoning classification and land use designation for the subject property and or future subject parcels.

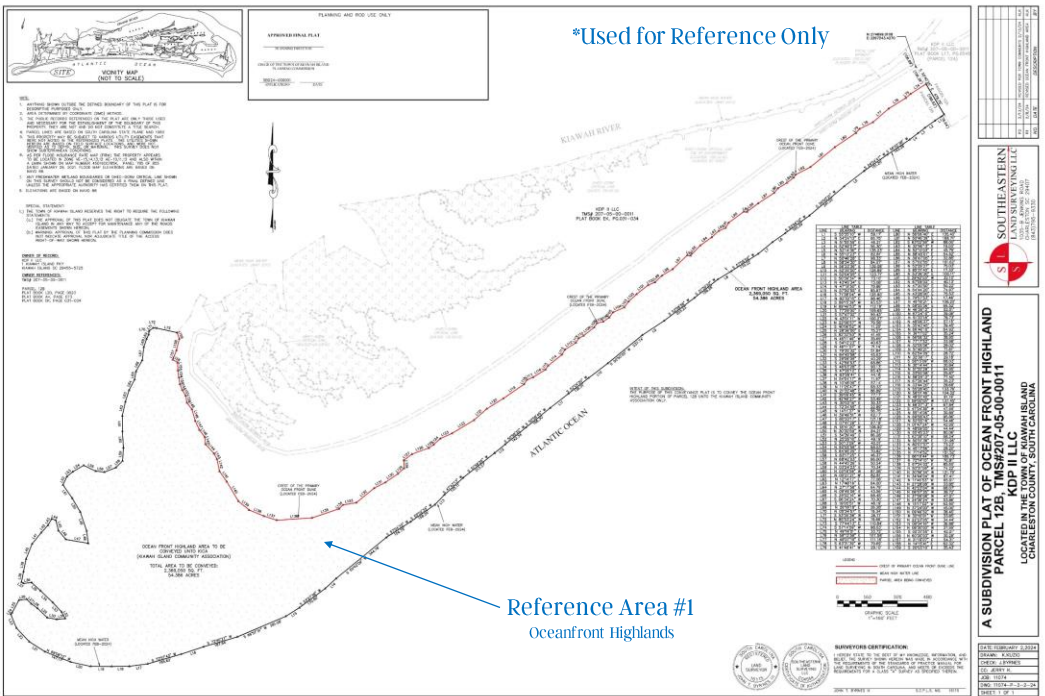
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STAFF REVIEW

- Planning Commission may consider taking action in the form of a recommendation simultaneously with the subdivision plats under consideration.
- Comprehensive Plan Future Land Use Categories correspond to Established Zoning Districts as described in *Table 2A. Comprehensive Plan Land Use Categories and Zoning District.*
- A zoning designation can be applied to each parcel individually or collectively.

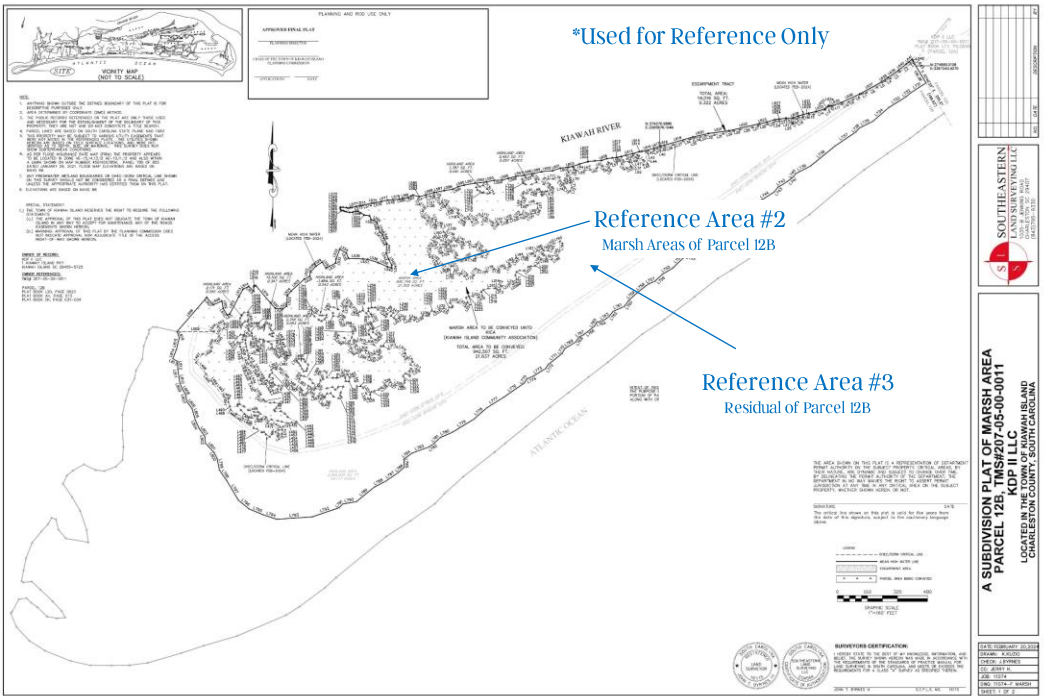
Table 2A. Comprehensive Plan Land Use Categories and Zoning Districts	
Land Use Categories	Zoning Districts*
R-1	R-1, PR
R-2	R-1, R-2, PR
R-3	R-1, R-2, R-3, PR
Commercial	C, PR
Resort	RST-1, RST-2, PR
Community Support	CS, CS-2
Active Recreation	PR
Open Space	PR, KC
Conservation	PR, KC
*Planned developments (PD) may be incorporated into any zoning district subject to criteria contained herein.	

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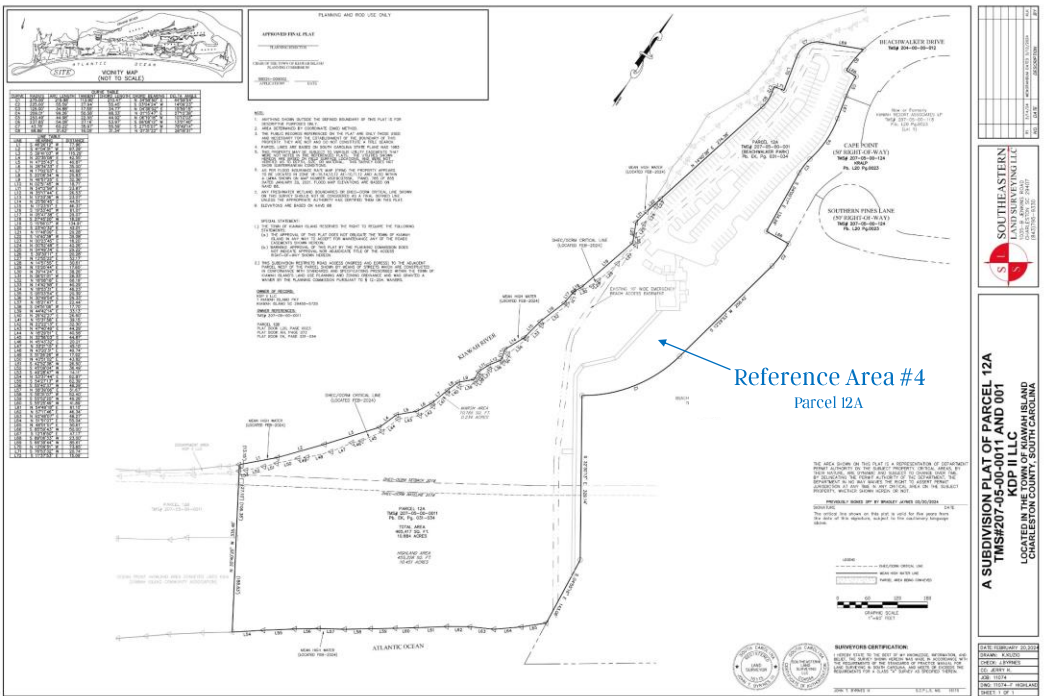
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STAFF REVIEW (continued)

- Proposed Zoning Designation
 - Planning staff recommends the subject property's, Zoning designation be proposed new zoning district in the Kiawah Conservation Overlay Zoning District. Planning staff also encourages the Planning Commission to consider the current subdivision applications, which subdivide the parcel, if approved into four parcels to aid in the recommendation of the subject parcels zoning standards.
 - The Conservation Zoning District, which corresponds to recommended Conservation Land Use designation does not allow for any development. The recommended subdivided parcels for this district, if approved, align with
 - The PR, Parks and Recreation Zoning District, corresponds to several Land Use Categories. The PR, Zoning District, allows for several uses to include, parks, historical sites, community recreation, restaurants (Conditional or Special Exception) The category would allow the existing park facilities to operate and be maintained as a conforming use. The Active Recreation category, "provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts."
 - The KC-O, Kiawah Conservation Overlay Zoning District as proposed, would allow the balance of preservation and restricted land uses for the area. Proposed overlay would restrict uses of limited development on the portion of the parcel which is currently developed (Beachwalker County Park). The remaining areas would be open space and or conservation, which aligns with the preservation intent of the Future Land Use Categories. **Please note supplemental KC-O proposed standards.*

STAFF REVIEW (continued)

- Zoning Designation
 - Planning staff recommends the subject property/s, zoning designation as KC-Overlay Zoning District. Planning staff also encourages the Planning Commission to consider the current subdivision applications, which subdivide the parcel, if approved into four areas.
 - Please note the following staff recommendations of zoning standards, if the Planning Commission considers the approval of proposed subdivision applications.
 - Oceanfront Highlands of Parcel 12B (To be conveyed to KICA) (*APPROVED March 6th)
 - Marsh Areas of Parcel 12B (To be conveyed to KICA)
 - Parcel 12 B (Residual Lands)
 - Parcel 12 A

Reference Area	Subject Parcel (if approved)	Recommended Future Land Use	Recommended Corresponding Base Zoning District	Recommended Corresponding Overlay Zoning District
#1	Oceanfront Highlands of Parcel 12B	Conservation	Conservation	KC-Overlay
#2	Marsh Areas of Parcel 12B	Conservation	Conservation	KC-Overlay
#3	Residual of Parcel 12B	Open Space	PR, Parks & Recreation	KC-Overlay
#4	Parcel 12A (location of Beachwalker County Park)	Active Recreation and Open Space	PR, Parks & Recreation	KC-Overlay

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APPROVAL CRITERIA

Pursuant to §12-158 (6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

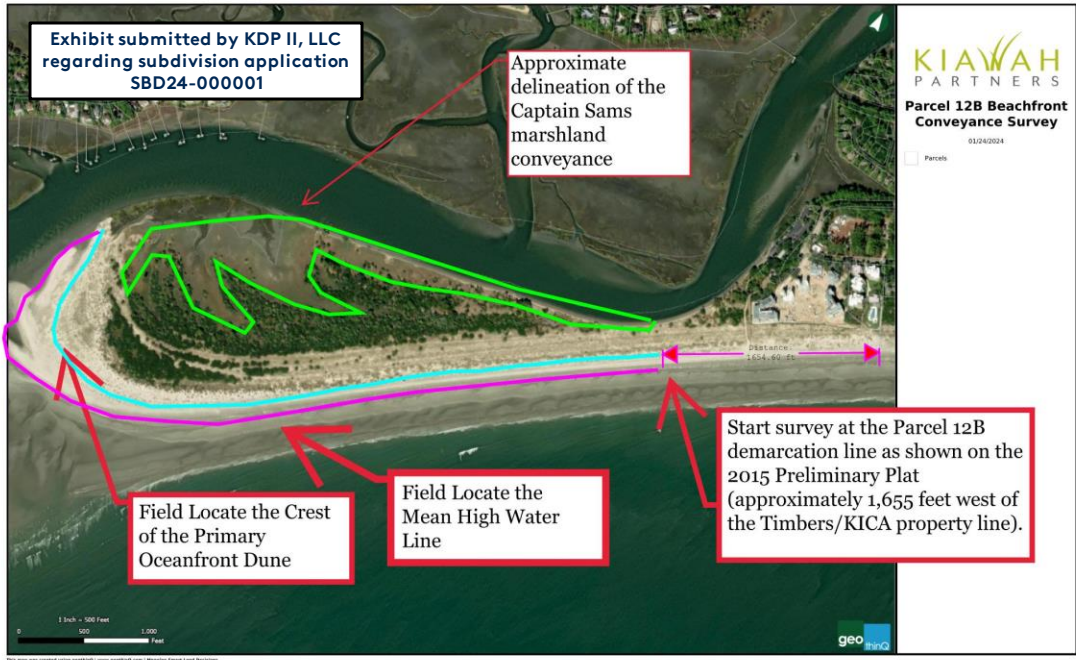
- A. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;
- B. The proposed amendment is consistent with the purposes and intent of this article;
- C. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;
- D. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

Staff Review:

- The proposed zoning and future land use designation align with the existing land use patterns for the subject property.
- The proposed rezoning supports the goal to *“Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.”* and to *“Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.”*
- The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.

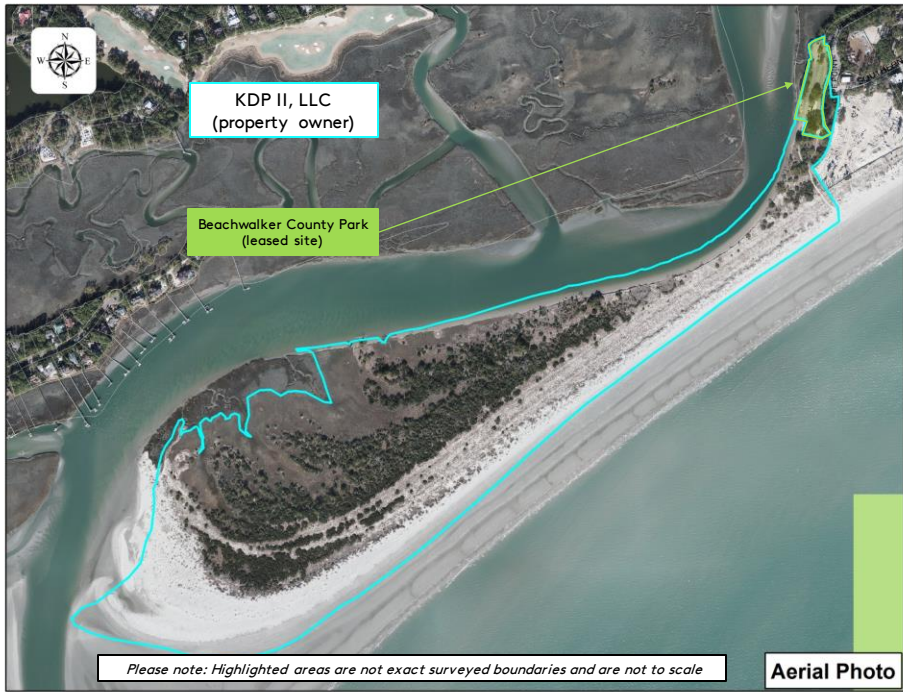
Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval.

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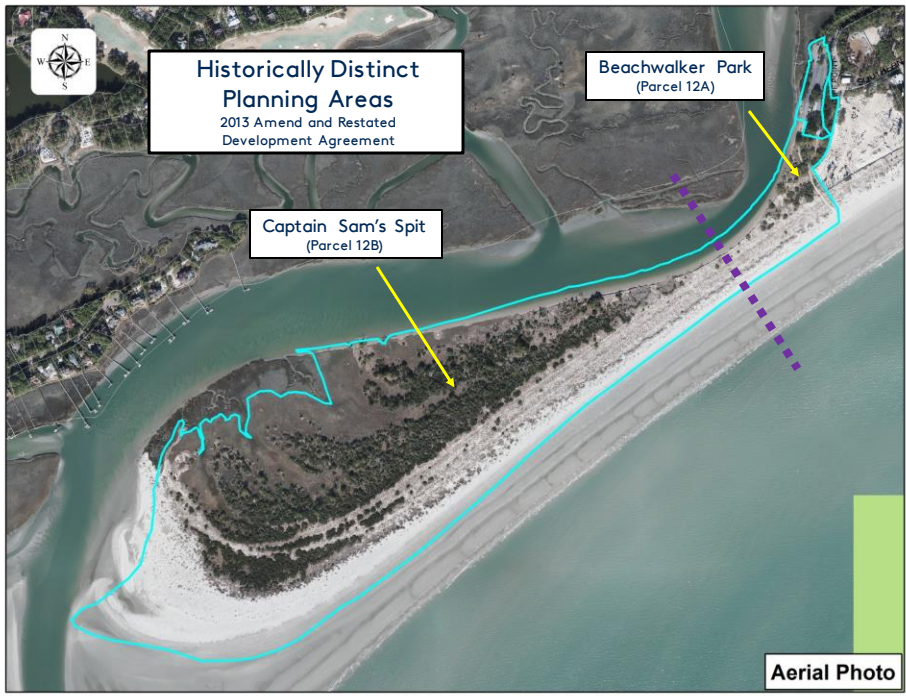
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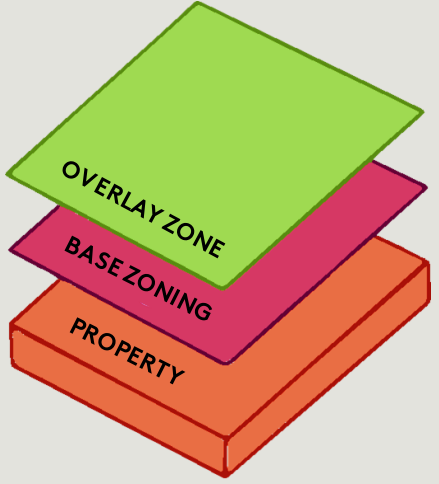
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Overlay Zone

Planning staff recommends the Planning Commission consider the concept of an overlay zone based on the complexities of the areas land use patterns and site conditions.

- Overlay zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone, which identifies special provisions in addition to those in the underlying base zoning standards.
- Overlay zone may impose a set of requirements or relax a set of requirements imposed by the underlying zoning district.
- Examples: R-2-O Residential Overlay, referenced example of structure for a conservation overlay zone.



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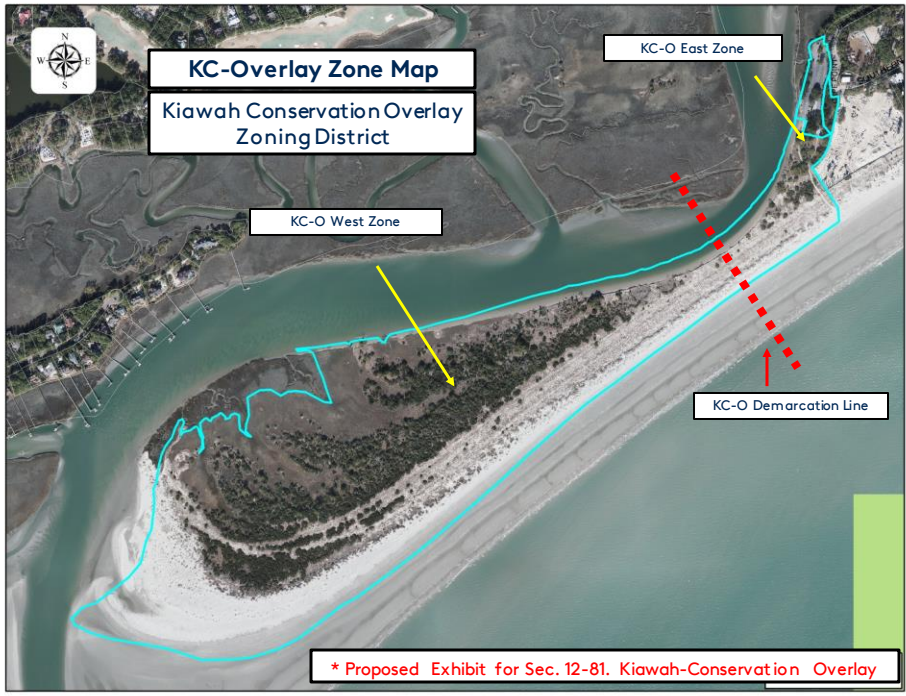
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Kiawah Conservation Overlay Zoning District

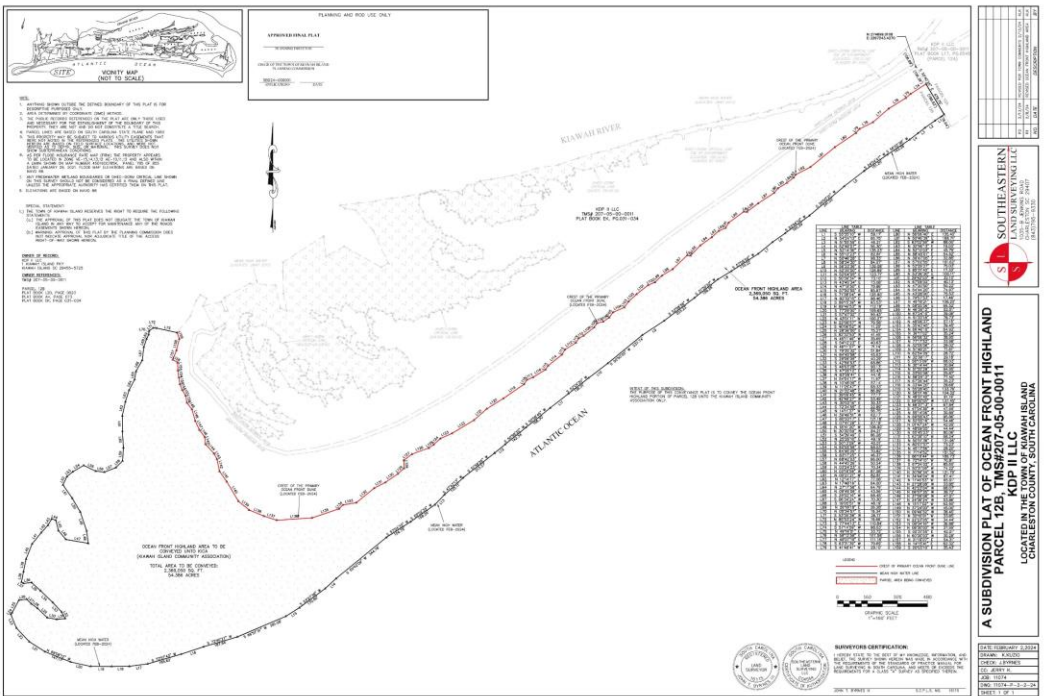
The proposed KC-O, Kiawah Conservation Overlay Zoning District, provides the flexibility to utilize special provisions for a unique planning area. The key factors of this proposed KC-O, Overlay:

- Delineates of two distinct planning areas, split in to East and West Zones (KC-O Demarcation Line) and establishes applicable development standards based very unique circumstances.
 - West Zone | Open Space and Conservation Focus
 - This closely aligns to the standards of the current Conservation Zoning District
 - East Zone | Limited Land Uses
 - This zone closely aligns to the standards of the PR, Parks and Recreation Zoning District with limited uses
 - Allows current operation of Beachwalker County Park to be conforming uses.
- Modifies the existing Sec. 12-102. Use Table.

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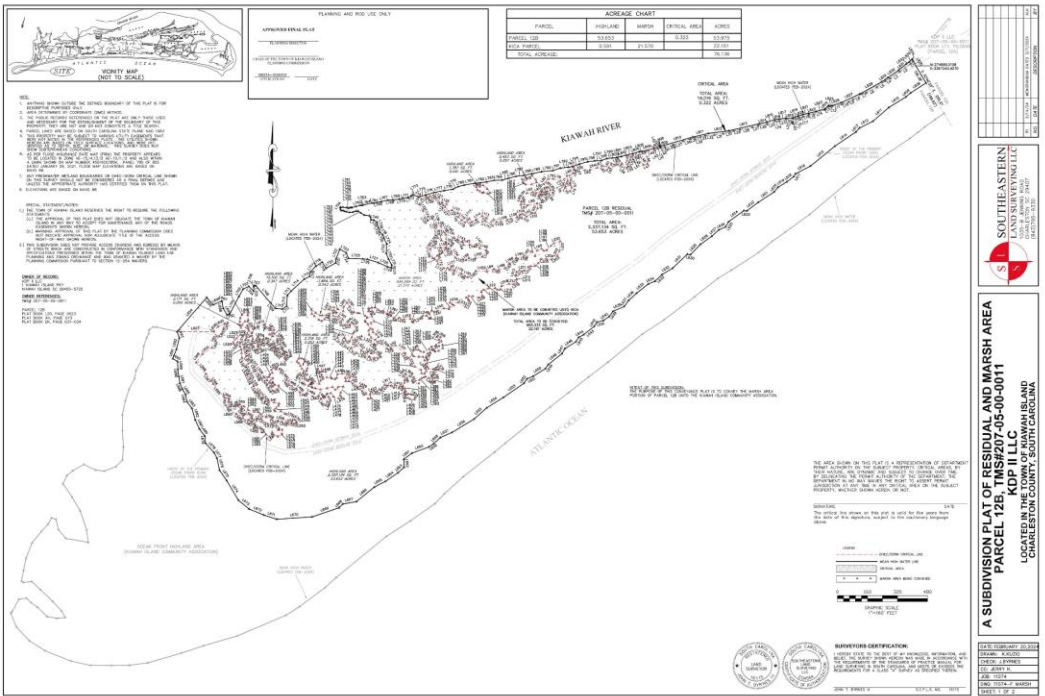


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Sec. 12-81. KC-O, Kiawah Conservation Overlay Zoning District.

- (a.) *Purpose and intent.* The purpose and intent of the KC-O, Conservation Overlay Zoning District is to promote the preservation of environmentally sensitive lands which may allow for limited park and recreation uses where appropriate. Additionally, the purpose and intent is to ensure that development is compatible with the existing character of Kiawah. Activities and endeavors which might serve to mitigate against this purpose and intent shall be prohibited or strictly regulated.
- (b.) *Effect of overlay zoning district.* The KC-O, Conservation Overlay Zoning District regulations of this section apply in addition to the underlying (base) zoning district regulations to impose different development rules for properties within the KC-O district. In case of conflict between the regulations of this section and other regulations in this article, the regulations of this section shall control.
- (c.) *Applicability.* The KC-O, Conservation Overlay Zoning District is illustrated on the attached map.
 - (1) The KC-O, Conservation Overlay Zoning District map defines the “KC-O West Zone” and “KC-O East Zone”.
 - (2) The *KC-O West Zone* is west of the KC-O Demarcation Line.
 - (3) The KC-O East Zone is east of the KC-O Demarcation Line.
 - (4) The standards of this section shall apply to all development within the KC-O district based on the established zones. Prior to any proposed development the KC-O Demarcation Line shall be affirmed by the Planning Director during the site plan review process as defined within Sec. 12-374 – Definitions.
- (d.) *District regulations for the established “KC-O West Zone”.* The following standards shall apply to the KC-O West Zone:
 - (1) No development is allowed in this zone.
 - (2) Uses permitted in the KC district shall be limited to boardwalks for beach access, unpaved temporary parking and nonhabitable structures controlled by the Town relating to public health, safety and welfare.
- (e.) *District regulations for the established “KC-O East Zone”.* The following standards shall apply to the KC-O East Zone:
 - (1) *Development standards.* Lot standards (setbacks, lot coverage, etc.) for structures in this zone are listed in Table 2M. in this subsection.
 - (2) The maximum density for this district is six dwelling units per acre;
 - (3) Open storage is prohibited;
 - (4) Parking standards are given in section 12-128.
 - (5) Required parking spaces excluding any required drive aisles, or emergency access shall be made of a pervious surface;
 - (6) Authorized uses are listed in table 3A in section 12-102(c);

Minimum area (square feet) ⁽¹⁾	20,000
Minimum lot depth (feet)	120
Minimum width (feet)	150

Recommended Overlay Zoning District (*Proposed New Section within zoning code)

Maximum floor area ratio		0.2
Maximum lot coverage		70 percent
Maximum height		
	Stories	2
	Feet	35
Minimum setbacks (feet) ^{(2) (3)}		
	Front	25
	Side	25
	Rear	25
⁽¹⁾ Smaller lots for accessory structures may be permitted by the Town Council as part of a planned development.		
⁽²⁾ Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.		
⁽³⁾ Property boundaries adjacent to OCRM Critical Line shall have a 30' minimum setback.		

(f.) *Nonconforming structures and nonconforming uses* that were lawfully erected within this overlay district prior to adoption of the KC-O, Conservation Overlay Zoning District, shall comply with sections 12-192 and 12-193.



Sec. 12-102. Principal uses and use regulations.

- (a.) Purpose and intent. Principal uses are the uses permitted in each zoning district. These are shown in table 3A in subsection (c) of this section, authorized uses in zoning districts. The intent is to allow and regulate uses which are deemed compatible with the purpose of that district, with or without conditions; or to restrict uses.
- (b.) Use regulations are conditions of use. These conditions are requirements which must be met to comply with this article.
- (c.) The following three classifications of use are permitted, conditional and special exception as defined in this subsection and as listed in table 3A in this subsection (where no classification of use is shown (blank cell), that use is prohibited in the zoning district):
 - (1) *Permitted use (P)*. Permitted use is the principal use allowed in a zoning district. It is a use of right. By way of example, single-family detached dwelling units are permitted in all residential zoning districts, R-1, R-2 and R-3. However, multifamily residential units are only permitted in the R-3 zoning district. The letter P indicates that a use type is a permitted use.
 - (2) *Conditional use (C)*. Conditional uses are uses that are permitted within a zoning district only when the identified conditions for that particular use have been met and the zoning permit application approved by the Planning Director. Conditions for each use are specified in section 12-103, conditions of use. The letter C indicates that a use type is a conditional use.
 - (3) *Special exception (S)*. Special exceptions may only be granted by the Board of Zoning Appeals. These are uses which are generally compatible with the permitted land uses in a zoning district, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the zoning district. Section 12-161 provides a complete description and requirements for special exceptions. The letter S indicates that a use type requires a special exception.

Table 3A. Authorized Uses in Zoning Districts																
P=Permitted Use			C=Conditional Use				S=Special Exception				Blank Cell=Prohibited Use					
Use Category			Zoning Districts										Conditional Use Reference	PR-OC	KC- <u>Q</u>	
	Principal Uses		R-1	R-2	R-3	C	RST-1	RST-2	C S	CS-2	P R	P D				KC
Residential																
	Single-family detached ¹		P	P	P					P		C		(a)	P	
	Single-family attached, also known as townhouses or patio homes ¹			P	P					P		C		(a)	P	
	Duplex ¹			P	P					P		C		(a)	P	
	Multifamily (including townhouses and apartments) ¹				P					P		C		(a)	P	
Civic/institutional																

Courts and public safety																
	Court of law								P	P						
	Safety services, including emergency medical or ambulance service, fire protection or police protection								P	P						
Educational services																
	Day care											C		(a)		
	Preschool or educational nursery				C							C		(b)	C	
	Personal improvement education, including golf or fine arts schools					C	C				C			(b)	C	
Health care services																
	Physicians' and dentists' offices				P							C		(c)		
	Medical clinics-outpatient services				C									(c)		
Museums, historical sites and similar institutions																
	Historical sites	C	C	C	P	C	C	C	P	P	C			(d)	P	<u>P</u>
	Libraries or archives				P	C	C	C	P		C			(d)		
	Museums or art galleries				P	C	C	C	P		C			(d)		
	Nature exhibitions					C	C			P	C			(d)	P	<u>P</u>
	Botanical gardens or arboretums				P	C	C			P	C			(d)	P	<u>P</u>
Postal service																
	United States Postal Service				P							C		(e)		
Recreation and entertainment																
	Community recreation, including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools)				C	C	C		P	C				(f)	C	<u>C</u>
	Golf courses or country clubs										C			(f)	C	
	Parks	P	P	P	P	C	C	C	P	P	C	P		(f)	P	<u>P</u>
	Motion picture and live theaters				C	C	C							(f)		
	Recreation or vacation camps				C						C			(f)	C	<u>C</u>
	Recreational equipment storage				C	C	C	C	C	C				(f)	C	<u>C</u>
Religious, civic, professional and similar organizations																
	Business and professional organizations				P					P						
	Social or civic organizations, including youth				P					P						

	organizations, sororities or fraternities															
	Church, synagogue, temple or religious assembly				P	P			P	P						
Utilities and waste-related uses																
Utility service, major																
	Electric substation				S	S	S	S		C				(a)		
	Electrical or telephone switching facilities							C						(g)		
	Electricity or water maintenance facilities							P	.							
	Sewage pumping control stations	S	S	S	C	C	C	P		C	C			(g)	C	
	Sewage sludge drying beds							P	.							
	Water pressure control stations				C	C	C	P		C				(g)	C	
	Water or sewage treatment facilities							P	.							
	Water storage tanks							P			C			(a)		
Utility service, minor																
	Electric or gas power distribution	C	C	C	C	C	C	P		C	C			(g)	C	
	Sewage collection service lines	C	C	C	C	C	C	P		C	C			(g)	C	
Commercial accommodations																
	Hotels or inns						C/S	C/S						(h)		
Financial services																
	Banks				C									(i)		
	Financial services, including loan or lending services, savings and loan institutions or stock and bond brokers				C									(i)		
Food and beverage services																
	Bar or lounge (alcoholic beverages), including taverns, cocktail lounges or member exclusive bars or lounges				S	S	S		.							
	Catering services				C	C	C							(j)		
	Restaurant, general, including cafeterias, diners, delicatessens, or full-service restaurants or accessory uses to a golf course, clubhouse or recreational area (without alcoholic beverages)				P	C	C		C	S	C			(j)		<u>S</u>
	Restaurant, general, including cafeterias, diners, delicatessens, full-service				C	C	C		C	C/S	C			(j)	S	<u>S</u>

	restaurants or accessory uses to a golf course, club house, or recreational area (with alcoholic beverages)																	
Information industries																		
	Advertising services (not including advertising signs)				C												(k)	C/S
	News syndicate services				P					.								
	Radio and television broadcasting studios (only)				C	C	C										(k)	
	Data processing services				P					.								
Offices																		
	Real estate sales and services				P	P	P						C				(a)	
	Administrative or business office, including bookkeeping services, couriers, insurance offices, personnel offices, real estate services, secretarial services or travel arrangement or ticketing services				P					P								
	Government offices				P				C	C			C				(a)	
	Legal and other professional services, including accounting, tax preparation, architectural or engineering				P					.								
Other nonresidential development																		
	Communications towers								C	C	C	C					(m)	C
	Convention center, visitors bureaus or conference center				C		P		C	P							(n)	
Repair and maintenance services																		
	Repair service, consumer, including appliance, shoe, watch, furniture, jewelry or musical instrument repair shops				C												(o)	
	Vehicle service, limited, including automotive oil change or lubrication shops or carwashes (enclosed area only)				C				C								(o)	
Retail sales																		
Nonstore retailers																		
	Direct selling establishments				C												(p)	
	Electronic shopping or mail order houses				C												(p)	

	Building materials or garden equipment and supplies retailers													
	Hardware stores				C								(p)	
	Home improvement centers				C									
	Garden supplies centers or nursery and greenhouse retail centers				C								(p)	
	Paint, varnish, glass or wallpaper stores				C								(p)	
	Food sales, including grocery stores, meat markets or butchers, retail bakeries or candy shops				C								(p)	
	Liquor, beer, or wine sales				C								(p)	
	Retail sales or services, general													
	Antique stores				C								(p)	
	Department store or limited price variety stores				C								(p)	
	Art, hobby, musical instrument, toy, or related products stores				C	C	C						(p)	
	Sporting goods or bicycle retail and rental				C	C	C						(p)	
	Book, stationary, newspaper, or magazine retail				C	C	C						(p)	
	Cameras or photographic supplies stores				C	C	C						(p)	
	Clothing, piece goods, shoes, jewelry, luggage, leather goods or related products stores, florists				C	C	C			C			(p)	C
	Convenience stores (less than 5,000 square feet gross floor area per establishment)				C	C	C						(p)	
	Drug stores or pharmacies (less than 5,000 square feet gross floor area per establishment)				C	C	C						(p)	
	Electronics, appliance, electrical supplies or related products stores				C								(p)	
	Furniture, cabinet, home furnishings, or related products stores				C								(p)	
	Gifts, novelties and souvenir stores				C	C	C						(p)	

	Optical goods				C									(p)		
	Private postal or mailing services				C									(p)		
	Tobacconists				C	C	C							(p)		
	Service stations, gasoline (with or without convenience stores)				C									(p)		
Retail or personal services																
Consumer convenience services																
	Locksmiths				C									(p)		
	Tailors or seamstresses				C	C	C							(p)		
	Hair, nail, or skin care services, including barbershops or beauty salons				C	C	C							(p)		
	Personal improvement services, including health or physical fitness studios, reducing studios and spas				C	C	C							(p)		
	Photographic services, including one-hour photofinishing				C	C	C							(p)		
Construction services																
	Construction services												C			(q)
Warehouse and storage facilities																
	Warehouse and storage facilities												C			(r)
Vehicle storage																
	Vehicle storage, including boat or RV storage												C			(s)
Recycling services																
	Recycling collection, dropoff												C	C		(t)
Transportation																
	Taxistands				C	C	.	C								
	Bus passenger stands				C	C	C									(u)

¹ Dwelling units may be attached to and integrated with non-residential buildings, but shall be no more than four dwelling units in any building with the PR-OC district.

(Code 1993, § 12A-301; Ord. No. 94-12, § 2(12A-301), 9-26-1994; Ord. No. 2005-08, § 12A-301, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-301), 11-7-2006; Ord. No. 2016-04, § 1, 9-6-2016; Ord. No. 2017-10, § 1(Exh. A), 7-11-2017; Ord. No.

**The Proposed text only includes the proposed new definition within this section.
If approved this definition will be included in the list of additional definitions of Sec.-374. Definitions.*

Sec. 12-374. Definitions.

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

KC-O Demarcation Line means, the dividing line of KC-O East Zone and KC-O West Zone pertaining to the Kiawah Conservation Overlay Zoning District. This line is the location of the isthmus corresponding to the narrow point of the boundaries of the KC-O Zoning District.

- (b) All definitions not found in this section are defined as they appear in the latest edition of the Black's Law Dictionary.

(Code 1993, art. 12D; Ord. No. 94-12, § 2(12D-102), 9-26-1994; Ord. No. 2005-08, art. 12D, 10-12-2005; Ord. No. 2006-08, § 2.3, 11-7-2006; Ord. No. 2010-02, § 2.1, 3-2-2010; Ord. No. 2015-04 , § 2, 4-14-2015; Ord. No. 2021-01 , § 2, 3-2-2021)

DRAFT

Sec. 12-65. R-1, Residential District.

- (a) *Purpose and intent.* The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single-family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to all dwelling units in the R-1 zoning district:
 - (1) The maximum density for this district is three dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2B following subsection (b)(6) of this section;
 - (5) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings not covered by subsection (b)(4) of this section are listed in table 2B following subsection (b)(6) of this section and table 2C following section 12-66(b)(8);
 - (6) Authorized uses are listed in table 3A in section 12-102(c).

Table 2B. Lot Standards for R-1 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (feet) ⁽¹⁾	Minimum Yard Setbacks (feet)			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾⁽⁵⁾	Rear ⁽⁴⁾	(stories)	(feet)
8,000—11,999	40 percent	100	60	25	10	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.								
⁽²⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								
⁽⁵⁾ Minimum setbacks in side yard for lots currently in existence and reflected on the current zoning map and fronting on Eugenia Avenue the side yard setback shall be ten feet.								

(Code 1993, § 12A-205; Ord. No. 2005-08, § 12A-205, 10-12-2005; Ord. No. 2006-10, § 2, 2-6-2007; Ord. No. 2007-05, § 2(12A-205), 7-10-2007)

Sec. 12-66. R-2, Residential District.

- (a) *Purpose and intent.* The purpose of the R-2 zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to the R-2 zoning district:
 - (1) The maximum density for this district is six dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) There shall be no more than four dwelling units in any building within this district;
 - (5) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2C following subsection (b)(8) of this section;
 - (6) Lot standards (setbacks, lot coverage, etc.) for patio homes, on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2D following subsection (b)(8) of this section;
 - (7) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (b)(6) of this section are listed in table 2D following subsection (b)(8) of this section;
 - (8) Authorized uses are listed in table 3A in section 12-102(c).

Table 2C. Lot Standards for R-2 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (Feet) ⁽¹⁾	Minimum Yard Setbacks ⁽²⁾			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾	Rear ⁽⁴⁾	(stories)	(feet)
6,000—7,999	50 percent	85	55	20	7	20	2.5	40
8,000—11,999	40 percent	100	60	25	15	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.								
⁽²⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								

Table 2D. Lot Standards for R-2 (Patio Homes, Duplexes and Townhouses)				
Housing Type	Minimum Lot Size (sq. ft.)	Minimum Yard Setbacks (feet)	Maximum Height	Maximum Lot Coverage

		Front	Side ⁽¹⁾	Rear	(stories)	(feet)	
Patio homes, zero lot line homes	4,000	20	0/10 ⁽²⁾	20	2.5	35	50 percent
Duplex	6,500	15	7	20	2.5	40	40 percent
Townhouse	2,000	10	See note ⁽³⁾	20	2.5	40	60 percent

⁽¹⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.

⁽²⁾ A total distance of 15 feet is required between buildings with ten feet minimum setback being required on one side of each lot.

⁽³⁾ Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.

(Code 1993, § 12A-206; Ord. No. 2005-08, § 12A-206, 10-12-2005; Ord. No. 2007-05, § 2(12A-206), 7-10-2007)

Sec. 12-72. PR, Parks and Recreation District.

- (a) *Purpose and intent.* The purpose of the PR, Parks and Recreation District is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the parks/recreation use may be permitted as conditional or special exception uses.
- (b) *District regulations.* The following apply to the PR zoning district:
 - (1) Lot standards (setbacks, lot coverage, etc.) for accessory structures in this district are listed in table 2L in this subsection (b);
 - (2) Authorized uses for this district are listed in table 3A in section 12-102(c);
 - (3) Parking standards are given in section 12-128.

Table 2L. Lot Standards for Accessory Structures in the PR, Parks and Recreation Zoning District		
Minimum area (square feet) ⁽¹⁾		20,000
Minimum lot depth (feet)		120
Minimum width (feet)		150
Maximum floor area ratio		0.2
Maximum lot coverage		70 percent
Maximum height		
	Stories	2
	Feet	35
Minimum setbacks (feet) ⁽²⁾		
	Front	25
	Side	25
	Rear	25
⁽¹⁾ Smaller lots for accessory structures may be permitted by the TownCouncil as part of a planned development.		
⁽²⁾ Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.		

(Code 1993, § 12A-212; Ord. No. 2005-08, § 12A-212, 10-12-2005)

Sec. 12-74. KC, Conservation District.

The purpose of the KC, Conservation District is to protect and preserve areas which are outside the OCRM critical line or define other sensitive areas, which are unsafe or unsuitable for permanent structures or developments.

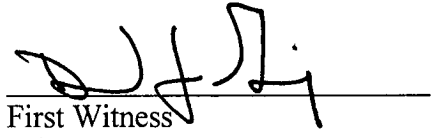
- (1) Accreted lands shall become part of the KC, Conservation District.
- (2) No development is allowed in this district.
- (3) Uses permitted in the KC district shall be limited to boardwalks for beach access, unpaved temporary parking and nonhabitable structures controlled by the Town relating to public health, safety and welfare.

(Code 1993, § 12A-214; Ord. No. 2005-08, § 12A-214, 10-12-2005)

WITNESS the Grantor's hand and seal this 31st day of May, 2013.

SIGNED, sealed and delivered
in the presence of:

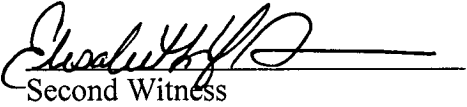
KIAWAH DEVELOPMENT PARTNERS II, INC.,
a South Carolina corporation
(L.S.)



First Witness

By: 

Charles P. Darby, III, President




Second Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, the undersigned notary public for the State of South Carolina, hereby certify that Charles P. Darby, III, as President of Kiawah Development Partners II, Inc., a South Carolina corporation, personally came before me this day and acknowledged the execution of the foregoing instrument as Grantor's act and deed.

WITNESS my hand and notarial stamp or seal (if required by law) this 31st day of May, 2013.



NOTARY PUBLIC for State of South Carolina
My Commission Expires: 12-10-2020

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Kiawah Undeveloped Lots

Cape Charles
(f/k/a Captain Sam's)
TMS #207-05-00-001 and 001-1

All that certain piece, parcel, or tract of land situate, lying and being at the west end of Kiawah Island proper, in the Town of Kiawah Island, Charleston County, South Carolina, containing **133.490 acres**, more or less, known generally as the "Beachwalker Park" and "Captain Sam's" Parcels and shown on a plat prepared by Southeastern Surveying of Charleston, Inc., entitled "A BOUNDARY SURVEY OF CAPTAIN SAM'S SPIT CONTAINING A TOTAL OF 133.490 ACRES OWNED BY KIAWAH LAND DEVELOPMENT, LLC LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated July 17, 2006, last revised on August 9, 2006, and recorded in Plat Book EK at pages 031-034 in the RMC Office for Charleston County, South Carolina (the "RMC Office"), said tracts having such location, butts and bounds, metes, courses, and distances as will by reference to said plat more fully appear.

TOGETHER WITH, all that certain piece, parcel, or tract of land situate, lying and being at the southern terminus of Beachwalker Road, in the Town of Kiawah Island, Charleston County, South Carolina, containing **.811 acres** more or less, and shown on a plat prepared by Southeastern Surveying of Charleston, Inc., entitled "A BOUNDARY LINE ADJUSTMENT PLAT OF TMS #207-05-00-001, TMS #207-05-00-115 AND TMS #207-05-00-118 OWNED BY KIAWAH DEVELOPMENT PARTNERS II, INC. & KIAWAH RESORT ASSOCIATES LP LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated July 11, 2011, last revised on July 19, 2011, and recorded in Plat Book L11 at page 0226, in the RMC Office for Charleston County, South Carolina, said tract having such location, butts and bounds, metes, courses, and distances as will by reference to said plat more fully appear.

This is the same property conveyed to Kiawah Development Partners II, Inc., by deed of conveyance of Kiawah Resort Associates, L.P., dated August 3, 2011, and recorded August 5, 2011, in Book 0201, page 081, and by deed of Kiawah Resort Associates, L.P. and Kiawah Land Development, LLC, dated December 28, 2007, and recorded December 28, 2007, in Book L647, page 293, in the RMC Office.

This conveyance is made subject to all matters of record and the following, to the extent applicable:

(a) Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company, Inc. dated February 19, 1976, and recorded February 19, 1976, in Book T108, page 338 in the RMC Office, as from time to time may be amended by instruments of record.

(b) Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company Limited dated December 21, 1977, and recorded December 29, 1977, in Book M114, page 406 in the RMC Office.

(c) Declaration of Covenants and Restrictions of The Kiawah Island Community Association, Inc., executed by Kiawah Island Community Association, Inc. and by Kiawah Island Company, Inc. dated February 19, 1976, and recorded February 19, 1976, in Book T108, page 337 in the RMC Office as may from time to time be amended by instruments of record.

(d) Declaration of Covenants and Restrictions of The Kiawah Island Community Association, Inc. executed by Kiawah Island Community Association, Inc. and Kiawah Island Company Limited dated December 21, 1977, and recorded December 29, 1977, in Book M114, page 407 in the RMC Office.

(e) Addendum to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated March 28, 1981, and recorded in Book O125, page 163 in the RMC Office.

(f) Second Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated July 30, 1984, and recorded August 14, 1984, in Book K139, page 58 in the RMC Office.

(g) Third Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated January 30, 1992, and recorded in Book R210, page 748 in the RMC Office.

(h) Fourth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated May 20, 1994, and recorded June 3, 1994, in Book W243, page 258, in the RMC Office.

(i) Fifth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 29, 1997, recorded May 13, 1997, in Book A284, page 914, in the RMC Office, and re-recorded in Book S287, page 404 in the RMC Office.

(j) Sixth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated May 18, 2000, and recorded May 26, 2000, in Book H348, page 383, in the RMC Office.

(k) Seventh Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated March 31, 2003, and recorded April 15, 2003, in Book W444, page 552, in the RMC Office.

(l) Eighth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 12, 2004, and recorded April 10, 2004, in Book F491, page 514, in the RMC Office.

(m) Ninth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 28, 2006, and recorded May 12, 2006, in Book F583, page 354, in the RMC Office.

(n) Tenth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated May 21, 2007, recorded May 25, 2007, in Book Y626, page 768, in the RMC Office.

(o) First Amendment to the By-Laws of the Kiawah Island Community Association, Inc., dated January 30, 1992, and recorded in Book R210, page 759 in the RMC Office.

(p) Amendment to By-Laws of the Kiawah Island Community Association, Inc., dated July 9, 2002 and recorded July 25, 2002 in Book G413, page 10, in the RMC Office.

(q) Amendment to By-Laws of the Kiawah Island Community Association, Inc. dated July 14, 2008, and recorded September 11, 2008, in Book 0009, page 166, in the RMC Office.

(r) Amendment to By-Laws of the Kiawah Island Community Association, Inc. dated August 4, 2011, and recorded August 17, 2011 in Book 0202, page 933, in the RMC Office.

(s) Supplementary Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., and Supplementary Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company Limited dated March 23, 1981, and recorded March 26, 1981, in Book Z124, page 305 in the RMC Office.

(t) Second Supplementary Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., executed by the Kiawah Island Community Association, Inc., dated May 20, 1994, and recorded June 3, 1994, in Book W243, page 271, in the RMC Office.

(u) Assignment and Assumption of Developer's Rights and Easements executed by Kiawah Island Company Limited in favor of Kiawah Resort Associates, dated June 28, 1988, and recorded June 29, 1988 in Book Z175, page 561 in the RMC Office, assigning certain rights under the restrictions set forth in the documents referred to herein, as certain rights have been further assigned by that certain Agreement and Assignment of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property on Kiawah Island, SC," dated March 31, 1989, a Memorandum of which Agreement is recorded in Book F183, page 307 in the RMC Office, as amended by that certain Amendment to Memorandum for Recording recorded in Book J198, page 623, and as further amended by that certain Second Amendment to Memorandum for Recording recorded in Book X204, page 601 in the RMC Office.

(v) Assignment and Assumption of Developer's Rights and Easements executed by Kiawah Resort Associates in favor of Kiawah Resort Associates, L.P., dated June 26, 1992, and recorded June 26, 1992, in Book N215, page 11, in the RMC Office, assigning the rights referred to in the preceding subparagraph to Kiawah Resort Associates, L.P.

(w) Easements, construction/improvement setbacks, and other building/use criteria as shown on plats of record, and the DHEC-OCRM Critical Line, Setback Line and Baseline as the same may vary from time to time.

(x) "10' Vehicular Access Area", "Existing 10' Access Easement", and "Existing 50' Road Easement" or "Existing 50' Access Easement" as shown on the aforesaid plats.

(y) Rights, if any, of the Kiawah Island Community Association, Inc. as to that portion of the Property described in that certain deed recorded in Book N265, page 406 in the RMC Office, which land is the subject of Case No. 2013-CP-10-1225 styled Kiawah Resort Associates, L.P., v. Kiawah Island Community Association, Inc., filed with the Clerk of Court in the Charleston County Court of Common Pleas.

(z) Any lawful, constitutional interest in either the State of South Carolina or Federal Government created, or limitations on use imposed, by the Federal Coastal Management Act or other Federal law or by S.C. Code Sections 48-39-10 through 48-39-220, as amended, and Sections 48-39-250 through 48-39-360, as amended, or any regulations promulgated pursuant to said State or Federal laws, inclusive of DHEC – Office of Ocean and Coastal Resource Management and U.S. Army Corps of Engineers regulations, and such rights as the public may enjoy to the use of the Property, if any, lying below the mean high water mark.

(aa) Declaration of Special Covenants and Restrictions (Non-Competition) executed by Kiawah Resort Associates, dated March 31, 1989, and recorded in Book E183, page 345 in the RMC Office, as amended by instrument dated May 10, 1989, and recorded in Book H184, page 338 in the RMC Office, as further amended by instrument dated September 8, 1989, and recorded in Book M191, page 671 in the RMC Office, and as further amended by instrument dated November 26, 1997, and recorded in Book R293, page 445, in the RMC Office.

(bb) Development Agreement executed by and between Kiawah Resort Associates, L.P. and the Town of Kiawah Island dated as of October 12, 2005, and recorded October 20, 2005, in Book Z558, page 004, in the RMC Office, as amended.

(cc) Memorandum of Utility Service Agreement executed by and between Kiawah Resort Associates, L.P. and Kiawah Island Utility, Inc., recorded July 8, 1997, in Book U286, page 740, in the RMC Office, as amended.

(dd) Mineral Rights as more fully set forth in the "Saving and Excepting Also" clause on page 6 in the deed of conveyance from Ronald D. Royal, Dennison A. Royal, Alice Royal Smith, formerly Pamela Alice Royal, a/k/a Pamela Royal Smith, Michael F. Royal, Sandra Royal Olsberg, Nancy Royal Schomaker, formerly Nancy Royal Mims, and Kiawah Development

Company to Coastal Shores, Inc., dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office.

(ee) Rights reserved unto Ronald D. Royal, a/k/a Ronald David Royal, Dennison A. Royal, Alice Royal Smith, formerly Pamela Alice Royal, a/k/a Pamela Royal Smith, Michael F. Royal, Sandra Royal Olsberg and Nancy Royal Schomaker, formerly Nancy Royal Mims, and their respective assigns, and obtained through and tied to the ownership of a lot or lots subdivided from the property described in the "Saving and Excepting Also" clause found on pages 4 and 5 of the deed hereinafter referred to, to become a member of any association of Kiawah property owners or other such organization; the right of ingress and egress over any platted public and private streets, roads and ways; the right to connect and use utility and other services on the same basis as those services are offered to other lot owners on Kiawah Island and the right to use recreational facilities on the same basis as those facilities are offered to other such lot owners, said rights being more fully set forth in subparagraph "(d)" on page 5 of the deed of conveyance from Ronald D. Royal, et al. to Coastal Shores, Inc. dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office.

(ff) Unrecorded easements, if any, for utility lines and facilities existing at the time of the conveyance from Ronald D. Royal, et al. to Coastal Shores, Inc. dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office, as set forth in paragraph "(c)" on page 7 thereof.

(gg) No warranty is given as to title to that portion of the Property lying below the mean high water mark and the navigable waters of the Kiawah River, Captain Sam's Creek, Captain Sam's Inlet (also known as the Kiawah River Inlet) and the Atlantic Ocean and marshes.

(hh) Rights, if any, of the public to the use as a public beach or recreation area, any part of the land lying between the body of water abutting the Property and the mean high water line, separating the publicly used area from the inland private area.

(ii) The limitation on use seaward from the forty year line defined by and pursuant to the act of the Legislature commonly known as the Beach Management Act which amends the South Carolina Code of Laws, 1976, by adding Sections 48-39-250 through 48-39-360 and amends Sections 48-39-10 and 48-39-130 thereof.

(jj) Grant of Exclusive License dated April 15, 1997, and recorded in Book Z282, page 737 in the RMC Office.

(kk) Rights of tenants, as tenants only, under the unrecorded Lease Agreement by and between Kiawah Island Company, Inc. and Charleston County dated July 1, 1976.

(ll) Indenture Grant of Non-Exclusive Easement for Access, Ingress and Egress dated December 8, 2000 and recorded in Book A360, page 489 in the RMC Office.

· (mm) Easement and Beachfront Property Agreement by and between Kiawah Resort Associates, a South Carolina joint venture, and Landmark Land Company of Carolina, Inc. dated March 31, 1989, and recorded in Book E183, page 686, as amended.

(nn) Zoning ordinance of the Town of Kiawah Island.

(oo) Assessments as may become due and payable.

(pp) Charleston County, S.C. ad valorem taxes for 2013, a lien not yet due and payable, and ad valorem taxes for all subsequent years.

(qq) All matters listed as exceptions on Schedule B, Part II in ALTA Title Commitment No. 69315.0001.3(M) dated May 31, 2013 issued by Chicago Title Insurance Company.

STATE OF SOUTH CAROLINA }
COUNTY OF Charleston } AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

- 1. I have read the information on this affidavit and I understand such information.
- 2. The property was transferred by Kiawah Development Partners II, Inc.
to KDP II LLC on May 29 2013.

- 3. Check one of the following: The deed is
 - (A) subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (B) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
 - (C) exempt from the deed recording fee because (See Information section of affidavit): Exemption #8 - Transferring realty in order to become a member of Grantee (Explanation required)
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?
Check Yes or No

- 4. Check one of the following if either item 3(a) or item 3(b) above has been checked. (See Information section of this affidavit):
 - (A) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____.
 - (B) The fee is computed on the fair market value of the realty which is _____.
 - (C) The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

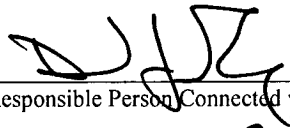
5. Check YES or NO to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is _____.

- 6. The deed recording fee is computed as follows:
 - (A) Place the amount listed in item 4 above here: _____
 - (B) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
 - (C) Subtract Line 6(b) from Line 6(a) and place the result here: _____

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.


8. As required by Code Section '12-24-70, I state that I am a responsible person who was connected with the transaction as: Legal Representative of Purchaser.

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.



Responsible Person Connected with the Transaction
David F. Greg

Print or Type Name Here

Sworn this 29th day of May 2013


Notary Public for South Carolina
My Commission Expires: 12-10, 2020

DBH

RECORDER'S PAGE

NOTE: This page **MUST** remain with the original document



RECORDED		
Date:	May 31, 2013	
Time:	4:25:47 PM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
0335	077	Deed
Charlie Lybrand, Register Charleston County, SC		

Filed By:

WOMBLE CARLYLE SANDRIDGE & RICE
5 EXCHANGE STREET
PO BOX 999
CHARLESTON SC 29401

MAKER:

KIAWAH DEV PARTNERS ETC

RECIPIENT:

KDP II LLC

of Pages: 10

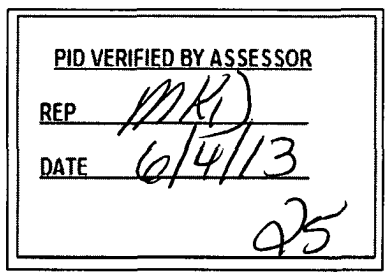
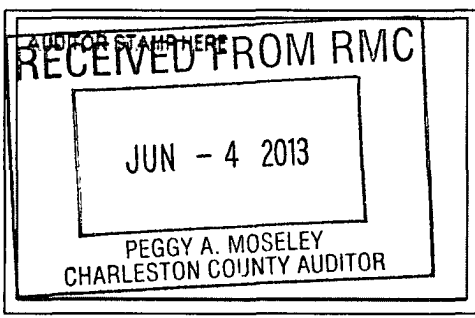
Note:

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ 5.00
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 15.00

Original Book:

Original Page:

DRAWER
CLERK



0335
Book



077
Page



05/31/2013
Recorded Date



10
Pgs



Original Book



Original Page

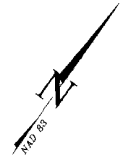
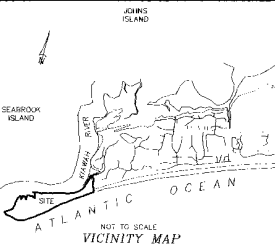


D
Doc Type



16:25:47
Recorded Time

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APPROVED FINAL PLAT

Charleston, South Carolina
Office of Register Mease Conveyance
Plat recorded on 25th day of August, 2006, at 2:56, of Book 126, Page 033, and tracing cloth copy filed in the Register Mease Conveyance Office, Charleston County, South Carolina, as Original this Chain Plat delivered to Charleston County Planning Board, Sheet 1 of 4

DIRECTOR OF PLANNING
Town of Kiawah Island

20549 Application # 24 AUG 06 Date

Register Mease Conveyance

ACREAGES
HIGHLAND 40.645 ACRES
BELOW HIGHLAND 92.845 ACRES
TOTAL 133.490 ACRES

- REFERENCES
1. PLAT A-1-85
 2. PLAT B-1-00
 3. PLAT A-1-85
 4. PLAT A-1-22-73
 5. PLAT A-1-80
 6. PLAT A-1-05
 7. NEED 5557/226
 8. NEED 1282/257

- NOTES
1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.
 2. AREA DETERMINED BY COORDINATE (DWD) METHOD.
 3. THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
 4. ALL ELEVATIONS ARE BASED ON NGVD 1929.
 5. COORDINATES ARE BASED ON SC STATE PLANE GRID NAD 83.
 6. ALL PROPERTY SHOWN IS IN A CONVEYANCE ZONE, ZONES VI (6) (14-15) AS SHOWN ON FIRM COMMUNITY PANEL NO. 45059C 0785 J, REVISED NOV. 17, 2004.
 7. ALL LOTS SHOWN WILL BE SERVED BY PUBLIC SEWER AND WATER.
 8. PUBLIC SEWER AND WATER IS AVAILABLE AT THE END OF BEACHWALKER DRIVE.

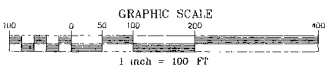
THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT MEASE CONVEYANCE AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS, SET BACKS, EASEMENTS, AND OTHER RESTRICTIONS ARE SUBJECT TO CHANGE OVER TIME BY DETERMINING THE TRUST AUTHORITY OF THE DEPARTMENT. THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSERT PERMISSIVE PROSECUTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

[Signature] 08.08.06
SIGNATURE DATE

The critical line shown on this plat is valid for five years from the date of this signature, subject to the ordinary language above.

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY GROUND HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARD MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY, AS SPECIFIED THEREIN.

[Signature]
DOUGLAS L. DEWOLF S.C.P.L.S. 17665



KIAWAH RIVER

MA 596PG156

AREA BETWEEN DHEC-CORM AND MAHW 88.484 AC

HIGHLAND 0.344 AC

TMS 207-00-00-002
KIAWAH LAND DEVELOPMENT, LLC
5557/226
HIGHLAND 40.301 AC
TOTAL 133.490 AC

ATLANTIC OCEAN

DATE	DESCRIPTION
1. 6/19/06	SAVING FOR APT. # 1144
100	DATE
100	DATE

Southeastern Surveying of Charleston, Inc.
147 Wappoo Creek Drive - Suite 102
Charleston, South Carolina 29412
843-795-9330 FAX 795-9007 www.sss-nc.com

A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
CONTAINING 133.490 ACRES
OWNED BY KIAWAH LAND DEVELOPMENT, LLC
LOCATED IN THE TOWN OF KIAWAH ISLAND,
CHARLESTON COUNTY, SOUTH CAROLINA

DRAWN	JUL 17, 2006
CHECKED	PLD
DATE	08/08/06
DWG NO.	02159.dwg
SHEET	1 OF 4

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BA 596P6157

FOR PLANNING AND RMC USE ONLY

APPROVED FINAL PLAT

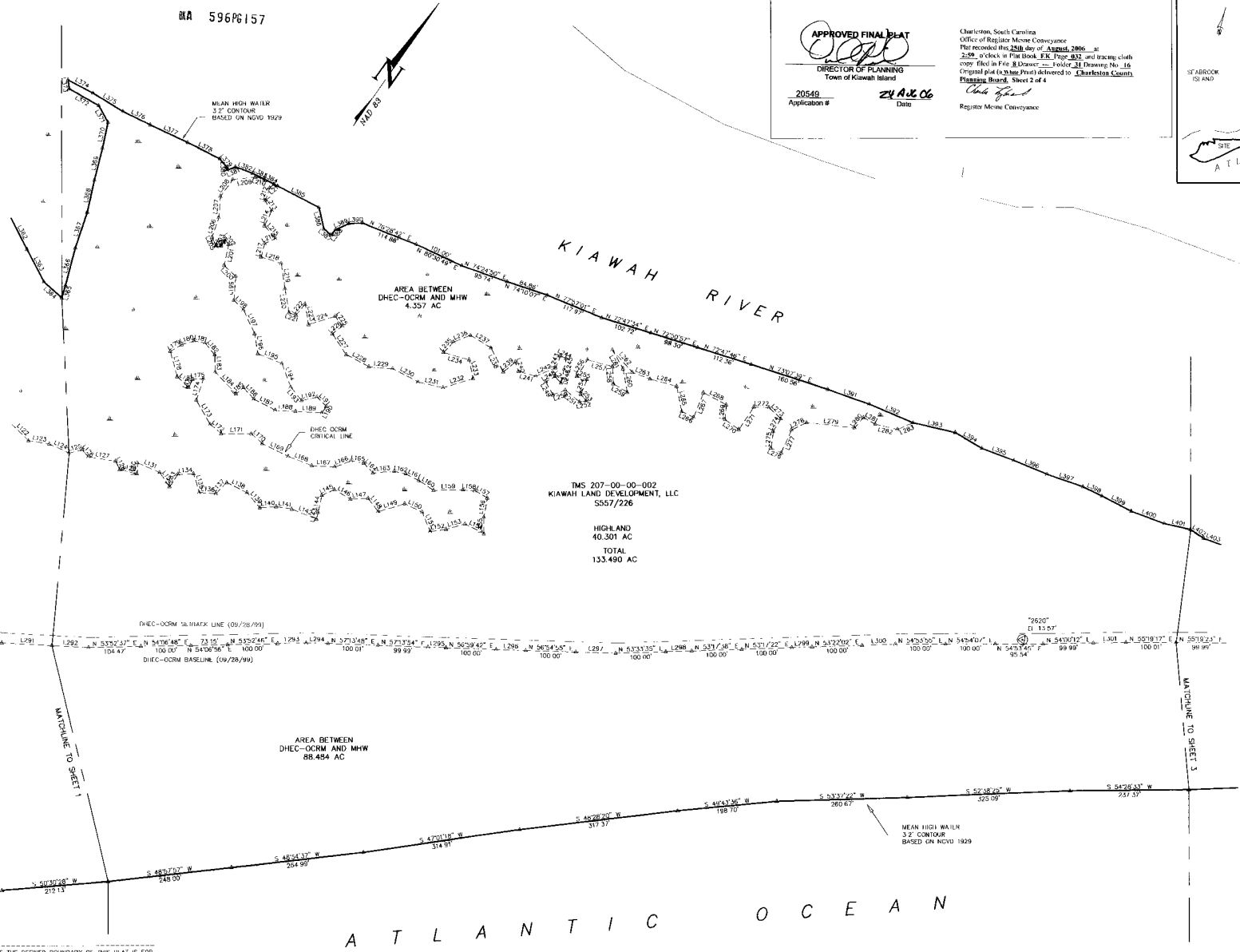
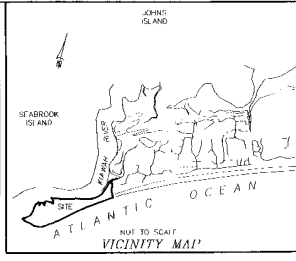
[Signature]
 DIRECTOR OF PLANNING
 Town of Kiawah Island

20540 Application # 24 AUG 06 Date

Register Meane Conveyance

Charleston, South Carolina
 Office of Register Meane Conveyance
 This record filed the 28th day of August, 2006, at 2:59, a check in Plat Book, P.K. Page 032 and tracing cloth copy filed in File #Drawer # 16507-31 Drawing No. 16 Original plat to be (This Plat) delivered to Charleston County Planning Board, Sheet 2 of 4

[Signature]
 Register Meane Conveyance

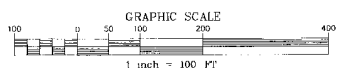


- REFERENCES
- 1 PLAT AJ 81
 - 2 PLAT BS-80
 - 3 PLAT AS-85
 - 4 PLAT AH 72.73
 - 5 PLAT AH-80
 - 6 PLAT AY 05
 - 7 GRID 5567/226
 - 8 GRID E262/737

- NOTES
- 1 ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY
 - 2 AREA DETERMINED BY COORDINATE (DWD) METHOD
 - 3 THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH
 - 4 ALL ELEVATIONS ARE BASED ON WOOD 1929
 - 5 COORDINATES ARE BASED ON SC STATE PLANE GRID NAD 1983
 - 6 ALL PROPERTY SURVEY IS IN A CONVEYANCE ZONE IN (CA 14-19) AS SHOWN ON FIRM COMMUNITY PANEL NO 45019C 0785 J, REVISED NOV. 11, 2004
 - 7 ALL LOTS SHOWN WILL BE SERVED BY PUBLIC SEWER AND WATER
 - 8 PUBLIC SEWER AND WATER IS AVAILABLE AT THE END OF BLACKWALKER DRIVE

ACREAGES

HIGHLAND	40.301 ACRES
BELOW HIGHLAND	92.845 ACRES
TOTAL	133.490 ACRES



THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY DELIMITING THE PERMIT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

[Signature]
 SIGNATURE 08-08-06 DATE

The critical line shown on this plat is valid for five years from the date of this signature, subject to the customary language above.



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARD MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

[Signature]
 DOUGLAS L. DEWITZ S.C.P.C. No. 17565

NO. DATE	DESCRIPTION
1	10/15/06
2	12/15/06
3	02/15/07
4	05/15/07
5	08/15/07
6	11/15/07
7	02/15/08
8	05/15/08
9	08/15/08
10	11/15/08

Southeastern Surveying of Charleston, Inc.

147 Wappoo Creek Drive - Suite 102
 Charleston, South Carolina 29412
 843-795-8330 FAX 795-2007 www.sss-nc.com


A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
 CONTAINING 133.490 ACRES
 OWNED BY KIAWAH LAND DEVELOPMENT, LLC
 LOCATED IN THE TOWN OF KIAWAH ISLAND,
 CHARLESTON COUNTY, SOUTH CAROLINA

DATE	JULY 17, 2006
DRAWN DLD	
CHECK DLD	
JOB	02159
DWG	02159 Bound
SHEET	2 OF 4

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FOR PLANNING AND RECORD ONLY

APPROVED FINAL PLAT

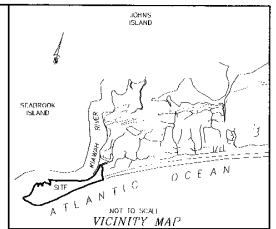
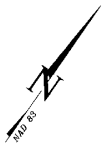


DIRECTOR OF PLANNING
Town of Kiawah Island

20049
Application #

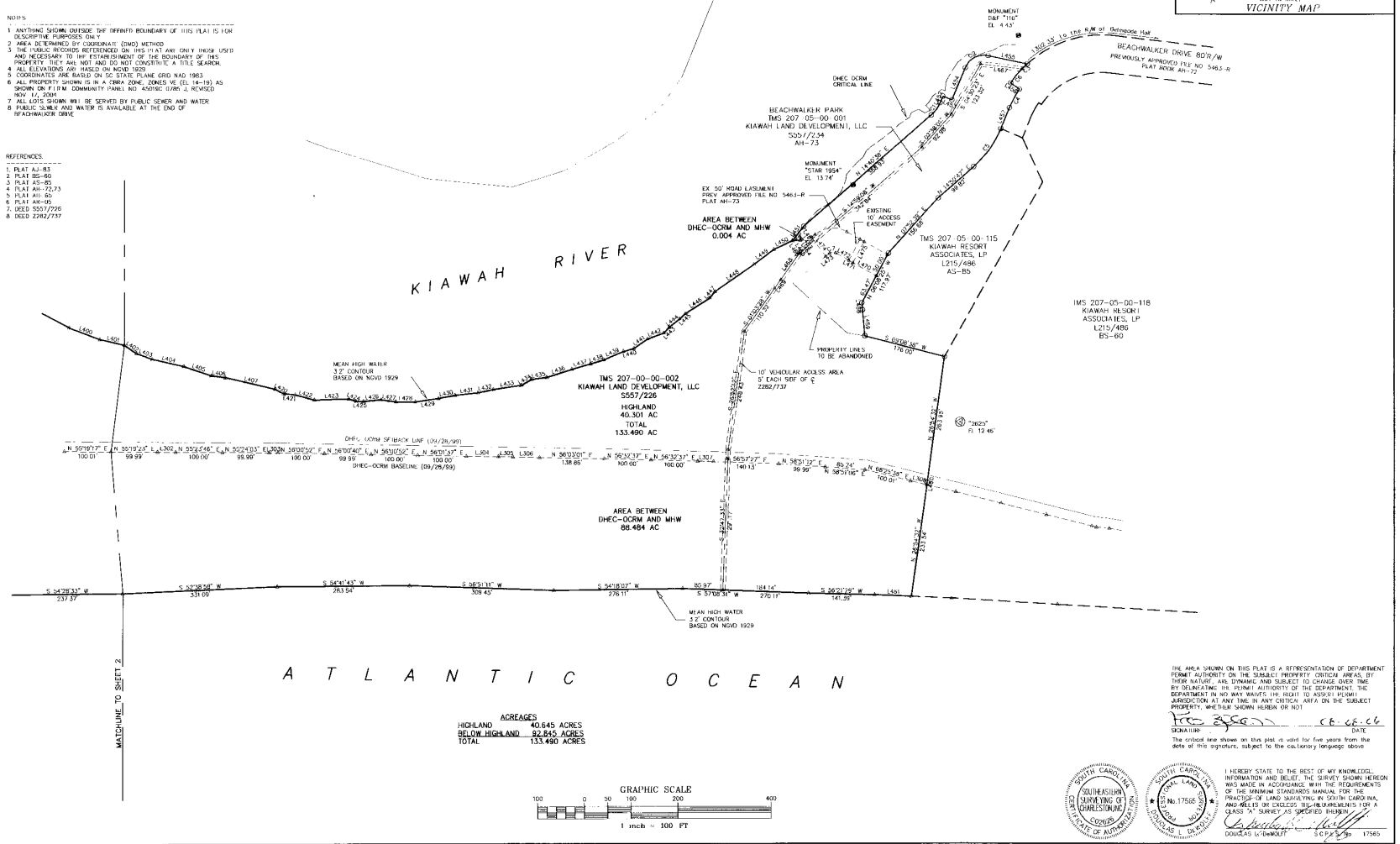
28 AUG 06
Date

Charleston, South Carolina
Office of Register-Measure Conveyance
File recorded on 28th day of August, 2006, at
3:00, at Clark in Plat Book 130, Page 833 and tracing cloth
copy filed in the Register-Measure Conveyance Office, 317
Digital file to (State Print) delivered to Charleston County
Planning Board, Sheet 3 of 4
Chris Spauld
Register-Measure Conveyance



- NOTES:**
1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.
 2. AREA IS BOUNDARY BY COORDINATE (GRID) METHOD.
 3. THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
 4. ALL ELEVATIONS ARE BASED ON NAD 83.
 5. COORDINATES ARE BASED ON US STATE PLANE GRID NAD 83.
 6. ALL PROPERTY SHOWN IS IN A CURVE TONE. ZONES 16 (EL. 16-18) AS SHOWN ON F.I.R.M. COMMUNITY PANEL NO. 45016C (1/16/1) REVISED NOV. 14, 2004.
 7. ALL LOTS SHOWN WILL BE SERVED BY PUBLIC SEWER AND WATER.
 8. PUBLIC SEWER AND WATER IS AVAILABLE AT THE END OF BEACHWALKER DRIVE.


- REFERENCES:**
1. PLAT AJ-83
 2. PLAT AS-80
 3. PLAT AS-85
 4. PLAT AH-2733
 5. PLAT AI-85
 6. PLAT AK-85
 7. DEED 50377926
 8. DEED 22847337



DATE	7/17/06
BY	DL
DATE	8/25/06/06
BY	DL

**Southeastern Surveying
of Charleston, Inc.**

117 Williams Creek Drive, Suite 102
Charleston, South Carolina 29412
843-794-9330 FAX 794-3007 www.ssc-survey.com




A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
CONTAINING 133.490 ACRES
OWNED BY KIAWAH LAND DEVELOPMENT, LLC
LOCATED IN THE TOWN OF KIAWAH ISLAND,
CHARLESTON COUNTY, SOUTH CAROLINA

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY SEPARATING THE PERMIT AUTHORITY OF THE DEPARTMENT. THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSIGN PERMIT JURISDICTION AT ANY TIME TO ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.


Chris Spauld
SIGNATURE

DATE

The critical fee shown on this plat is valid for five years from the date of this signature, subject to the colloquy language above.



CHRIS SPAULD
REGISTERED PROFESSIONAL SURVEYOR
STATE OF SOUTH CAROLINA
No. 17566



DOUGLAS L. GUMBERT
REGISTERED PROFESSIONAL SURVEYOR
STATE OF SOUTH CAROLINA
No. 17565

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE NATION STANDARD MANUAL, FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MET ALL OF THE NECESSARY REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

Douglas L. Gumbert
SIGNATURE

DATE

DATE	JULY 17, 2006
DRAWN	DL
CHECK	DL
JOB	02159
DWG	02159 Bound
SHEET	3 OF 4

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L1 through L50.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L51 through L100.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L101 through L150.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L151 through L200.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L201 through L250.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L251 through L300.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L301 through L350.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L351 through L400.

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LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L451 through L500.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L501 through L550.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L551 through L600.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L601 through L650.

LINE TABLE with columns: LINE, BEARING, DISTANCE. Contains survey data for lines L651 through L700.

MA 596PG159

CURVE TABLE with columns: CURVE, RADIUS, LENGTH, TANGENT, CHORD, BEARING, DELTA. Contains data for curves C1 through C7.

APPROVED FINAL PLAN. Includes signatures of the Director of Planning and Registrar, date 24 AUG 06, and application number 20549.

1/8/06 PLANET FOR AREA 25544 BOX 100 0012

Southeastern Surveying of Charleston, Inc. 117 Wappoo Creek Drive - Suite 102 Charleston, South Carolina 29412 843-796-9330 FAX 796-7007 www.sss-ss.com



A BOUNDARY SURVEY OF CAPTAIN SAM'S SPIT CONTAINING 133.490 ACRES OWNED BY KIAWAH LAND DEVELOPMENT, LLC LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA.

DATE: JULY 17, 2006 DRAWN BY: JCHB/DLD CHECKED BY: JCHB 07/15/06 DWG: 02159.bout SHEET: 4 OF 4

Professional seals for the South Carolina Surveyors' Association and the State Board of Surveyors, along with a note regarding the accuracy of the information provided.

PLANNING AND RMC USE ONLY

APPROVED FOR PLAT

RECORDED
 DATE: August 5, 2011 TIME: 3:27:21 PM
 Book/Page: 111 0226 (See Note (Large Plat))
 Charlie Lybrand, Register, Charleston County, SC

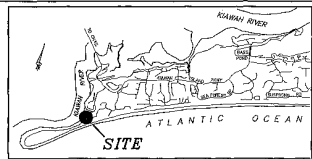
DIRECTOR OF PLANNING
 KIAWAH ISLAND

APPLICATOR #

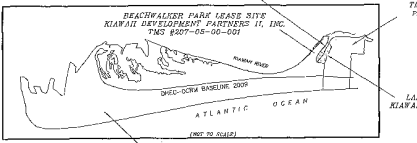
Record Fee \$ 10.00
 Permit Fee \$ 10.00
 TOTAL \$ 20.00
 Driver \$ 0.00
 Clerk \$ 0.00
 Location: BEACH WALKER DR

LEGEND:
 ○ IRON FOUND, AS DESCRIBED
 ○ S/O RESUR. SET
 △ MEASURED POINT, NO CORNER SET

REFERENCES:
 DEED BOOK PAGE
 TMS #207-05-00-001
 TMS #207-05-00-001
 TMS #207-05-00-115
 TMS #207-05-00-115



VICINITY MAP
 (NOT TO SCALE)



LAND TO BE CONVEYED TO KIAWAH DEVELOPMENT PARTNERS II, INC. TMS #207-05-00-001 35,339 SF (0.81) AC.

KIAWAH RESORT ASSOCIATES, L.P. TMS #207-05-00-115 16,555 AC.

LAND TO BE CONVEYED TO KIAWAH RESORT ASSOCIATES, L.P. TMS #207-05-00-115 52,357 SF 1,202 AC.

KIAWAH DEVELOPMENT PARTNERS II, INC. TMS #207-05-00-001 7,553,945 SF 172,833 AC.

10' VEHICULAR ACCESS AREA (5' EACH SIDE OF CENTERLINE) PREVIOUSLY APPROVED BY #3403-R PLAT BOOK #H, PAGE 73

EXISTING 10' ACCESS EASEMENT PREVIOUSLY APPROVED BY #3403-R PLAT BOOK #H, PAGE 73

EXISTING 10' ACCESS EASEMENT PREVIOUSLY APPROVED BY #3403-R PLAT BOOK #H, PAGE 73

KIAWAH DEVELOPMENT PARTNERS II, INC. TMS #207-05-00-001 DEED BOOK 1049, PAGE 203 (TOTAL) 7,553,945 SF 172,833 AC.

KIAWAH RESORT ASSOCIATES, L.P. TMS #207-05-00-115 PLAT BOOK #H, PAGE 99 (TOTAL) 960,611 SF 21,957 AC.

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N 89°06'33" E	23.00'	L41	N 06°46'45" W	12.10'
L2	S 14°18'50" E	47.77'	L42	N 08°50'20" E	18.81'
L3	S 01°12'27" E	6.01'	L43	N 26°22'11" W	6.76'
L4	N 83°21'55" E	57.00'	L44	N 17°31'42" E	12.25'
L5	N 83°51'00" E	10.00'	L45	N 23°21'40" E	17.33'
L6	N 83°51'45" E	32.00'	L46	N 33°34'23" E	19.72'
L7	N 77°32'25" W	50.00'	L47	N 10°24'14" E	24.53'
L8	N 14°48'17" E	10.00'	L48	N 52°52'25" E	10.09'
L9	N 83°51'35" E	32.00'	L49	N 10°46'27" E	13.22'
L10	N 83°51'00" E	10.00'	L50	N 14°46'04" E	14.92'
L11	N 83°51'30" E	57.00'	L51	N 33°36'58" E	14.10'
L12	N 06°08'25" W	50.00'	L52	N 84°58'44" E	11.26'
L13	N 06°08'25" W	50.00'	L53	N 89°20'51" E	11.92'
L14	N 78°33'22" E	20.74'	L54	N 03°03'38" E	6.29'
L15	N 11°37'24" E	10.00'	L55	N 77°58'24" E	14.89'
L16	N 12°18'40" E	47.16'	L56	N 14°30'10" E	9.16'
L17	N 89°42'30" E	7.00'	L57	N 06°51'42" W	10.02'
L18	N 23°13'10" E	28.83'	L58	N 10°02'30" E	24.14'
L19	N 20°37'00" E	35.45'	L59	N 52°19'07" E	7.41'
L20	N 16°43'17" E	10.00'	L60	N 50°28'50" E	21.51'
L21	N 30°48'58" E	21.18'	L61	N 11°57'50" W	12.76'
L22	N 20°44'59" E	36.18'	L62	N 28°58'02" E	20.36'
L23	N 18°57'28" E	30.31'	L63	N 08°29'15" E	11.90'
L24	N 38°47'47" E	17.24'	L64	N 08°48'01" W	15.38'
L25	N 08°50'20" E	27.89'	L65	N 02°28'16" E	24.40'
L26	N 08°42'17" E	17.48'	L66	N 55°28'50" E	14.22'
L27	N 44°34'13" E	7.09'	L67	N 45°22'21" E	11.75'
L28	N 31°17'37" E	14.90'	L68	N 55°28'50" E	37.41'
L29	N 24°21'14" E	32.02'	L69	N 18°16'53" E	14.45'
L30	N 04°36'21" W	17.71'	L70	N 1°22'13" E	10.02'
L31	N 87°02'01" E	14.00'	L71	N 40°11'01" E	29.98'
L32	N 06°34'58" W	28.12'	L72	N 14°40'59" E	10.42'
L33	N 08°48'25" E	24.85'	L73	N 32°44'31" E	15.53'
L34	N 17°12'00" E	40.00'	L74	N 42°03'20" E	30.15'
L35	N 01°02'11" E	9.96'	L75	S 84°18'21" E	10.78'
L36	N 01°02'11" E	15.35'	L76	N 84°24'31" E	15.52'
L37	N 20°26'14" W	16.71'	L77	S 87°30'45" E	17.27'
L38	N 55°37'27" W	7.32'	L78	N 08°15'58" E	25.04'
L39	N 03°56'17" E	10.72'	L79	N 42°03'21" E	45.90'
L40	N 22°30'11" E	15.72'	L80	N 08°39'42" W	10.00'

NOTES:

- ANYTHING SHOWN OUTSIDE OF THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.
- THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
- COORDINATES ARE BASED ON SC STATE PLANE GRID NAD 1983.
- PROPERTY IS LOCATED IN FLOOD ZONE AS (EL. 13) AND (EL. 14-19) AS SCALED FROM F.I.E.M. PANEL NO. 45079C 07B5 & REVISED. BEFORE ANY DESIGN OR CONSTRUCTION AN APPROPRIATE CRITICAL AREA SHOULD BE CONTACTED TO VERIFY FLOOD ZONES.
- EXISTING IMPROVEMENTS ARE NOT SHOWN ON THIS PLAT.
- LANDS TITLED IN KIAWAH ISLAND COMMUNITY ASSOCIATION, INC., 1,669 ACRES. THE LAND WAS INSTANTLY TITLED IN KIAWAH ISLAND COMMUNITY ASSOCIATION, INC. AS A RESULT OF AN ERRONEOUS PROPERTY DESCRIPTION IN A DEED CONVEYING OTHER LANDS TO IT RECORDED IN DEED BOOK N-265, PAGE 406, SUBJECT TO CLAIM BY GRANTEE FOR RESECTION AND REFORMATION.
- PROPERTY SHOWN WILL BE OR HAS IS PROVIDED PUBLIC SEWER AND WATER BY KIAWAH ISLAND UTILITY COMPANY, INC. THE WATER WILL BE SUPPLIED FROM THE TENSUS POINT AT AN EXISTING 10" WATER MAIN SET WITHIN THE BEACHWALKER DRIVE R/W AND LOCATED APPROXIMATELY 60' FROM THE SITE. THE WASTEWATER WILL BE COLLECTED VIA NEW GRANITE MAINS WHICH IS 40' LP FROM THE EXISTING PUMP STATION NEAR BEACHWALKER DRIVE R/W.
- THE LIMITS OF THE BEACHWALKER PARK LEASE SITE IS BASED UPON THE DESCRIPTION IN SECTION 21.1 OF THE LEASE AGREEMENT BETWEEN THE KIAWAH ISLAND COMPANY, INC. AND CHARLESTON COUNTY DATED JULY 1, 1976.

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT. THE DEPARTMENT IS IN NO WAY WAIVING THE RIGHT TO ASSIGN PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

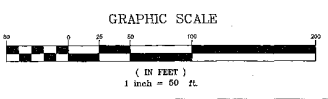
SIGNATURE: _____ DATE: _____
 The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THE FOREGOING HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE PUBLIC RECORDS ACT AND SUBJECT TO CHANGE OVER TIME BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT. THE DEPARTMENT IS IN NO WAY WAIVING THE RIGHT TO ASSIGN PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

JOHN T. BYRNES III S.C.P.L.S. No. 18115

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	237.89'	84.08'	27.18'	83.57'	S 08°39'51" E	137°44'
C2	243.47'	44.96'	22.00'	44.52'	S 00°18'10" E	107°00'
C4	298.07'	121.82'	62.00'	120.70'	N 01°28'00" E	267°00'
C5	75.00'	19.88'	10.00'	19.62'	S 04°24'51" E	171°15'
C6	236.00'	58.59'	27.84'	55.45'	N 03°14'24" E	147°23'
C7	207.74'	99.27'	30.60'	98.85'	N 01°15'47" E	272°44'
C8	62.00'	22.56'	41.08'	68.89'	S 20°25'56" W	67°31'48"
C9	12.00'	14.04'	7.95'	13.28'	S 20°25'56" W	67°31'48"
C10	43.75'	80.22'	35.87'	78.59'	S 27°10'01" E	233°49'45"
C11	62.65'	30.82'	16.02'	31.34'	N 01°31'22" E	267°31'
C12	164.82'	34.59'	17.36'	34.53'	S 08°16'28" E	170°22'
C13	157.82'	170.68'	94.74'	162.46'	S 30°52'18" W	61°58'20"

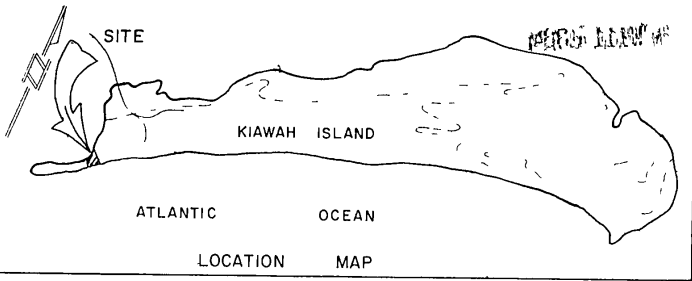


NO.	DATE	REVISION
1	7/10/11	NOTE SHEET B
2	7/10/11	AS PER APP'L. E. 386-1032 7/10 SITE
3	7/10/11	AS PER APP'L. E. 386-1032 7/10 SITE
4	7/10/11	AS PER APP'L. E. 386-1032 7/10 SITE

Southeastern Surveying
 OF CHARLESTON, INC.
 1001 B. STATION ROAD, CHARLESTON, SC 29407
 PHONE: (803) 799-1100 FAX: (803) 799-1101
 WWW: WWW.SEASURVEYING.COM

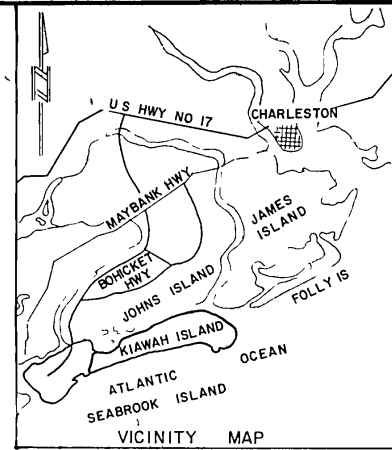
A BOUNDARY LINE ADJUSTMENT PLAT OF
 TMS #207-05-00-001, TMS #207-05-00-115
 AND TMS #207-05-00-118
 OWNED BY KIAWAH DEVELOPMENT PARTNERS II, INC. & KIAWAH RESORT ASSOCIATES L.P.
 LOCATED IN THE TOWN OF KIAWAH ISLAND
 CHARLESTON COUNTY, SOUTH CAROLINA

DATE: 7/11/11
 DRAWING: _____
 CHECK: JTB
 CC: _____
 JOB: 11074
 DWS: 11074 ABAN
 SHEET: 1 OF 1



AK-2011-10394

APPROVED FINAL PLAT
 CHARLESTON COUNTY COUNCIL
 DIRECTOR OF PLANNING
 CHARLESTON COUNTY PLANNING BOARD
 DATE: March 15, 1977
 #5463-R (Sheet 2 of 2)



PLAT OF
 BEACHWALKER
 PARK
 LOCATED ON
 KIAWAH ISLAND,
 CHARLESTON CO
 SOUTH CAROLINA
 OWNED BY
 KIAWAH ISLAND
 COMPANY, INC
 67 BROAD STREET
 CHARLESTON, SC
 29401

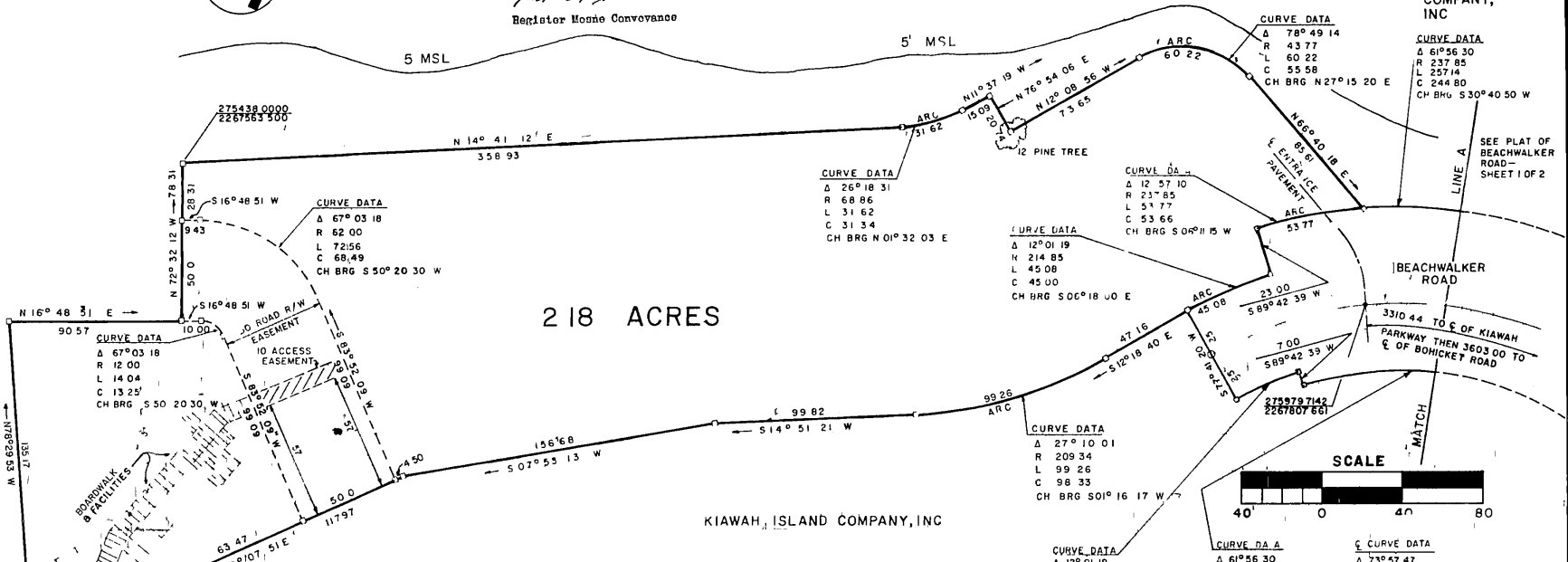
Charleston South Carolina
 Office of Registrar Messing Conveyance
 KIWAH CREEK
 Plat recorded this day of March 19 77 at
 4 29 o'clock in Plat Book Page 13, and tracing cloth
 copy filed in File 2, Drawer 2, Folder 46, Drawing
 No. Original plat (Microprint) delivered
 to CHARLESTON COUNTY PLANNING BOARD.



Arthur H. Cantor
 Registrar Messing Conveyance

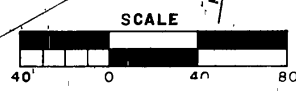
TOTAL ACREAGE

REG LOTS	0 00 AC
PATIO LOTS	0 00 AC
ROADS	6 05 AC
OTHER	2 18 AC
TOTAL	8 23 AC



CO	PROJ	TYPE	NO	REV

SCALE 1"=40'
 DATE FEBRUARY 12, 1976
 FIELD CK *JLR*
 OFFICE CK *JLR*
 JOB NO CH-233



- NOTES**
- 1 ALL ELEVATIONS BASED ON MSL
 - 2 THE APPROVAL OF THIS PLAT DOES NOT OBLIGATE THE COUNTY OF CHARLESTON IN ANY WAY TO ACCEPT FOR MAINTENANCE ANY OF THE ROADS OR EASEMENTS SHOWN HERE ON
 - 3 ALL PROPERTY SURVEYED ON THIS PLAT IS ABOVE 5 MSL
 - 4 COORDINATE DATA BASED ON SOUTH CAROLINA STATE PLANE COORDINATE GRID SYSTEM
 - 5 STATE PLANE COORDINATES ARE BASED ON CONTROL MONUMENTS SET BY DAVIS B. FLOYD ENGINEERS CHARLESTON SC

- LEGEND**
- 3 x 3 x 36 CONCRETE MONUMENT WITH BRASS PIN
 - PROPERTY LINE
 - /// ACCESS EASEMENT



COASTAL SURVEYING CO, INC.
 167 EAST BAY STREET
 CHARLESTON, S.C.

I JERRY LEE RICHARDSON A REGISTERED SURVEYOR OF THE STATE OF SOUTH CAROLINA DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN HEREON AND THAT THIS PLAT SHOWS THE TRUE DIMENSIONS OF THE PROPERTY AND THAT ALL NECESSARY MARKERS HAVE BEEN INSTALLED AND THE PRECISION IS 1/8000

Jerry Lee Richardson
 S.C. REG. NO. 4784
 P.O. BOX 5924
 HILTON HEAD ISLAND S.C. 29928

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

LEASE AGREEMENT

This Lease Agreement dated as of the 1st day of **July**, 1976, by and between Kiawah Island Company, Inc., a corporation organized and existing under the laws of the State of South Carolina (Lessor) and Charleston County, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council, which is the governing body of the County (Lessee),

W I T N E S S E T H :

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

REPRESENTATIONS AND UNDERTAKINGS

Section 1.1. Representations by the Lessor. The Lessor makes the following representations as to the basis for its undertakings on its part herein contained:

(a) The Lessor is a corporation duly incorporated under the laws of South Carolina, is in good standing under its charter and the laws of South Carolina, and has power to enter into this Agreement and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which the Lessor is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessor under the terms of any instrument or agreement.

(c) Lessor owns certain real property in the County of Charleston, State of South Carolina, known as Kiawah Island together with a 100 foot access road thereto from Bohicket Road which is now known as Kiawah Parkway.

(d) Lessor is desirous of making a certain portion of said island and improvements thereto (henceforth referred to as the Leased Premises) and eleven miles of its beachfront area on the western and southern sides of the island from a line five feet above mean sea level seaward to the Atlantic Ocean and Captain Sam's Inlet (henceforth referred to as the "Beachfront Area") together with an area between the Leased Premises and the Beachfront Area to the east thereof containing bathhouses, picnic tables, walks and bicycle paths available to the public for the purposes and under the terms and conditions herein expressed, and is desirous of having its liability as the owner of such property to be used for recreational purposes by the public limited under the provisions of Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

Section 1.2. Representations by the Lessee. The Lessee makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Lessee is a body politic and corporate and a political subdivision of the State of South Carolina, and is authorized and empowered under the laws of the State of South Carolina to enter into the transactions contemplated by this Agreement and carry out its obligations hereunder.

(b) Lessee is desirous that the Leased Premises and Beachfront Area be made available to the public for recreational purposes and the liability of the Lessor limited under the provisions of Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

ARTICLE II

DEMISING CLAUSE, DESCRIPTION OF LEASED PREMISES, ACCESS AND BEACH AREA

Section 2.1. Demise and Description of the Leased Premises. In accordance with the provisions of this Leased Agreement, the Lessor demises and leases to the Lessee and the Lessee leases from the Lessor for one dollar per annum, the property shown as a parking lot containing 150 vehicular parking spaces on the plat attached hereto as Exhibit A, together with a non-exclusive easement for vehicular ingress and egress to and from Bohickett Road over, upon, and across Beachwalker Road and Kiawah Island Parkway for so long as no public access is available.

Section 2.2. Improvements. Landlord agrees to provide and maintain the parking spaces set out in Section 4.3; outside shower and change facilities; restroom facilities; shaded picnic area; boardwalk access to and from the beach; and a limited snack bar facility.

Section 2.3. Beachfront Access. Those members of the public permitted access to the Leased Premises shall also be permitted access to the Beachfront Area along walkways provided, and also to the aforesaid bathhouses, picnic tables, walls and bicycle paths within the said improved area. Only the Leased Premises, and the Beachfront Area, together with the aforesaid improved area, containing the bath houses, picnic tables, walks and bicycle paths, may be utilized by the members of the public under this Lease Agreement. Public access shall not extend to other portions of Lessor's property landward of a line five feet above mean sea level except to the extent that the Lessor may allow such access at designated points of its choosing. Neither the Leased Premises, nor any other area, may be used as a staging area for trespassing on other portions of the property of the Lessor or its assigns.

ARTICLE III

DURATION OF LEASE TERM AND RENEWALS

Section 3.1. Initial Term. This Lease Agreement shall become effective upon its delivery, and the leasehold estate created in this Lease Agreement shall then begin, and, subject to the provisions of Section 3.2., shall expire five (5) years from July 1, 1976, unless sooner terminated by an event of default as hereinafter defined.

Section 3.2. Renewals. This Lease Agreement may be renewed for eighteen (18) successive terms of five (5) years each and a final term of four (4) years upon written notice by the Lessee to the Lessor six (6) months prior to the expiration of the initial term or the term of any renewal hereunder. The total term of this Lease Agreement shall not exceed ninety-nine (99) years from July 1, 1976, and in no way shall this Lease Agreement be construed as granting to the Lessee any option to purchase the Leased Premises from the Lessor. Provided, however, that should Lessee fail to give the renewal notice provided for above, but is still occupying and using the Leased Premises, the same shall constitute sufficient notice.

ARTICLE IV

READINESS AND USE OF THE LEASED PREMISES AND BEACH AREA

Section 4.1. Readiness. Lessor shall have the Leased Premises ready for use by the public under the conditions set forth herein on July 1, 1976, prior to which date the use of the Leased Premises shall be limited to the Lessor, its agents and servants, and such of Lessee's agents who may be engaged in inspecting the improvements to the same. The public shall not have access to the Beachfront Area until such time as the Leased Premises are ready.

Section 4.2. Hours of Use. The Leased Premises shall be open from sunrise to sunset.

Section 4.3. Limit on Number of Users - Parking Spaces. Only as many members of the public whose vehicles may be properly parked in the spaces provided in the parking lot may be permitted access to the Leased Premises, the Beachfront Area and the improved area. Lessor agrees it shall provide a minimum number of 150 vehicular parking spaces within the Leased Premises and should Lessor install a road within the easement therefor shown on Exhibit A, Lessor shall provide such additional parking spaces as may be necessary to maintain a minimum number of 150.

Section 4.4. Permissible Uses. Members of the public who have been permitted access to the Leased Premises shall park their vehicles in the spaces provided and shall have access to all improvements erected for their use, provided, however, the Leased Premises shall be used to provide access to the public for its personal recreation purposes as limited hereinafter. The Beachfront Area may be used for only such of the recreational purposes as that term is defined in Section 51-82 (c), Chapter 1.4., Title 51 of the S. C. Code of Laws (Supp. 1974) as are herein stated: swimming, sunbathing, fishing, crabbing, shell gathering, picnicking, and beach games.

Section 4.5. Impermissible Uses. Residential, office, manufacturing, and commercial uses are prohibited on the Leased Premises, the Beachfront Area and the improved area as are the following specific activities: hunting, oyster-ing, overnight camping, fires, pleasure driving, nude bathing or sunbathing, the use of surfboards, sailboats, pleasure motor and pleasure crafts, motor bikes, dune buggies, and other similar mechanized vehicles, the consumption of alcoholic beverages, or any illegal narcotic, and the bringing of pets or animals of any kind with the exception of seeing eye dogs. Disorderly, boisterous, unruly conduct, and the use of profane language is prohibited as well as any activity which shall amount to a breach of the peace. Additionally, there shall not be permitted the erection of signs (except as necessary to inform the public of rules

concerning the use of the Leased premises) billboards, or other advertising devices, the excavation and removal of sand, topsoil, or any other minerals, the cutting and removal of trees and plants, whether as specimens or otherwise, or the dumping and burning of refuse.

Section 4.6. Rules. The Lessor shall adopt and promulgate such rules as may be necessary for the orderly maintenance and security of the Leased Premises, the Beachfront Area, and the said improved area to enforce the terms and provisions of this Lease Agreement.

ARTICLE V

POLICE PROTECTION AND LIFEGUARDS

Section 5.1. Police Protection. Lessee shall ensure that the necessary police protection be furnished to maintain order and shall also ensure that no impermissible uses as set forth in Section 4.5 are made of the Leased Premises, the Beachfront Area, and the said improved area by the general public.

Section 5.2. Lifeguards. The Lessee through the Charleston County Park, Recreation and Tourist District shall provide adequate lifeguards in order to make surf-bathing reasonably safe to the general public.

ARTICLE VI

CONSIDERATION TO BE RECEIVED BY LESSOR

Section 6.1. Admission Charge. The Lessor shall be permitted to collect a reasonable admission charge from those permitted access to the Leased Premises. The charge shall initially be set at \$2.00 per vehicle containing nine or less occupants (including the driver), otherwise fifty cents per person, which charge shall include any toll imposed by Lessor. Such charge shall amortize in part the costs of constructing the improvements to the Leased Premises and partly defray the costs of maintaining and operating the Leased Premises in good repair and in a clean, slightly, healthful, and orderly condition and manner as is hereinafter required of Lessor. This charge may be adjusted at the commencement of each renewal term in proportion to the change of operation and maintenance costs from the first year of the previous term to the most recent twelve month period for which accounting figures are available. It is the intention of Lessor to make the Leased Premises, the Beachfront Area and improved area available to the public on a subsidized basis so that the collection of the charge shall always be in a comparatively nominal amount as opposed to the value of the Leased Premises, improved area, and Beachfront Area, and the expense of the construction and

maintenance of the improvements so that the sums realized from said charge shall never be "burdensome" to the public, nor fully compensate Lessor for its aforesaid expenditures on the public's behalf. Such being the case, pursuant to the authority of Section 51-85 of the S. C. Code of Laws (Supp. 1974), it is covenanted and agreed by the parties hereto that such charge shall be deemed consideration received by Lessor from the Lessee under Section 51-86(b) of the S. C. Code of Laws (Supp. 1974) so that Lessor shall have the benefit of limited liability as a landowner making available its land to the public for recreational purpose as set forth in Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

Section 6.2. Residential and Staff Users. No temporary or permanent resident of Kiawah Island shall be granted free use of the Leased Premises, and any such temporary or permanent resident of Kiawah Island shall use the Leased Premises for personal recreational purposes only, and no other. Only such of Lessor's staff or employees as are reasonably required to maintain and operate the Leased Premises, the Beachfront Area, and the said improved area may park within the Leased Premises without charge.

ARTICLE VII

MAINTENANCE OF PREMISES

Section 7.1. Maintenance of Premises. Lessor covenants that it shall maintain the Leased Premises, Beachfront Area and improved area in good repair, and in a clean, sightly, and healthful condition.

Section 7.2. Destruction of Premises. If the Leased Premises shall be damaged, Lessor shall repair or replace such damage. Lessor may by written notice delivered to Lessee suspend this Lease to allow reasonable time for the reconstruction and repair of such damage.

Section 7.3. The Lessor covenants and agrees to maintain in good repair during the term of this Lease the private access roads to the Leased Premises described in Section 2.3.

ARTICLE VIII

ABANDONMENT

Section 8.1. If public usage of the Leased Premises falls to a level which renders the continued operation and maintenance of the Leased Premises by the Lessor clearly unreasonable, taking into consideration the

value of the land and its potential for other uses, the Lessor shall be entitled to seek an order from a court of competent jurisdiction determining that the Lessee has abandoned the Leased Premises and terminating and making of no further force and effect this Lease Agreement.

ARTICLE IX

OTHER COVENANTS
AND CONDITIONS

Section 9.1. Other Land of Lessor. The provisions of this Lease in no way restrict the Lessor with respect to any use it may establish for land other than the Leased Premises owned by it.

Section 9.2. Assignment and Subletting. Lessee shall not voluntarily or involuntarily assign, transfer, or sell this Lease Agreement or any interest herein, or sublet the Leased Premises appurtenant, thereto, without first obtaining Lessor's written consent, provided, however, Lessee may, without Lessor's consent, assign this Lease to the Charleston County Park, Recreation and Tourist District, its successors and assigns, which has joined in this Lease Agreement to ensure the obligations of the Lessee contained in Article V hereof. Any unauthorized assignment or sublease shall be void and of no effect and may, at the Lessor's option, terminate this Lease.

Section 9.3. Encumbrances. The Lessee shall not mortgage, create a lien or security interest in, on, or against, or otherwise encumber all or any part of the Leased Premises. Any such encumbrance shall be void and of no effect, and may at the Lessor's option, terminate the Lease.

Section 9.4. Applicable Law. This agreement shall be governed by and interpreted and construed in accordance with the laws of the State of South Carolina.

Section 9.5. Whole Agreement. This Lease Agreement contains the entire agreement between the parties and cannot be changed except by written instrument executed by the parties.

Section 9.6. Binding Effect. The covenants and conditions of this Lease Agreement shall inure to the benefit of and shall, subject to the provisions of Section 9.2., be binding upon the Lessor, the Lessee, and their respective successors and assigns.

Section 9.7. Remedies Cumulative. All remedies conferred on Lessor by this Lease Agreement shall be deemed cumulative and no one exclusive of the other or of any other remedy conferred by law.

Section 9.8. Severability. If any provision of this Lease should be ruled wholly or partially invalid by any court or administrative agency, it may be deleted from the Lease. All the remaining terms and provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties by their duly authorized officers have executed this Lease Agreement at Charleston, South Carolina, this the 1st day of July, 1976.

IN THE PRESENCE OF:

Catherine G. Crowe
Gerardine M. Brown

Willie C. Frazier
White M. Dyer

John W. Green
Charles L. Cuzzell

KIAWAH ISLAND COMPANY, INC.

By: Frank W. Brumley
Frank W. Brumley, Vice President
and General Manager

COUNTY COUNCIL OF CHARLESTON COUNTY

By: James A. Stuckey, Jr.
James A. Stuckey, Jr., Chairman

THE CHARLESTON COUNTY PARK,
RECREATION AND TOURIST DISTRICT

By: Donald L. ...
Chairman

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me Catherine G. Cromer and
made oath that (s)he saw the within named Kiawah Island Company, Inc. by Frank
W. Brumley, its Vice President and General Manager, sign, seal, and as its act
and deed deliver the within written Lease Agreement, and that (s)he with
Geraldine M. Brown witnessed the execution thereof.

SWORN to before me this 1
day of July, 1976.

Catherine G. Cromer
Notary Public for South Carolina
My Commission Expires: 1-27-81

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me T. Hunter McEaddy and
made oath that (s)he saw the within named County Council of Charleston County
by James A. Stuckey, Jr., its Chairman, sign, seal, and as its act and deed
deliver the within written Lease Agreement, and that (s)he with William
A. C. Furtwangler witnessed the execution thereof.

SWORN to before me this 1st
day of July, 1976.

Jean J. Shekes
Notary Public for South Carolina
My Commission Expires: 1-27-81

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me John W. Green and
made oath that (s)he saw the within named Charleston County Park, Recreation
and Tourist District by its Chairman, E. Donald Pounder
sign, seal, and as its act and deed deliver the within written Lease Agreement,
and that (s)he with Charles L. Cuzzell witnessed the execution
thereof.

SWORN to before me this 1
day of July, 1976.

Susan E. Bursiel
Notary Public for South Carolina
My Commission Expires: May 1986

John W. Green

Beachwalker Park has been designed for your enjoyment and is open from 9:30 A.M. until 6:30 P.M. Season Schedule: Weekends only April, May, Sept., Oct.; Daily, June through Aug.

Three hundred feet of the front beach has been specifically designated for swimming. OUTSIDE OF THIS AREA LIFEGUARDS ARE NOT PROVIDED AND YOU ARE SWIMMING AT YOUR OWN RISK.

The two dollar parking fee collected as you enter the park is used to offset the operational and construction costs incurred in providing the existing facilities. Restrooms, dressing areas, outdoor showers, trails, a picnic area and a 150-car parking area have been provided for your convenience so please help us keep them presentable for your next visit.

A wide range of activities are available to visitors of Beachwalker Park, including swimming, fishing, sunbathing, shell gathering, picnicking, hiking and just enjoying the quiet beauty that surrounds you.

Food services and beach chair and

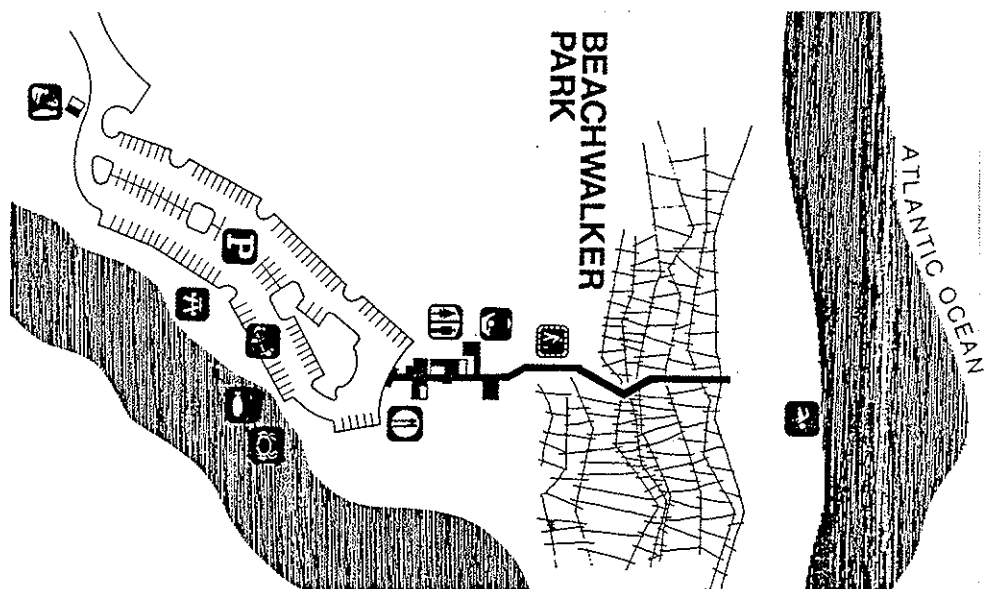
umbrella rentals are available for your convenience.

For your protection the use of surfboards, privately owned sail boats or motorized vehicles is prohibited. NO animals, except seeing eye dogs will be allowed in the park. Help us protect and preserve the area for public use by not removing any vegetation and not burning fires of any kind except charcoal grills in the picnic area. Alcoholic beverages are prohibited.

In order to avoid accidents we urge you to carefully watch small children as there is always the danger of currents and tides with which to contend. There is also the danger of bites or stings from certain species of marine life. If any first aid is needed, no matter how minor, a trained staff is available to be of assistance to you.

Visit Palmetto Islands County Park located in the Mt. Pleasant area off Long Point Road, and Folly Beach County Park located at the west end of Folly Beach.





Beachwalker Park

We invite you to enjoy Beachwalker Park which has been made available to the public through a cooperative arrangement with the Kiawah Island Company, Charleston County Council and the Charleston County Park, Recreation and Tourist Commission.

*to Ch. Goldberg
9/23/83*



Planning Commission

April 3, 2024

Zoning Text Amendment(s)

#AZO24-000003

#AZO24-000006

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO24-000003 History

Planning Commission Meeting: March 6, 2024
Planning Commission Meeting: April 3, 2024
Public Hearing and First Reading: TBD
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-31. Impact Fees.

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-31. Impact Fees., are intended to set the foundation of potential impacts the Town would factor into any consideration of development impact fees. This proposed amendment would not set forth any approvals for the Town to begin collecting development impact fees, however the proposed amendment sets expectations to the types of impacts to measure as a result of future development and their potential impact on the Town facilities.

RECOMMENDATION BY THE PLANNING COMMISSION

Pursuant to §12-158(3) of the *Land Use Planning and Zoning Ordinance* "The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission's recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of Planning Commission members present, and voting shall be required to approve the amendment."

DECISION ON AMENDMENT BY THE TOWN COUNCIL

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

APPROVAL CRITERIA

Pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- a. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;

- b. The proposed amendment is consistent with the purposes and intent of this article;
- c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;
- d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

Planning staff finds the proposed amendment satisfies the approval criteria pursuant to §12-158(6) and recommends approval.

PLANNING COMMISSION MEETING

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

On March 6, 2024, the Planning Commission recommended table action on the proposed text amendment by a vote of 7 to 0.

TOWN COUNCIL MEETING PUBLIC HEARING TBD

MAYOR:
John Labriola

TOWN OF

MAYOR PRO TEMPORE:
Michael Heidingsfelder

TOWN ADMINISTRATOR:
Stephanie Tillerson



COUNCIL MEMBERS:
Bradley D. Belt
Russell A. Berner
Madeleine Kaye

TOWN ATTORNEY:
Joseph Wilson

MEMORANDUM

TO: Planning Commission
FROM: John Taylor, Jr., Planning Manager
DATE: April 3, 2024
SUBJECT: #AZO24-000003 Case Materials Proposed Amendment Sec. 12-31. Impact Fees

Impact Fees: Impact fees represent financial payments made by a builder or developer to a unit of local government for the purpose of funding certain off-site capital improvements needed to accommodate new growth. Fees may be collected for a variety of public facilities and services, including transportation, water, sewer, municipal facilities (such as public works, planning, building and permitting, engineering and general administration), storm water, police and fire protection, and parks.

Town of Kiawah Island defined term: *"Impact fees means charges assessed against newly developing property that attempt to recover the cost incurred by a local government in providing the public facilities required to serve the new development."* – Sec. 12-274 Definitions.

The proposed amendments to Sec. 12-31. Impact Fees., are intended to set the foundation of potential impacts the Town would factor into any consideration of development impact fees. This proposed amendment would not set forth any approvals for the Town to begin collecting development impact fees, however the proposed amendment sets expectations to the types of impacts to measure as a result of future development and their potential impact on the Town facilities. The State of South Carolina's Development Impact Fee Act grants municipal and county governments the ability to adopt impact fees. (S.C. Code of Laws, Sec. 6-1-910 et seq). Planning staff highlights the act which guides the process for imposing development impact fees.

Key requirements regarding the imposition of development impact fees:

- Prior to imposing an impact fee, local governments must have an adopted Comprehensive Plan / Capital Improvements Plan.
- A report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the jurisdiction of the governmental entity.
- An approved ordinance which authorizes the impact fee which must:
 - o Provide procedures to timely process applications for the determination of applicable impact fees, and for individual assessment, of impact fees, credits or reimbursements allowed or paid.
 - o Include a description of acceptable levels of service for system improvements.
 - o Provide for the termination of the impact fee.
 - o Include explanation of the calculation of the impact fee
- An annual report describing the amount of all impact fees collected, appropriated, or spent during the previous year by category of public facility and service area.
- Impacts fees may result in incidental benefit to property owners or developers in the service area other than the fee payor, except that an impact fee that results in benefits to property owners or developers within the service area, other than the fee payor, in an amount which is greater than incidental benefits is prohibited.

Process of adopting impact fees.

- The Town Council begins the process with a resolution directing the Planning Commission to commission studies and recommendations of an impact fee ordinance.
- The Planning Commission makes recommendations to the Town Council for a capital improvements plan and impact fees by service unit all with the same guidelines as adopting or amending the comprehensive plan. These are also updated in the same manner and on the same review cycle of the comprehensive plan.

Sec. 12-31. Impact fees.

(a) *Purpose and intent.* The purpose of an impact fee is to:

- (1) Ensure wise appropriate, compatible and timely development of new areas by providing necessary capital facilities in accordance with existing and future needs;
- (2) Promote desirable living conditions and sustained stability of the Town by ensuring adequate infrastructure and service delivery; and
- (3) Secure economy in government expenditures by assuring that new development pay its fair and equitable share of additional capital facility costs required by increased services demand generated by new growth.

(b) *Levied.* Impact fees shall be levied in accordance with this article at such time as an impact assessment study has been completed. This impact assessment study shall determine the impact fee amount based upon either the gross floor area of nonresidential development or the number of dwelling units of residential development for the purpose of financing public facilities necessary to accommodate new development as may be determined by the Town Council. ~~Impact fees shall be payable at the time of building permit issuance.~~

(c) *Impact Assessment Studies.* Impact assessment studies capital improvements needed to accommodate new growth. Fees may be collected for a variety of public facilities and services, including transportation, water, sewer, municipal facilities (such as public works, planning, building and permitting, engineering and general administration), storm water, police and fire protection, and parks. A Traffic Impact Assessment, Stormwater Impact Assessment and Environmental Impact Assessment shall be completed. Town Council may determine if additional impact assessments are required. ~~may include traffic impact assessments and environmental impact assessments:~~

~~(4) A Traffic Impact Assessment should assess and determine the impact of the new development on roads, intersections, bike paths and the overall transportation network. A Traffic Impact Assessment should consider increased traffic volumes, vehicle class, intersection delays and provide proper countermeasures to mitigate traffic concerns.~~

(1)

(2) A Stormwater Impact Assessment should assess and determine the impact of the new development on the stormwater management systems. A stormwater impact assessment should consider increased impacts to include but not limited to system capacity; stormwater runoff to existing neighborhoods and or adjacent communities; the efficiency of existing stormwater management system infrastructure including but not limited to retention ponds, ditches, swales, detention basins, culverts, pump stations or other required piping; and provide proper countermeasures to mitigate stormwater concerns.

(3) An Environmental Impact Study should assess and determine if endangered wildlife, their habitat or certain endangered or rare plant species exist on the planned site and would require a relocation to protect wildlife and vegetation. These proper counter measures as decided by the Town should be paid in full by the Developer responsible for the new development project.

(d) *Due.* Impact fees shall be payable at the time of building permit issuance.

(Code 1993, § 12A-113; Ord. No. 2005-08, § 12A-113, 10-12-2005)

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO24-000006 History

Planning Commission Meeting: March 6, 2024
Planning Commission Meeting: April 3, 2024
Public Hearing and First Reading: TBD
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-162. Site Plan Review

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-162. Site Plan Review modifies procedures and provides mechanisms for additional review for large scale development projects. The proposed amendment qualifies the scale in which projects subject to site plan review.

RECOMMENDATION BY THE PLANNING COMMISSION

Pursuant to §12-158(3) of the *Land Use Planning and Zoning Ordinance* "The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission's recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of Planning Commission members present, and voting shall be required to approve the amendment."

DECISION ON AMENDMENT BY THE TOWN COUNCIL

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

APPROVAL CRITERIA

Pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- a. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;
- b. The proposed amendment is consistent with the purposes and intent of this article;
- c. The purpose of the proposed amendment is to further the general health, safety and welfare of the

Town of Kiawah Island;

- d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

Planning staff finds the proposed amendment satisfies the approval criteria pursuant to §12-158(6) and recommends approval.

PLANNING COMMISSION MEETING MARCH 6, 2024

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

On March 6, 2024, the Planning Commission recommended table action on the proposed text amendment by a vote of 7 to 0.

PLANNING STAFF REVIEW APRIL 3, 2024

On March 6th Planning Commission recommended approval of amendments to connect the Planning Commission to the applicable site plan review process. The Planning Commission tabled the recommendation of Sec.12-162. Site Plan Review. Please note the following comments regarding the proposed amendments.

The proposed amendments quality that commercial / non-single family residential developments 25,000 sqft in size or containing 10 dwelling units or more would be presented for the Planning Commission for review. The 25,000 sqft size recommendation reflects the scale of development projects of community interest without adding additional burden to process and procedures for staff based on current infrastructure.

The proposed amendments maintain objectivity for zoning review. The Planning Commission is a recommending body where decision-making authority is granted to the Planning Commission on subdivision regulations pursuant to South Carolina state laws. The modified changes reflect the purview of the Planning Commission.

Based on intent, planning staff recommends the Planning Commission consider recommendation to Town Council modifying specific zoning standards in lieu of subjective approach or unmeasurable criteria for zoning review. Examples of such are modifying setback requirements, building heights, etc.

Planning staff recommends the Planning Commission consider the timeline of procedures associated plan review to avoid significant development timelines.

Based on discussions regarding amendments to Sec. 12-164. staff highlights administrative changes to our webpage and communication which advance the intent of the previous proposed changes regarding transparency. These enhancements respond to concerns greater transparency on the development process. Previous proposed language highlighted administrative related intent to improve the awareness of development projects and status. Updating our website and communications regarding proposed development projects serve operational changes opposed to an ordinance. This provides planning staff greater management and efficient of current measures for engagement on development proposals. Please note preview proposed website and communication enhancements discussed between Planning and Communications department.

The Town's current Citizenserve Online Portal does not provide the level of engagement desired to deliver the output amenable to the goals of the department and community. With enhanced ArcGIS outputs, the community would be able to view proposed development projects to include location, project information, and project status. This would include site plan review, rezonings, planned developments, variances, special

exceptions, and other applications which require public hearing. Additionally, projects which require public hearing, explored features will be able to connect the application request so that public comments may be collected more efficiently.

This also provides greater opportunity to educate and inform the community on the development process while providing additional resources of engagement. The Planning Department and Communications Department are working to revamp quick links for ease of navigating specific process and procedures and active development projects. Planning staff has also modified flowchart for communicating development process procedures along with communicating the status submitted applications.

Please note additional references provided supplementary to staff's review.

TOWN COUNCIL MEETING PUBLIC HEARING TBD

Town of Kiawah Island

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

April 3, 2024



PROPOSED ZONING TEXT AMENDMENTS

Proposed Text Amendments

Objective: To provide a more comprehensive process for the approval of development projects in conjunction with the Planning Commission and the Kiawah Island community.

February 7th PC: Planning staff introduces proposed amendments to the Planning Commission.

March 6th PC: Initial consideration for recommendations were presented by planning staff. Planning Commission reviewed staff’s draft language for consideration of a recommendation to Town Council. The following items were tabled until the April PC meeting for additional revisions and study.

- #AZO24-000003 | Impact Fees
- #AZO24-000004 | Modifications to Lot Coverage Standards or R-3, Residential
- #AZO24-000006 | Site Plan Review & Administrative Permits

Please note included draft language of each of the ordinance sections for discussion.

Proposed Text Amendments

#AZO24-000003 (Impact Fees)

- Sec. 12-31 – Impact Fees.

#AZO24-000004 Zoning Map/ Districts

- Sec. 12-65 – R-1, Residential District
- Sec. 12-66 – R-2, Residential District
- Sec. 12-67 – R-3, Residential District

(Staff is conducting additional research which requires pulling archived data from Charleston County records.)

#AZO24-000006 (General Procedural Requirements)

- Sec. 12-162 – Site Plan Review.
- Sec. 12-164 – Administrative Permits.

PROPOSED ZONING TEXT AMENDMENTS

#AZO24-000006

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Proposed Text Amendments

#AZO24-000006 (General Procedural Requirements)

- Sec. 12-162 – Site Plan Review

Planning staff comments:

- Modifies provisions of zoning permit applications and provides mechanism for a additional review for large scale development projects.
- Connects Planning Commission to a applicable site plan review process
 - Commercial / non-single family residential developments 25,000 sqft in size or containing 10 dwelling units or more would be presented for the Planning Commission for review.
 - 25,000 sqft size recommendation was to reflect the scale of development projects of recent community concerns. Please note the following slide for examples of recent development project sizes.
- The recommended changes, maintain objectivity for zoning review which are administer by the zoning code.
- Planning Commission is a recommending body where decision-making authority is granted on subdivision regulations.
- Staff recommends the Commission consider modifying specific zoning standards in lieu of subjective approach or unmeasurable criteria. Examples of such are modifying setback requirements, building heights, etc.
- Consider the timeline of procedures associated plan review to avoid significant development timelines.

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Development Project Scale Examples

Commercial or Non-Single Family Development Projects	Approximate Building Square Footage	
Kiawah Senior Living	115,422 SF	
Night Heron Park Activities Building	20,754 SF	
The West End at Beachwalker (Church Parcel, Parcel 11)	25,196 SF (16 DUs)	55,280 SF (56 DUs)
Ocean Pines	62,278 SF (69 DUs)	
MUSC Emergency Department	12,035 SF	
SJFD Station 4	8,300 SF	
KIGR Laundry Facility	8,451 SF	

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Proposed Text Amendments

#AZO24-000006 (General Procedural Requirements)

- Sec. 12-164 – Administrative Permits

Planning staff comments:

- Based on the discussions of regarding amendments to Sec. 12-164, staff is highlighting current changes, to our webpage and communication which advance the intent of the previous proposed changes regarding transparency. These enhancements respond to concerns greater transparency on the development process. Updating our website and communications regarding proposed development projects serve operational changes opposed to an ordinance. This provides planning staff greater management and efficient of current measures for engagement on development proposals.
- Please note preview proposed website and communication enhancements discussed between Planning and Communications department.

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Proposed Website and Communication Enhancements

- The Town’s current Citizenserve Online Portal does not provide the level of engagement desired to deliver the output amenable to the goals of the department and community.
- With enhanced ArcGIS outputs, the community would be able to view proposed development projects to include location, project information, and project status. This would include site plan review, rezonings, planned developments, variances, special exceptions and other applications which require public hearing.
- Public Hearing Comments: Additionally, projects which require public hearing, planned features will be able to connect the application requests so that public comments may be collected more efficiently.
- Opportunity to better educate and inform the community on the development process while providing additional resources of engagement.
- Revamped quick links for ease of navigating specific process and procedures and active development projects.
- Modified flowchart for communicating development process along with submitted applications

Proposed Website and Communication Enhancements

GARLAND Zoning Public Comment

Case Number: Z 23-47

Case Number: Z 23-47

The Plan Commission of the City of Garland will hold a public meeting on **Zoning Case Z 23-47** on **February 26, 2024, 7:00 p.m.** at **William E. Dotter Municipal Building, 200 N. Fifth Street, Garland, Texas**. The **noticed Plan Commission agenda** is on the City of Garland website (www.garlandtx.gov). State law requires that cities notify all property owners within 200 feet of any proposed zoning changes. Garland notifies those within 400 feet of any proposed zoning change.

Description: Z 23-47 Prime Data Centers/Munschardt Kopf & Harr. The applicant proposes to construct a data center and an electric substation. The site is located at 2000 Holford Road. (District 7)

Descripción del proyecto (Traducido a través del traductor de Google): Z 23-47 Prime Data Centers/Munschardt Kopf & Harr. El solicitante propone construir un centro de datos y una subestación eléctrica. El sitio está ubicado en 2000 Holford Road. (Distrito 7)

Mô ti dự án (Được dịch qua Google Dịch): Z 23-47 Prime Data Centers/Munschardt Kopf & Harr. Người nộp đơn dự kiến xây dựng một trung tâm dữ liệu và trạm biến áp điện. Địa điểm này nằm ở số 2000 Holford Road. (Quận 7)

More detailed information related to this Zoning Case can be found [here](#)
 Agendas are posted no later than 72 hours before the meeting.

Please note dates are subject to change. If you wish to receive updates on this case, follow the link above and register for updates.

PC Meeting Date: February 26, 2024
City Council Meeting Date: March 19, 2024

If you want more information, please contact
 Nabha Ahmed, Planning Department
 NAhmed@garlandtx.gov
 972-235-2453

Para Español, por favor contactar a Eibe Garcia a 972-205-2445 o correo electrónico Elgarcia@garlandtx.gov

Quick Links

- Streamline and connect development process statuses to ArcGIS and website.

Comprehensive Planning	Marsh Management	Active Development Projects
Development Agreements	Traffic & Transportation	Resiliency
Boards & Commissions	Zoning Maps & Amendments	Process & Procedures

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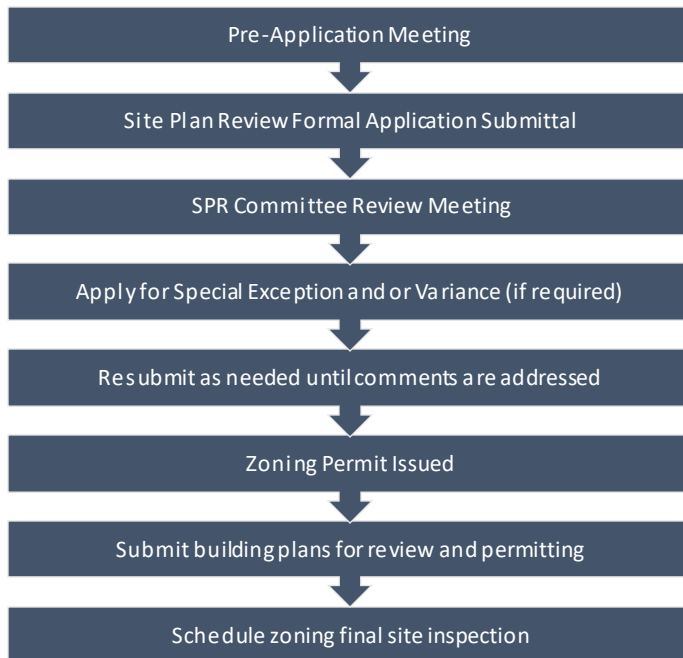
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Site Plan Review Process

Site Plan Review (SPR) is a process used to examine all proposed developments, except for single family detached residential, for the purpose of ensuring compliance with local and state requirements. The purpose of a site plan review is to ensure that all applicable requirements of the zoning ordinance are complied with prior to the issuance of a zoning and building permit. The SPR Committee consists of representatives from various state and local agencies who will address the issues of the project including zoning, building codes, health standards, traffic/highway regulations, drainage/road requirements, compliance with wetland regulations and Storm Water regulations.

[View the Town's Land Use Planning and Zoning Ordinance](#)



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As Proposed

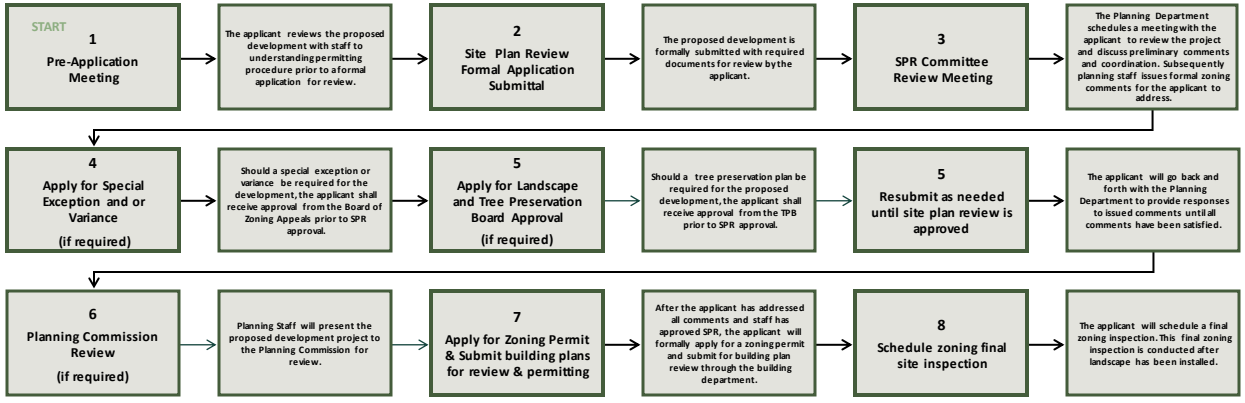


Site Plan Review Process

Site Plan Review (SPR) is a process used to examine all proposed developments, except for single family detached residential, for the purpose of ensuring compliance with local and state requirements. The purpose of a site plan review is to ensure that all applicable requirements of the zoning ordinance are complied with prior to the issuance of a zoning and building permit. The SPR Committee consists of representatives from various state and local agencies who will address the issues of the project including zoning, building codes, health standards, traffic/highway regulations, drainage/road requirements, compliance with wetland regulations and Storm Water regulations.

Pending Council Approval

[View the Town's Land Use Planning and Zoning Ordinance](#)



Site Plan Review Process

Site Plan Review (SPR) is a process used to examine all proposed developments, except for single family detached residential, for the purpose of ensuring compliance with local and state requirements. The purpose of a site plan review is to ensure that all applicable requirements of the zoning ordinance are complied with prior to the issuance of a zoning and building permit. The SPR Committee consists of representatives from various state and local agencies who will address the issues of the project including zoning, building codes, health standards, traffic/highway regulations, drainage/road requirements, compliance with wetland regulations and Storm Water regulations.

Town of Kiawah Island - Procedures / Notices											
Procedure / Application	Review [R] Decision-Making [DM] Appeal [A] Bodies					Public Hearing	Notice Requirements				
	Staff	PC	TC	BZA	TPB		PH	Newspaper	Posted Notice	Neighbor Mailed Notice	Interested Parties
Comprehensive Plan Amendments	R	R	DM			✓	✓	✓	✓	✓	
Zoning Text Amendments	R	R	DM			✓	✓			✓	
Zoning Map Amendments	R	R	DM			✓	✓	✓	✓	✓	
Dock Key Location Amendments	R	R	DM			✓	✓	✓	✓	✓	
Planned Development (PD) Application	R	R	DM			✓	✓	✓	✓	✓	
Special Exceptions	R			DM		✓	✓	✓	✓	✓	
Development Agreement Application	R	R	DM			✓	✓	✓	✓	✓	
Site Plan Review	DM			A							
Variances	R			DM	DM	✓	✓	✓	✓	✓	
Subdivision Plat Applications	R	DM									
Zoning Permit	DM										
Appeals of Zoning-Related Administrative Decisions				DM	DM	✓	✓	✓	✓	✓	
Appeals of Subdivision-Related Administrative Decisions		DM					✓			✓	
Annexation Application	R	R	DM			✓	✓	✓	✓	✓	
Specimen Tree Removal (*Pending Council Approval)	R				DM	✓	✓	✓	✓	✓	
Tree Preservation Plan (*Pending Council Approval)	R				DM	✓	✓	✓	✓	✓	

LEGEND
[R] Review Body: Responsible for Review and Recommendation
[DM] Decision-Making Body: Responsible for Final Decision
[A] Authority: Authority to hear and decide appeals of Decision Making Body's actions
[PC] Planning Commission
[TC] Town Council
[BZA] Board of Zoning Appeals
[TPB] Landscape and Tree Preservation Board (*pending TC approval)

NOTES
¹ Agendas and case materials of PC, BZA and TPB meetings are posted on the Town's website subject to the
² Site Plan Review Applications are published on the Town's website
³ In cases where no Appeal Body is shown or where the Town Council is shown as final Decision-Making Body, appeals shall be taken to the Circuit Court of Charleston County, as provided by law.
⁴ Subdivision plats which are exempt pursuant to the zoning code are administratively by staff.
⁵ Newspaper notices are to the Post & Courier
⁶ Posted notices are physical signs on the property adjacent to the nearest ROW.
⁷ Mailed notices are to area property owners within 500' of the subject property.
⁸ Interested Parties are individuals who request to be notified of subject matters pertaining to Kiawah planning and zoning applications are notified by email.
⁹ Approvals are Town of Kiawah Island approval processes which do not include state or private entity reviews (DHEC, OCRM, KIARB, etc.).

Sec. 12-162. Site plan review.

The purpose of a site plan review is to ensure that all applicable requirements of this article are complied with prior to the issuance of a zoning and building permit.

(1) *Applicability.*

- a. *Generally.* The site plan review process, administered by the Department of Planning, shall be required for all new construction, exterior remodeling involving a change in the building footprint, parking areas or other impervious surfaces, change of use that results in a more intense use, and additions to any structure used for any purpose (except detached single-family residences). No zoning or building permit shall be issued for a development subject to site plan review until the site plan has been approved in accordance with the provisions contained within this article.
- b. *Single-family detached residential.* The site plan review process, requiring site plan review application, will not apply to detached single-family residences. However, a review by planning staff to determine compliance with all applicable zoning regulations is required.

(2) *Application.* The property owner or designated representative may initiate site plan review by filing an application with the Planning Director. The contents of the application shall be included on a form developed by the Town. If more than one use in a project or more than one use located on a single tract of land is subject to site plan review, the necessary applications may be submitted in phases; provided, however, that the overall concept is first reviewed with the Planning Director and the Planning Commission. A letter of intent shall be submitted by the applicant describing the proposed use.

(3) *Procedures for issuance of site plan approval.*

- a. Site plans for permitted uses shall be reviewed by the Planning Director in conjunction with the zoning permit process. The Planning Director's review and action shall be based on the conformity of the site plan with district regulations, approved plats and the comprehensive plan.

b. Site plans for development projects containing commercial uses or non-single family residential uses where structures are greater than 25,000 square feet in size, or contain 10 residential dwelling units or more, must be submitted to the Planning Commission for review prior to approval by Planning Director.

i. The Planning Commission's review shall be based on the conformity of the site plan with district regulations, approved plats and the comprehensive plan.

ii. The Planning Director's review and action shall also be based on the conformity of the site plan with district regulations, approved plats and the comprehensive plan.

~~b.c.~~ Site plans for special exceptions shall be reviewed by the Planning Director prior to the application being presented to the Board of Zoning Appeals pursuant to section 12-159.

~~e.d.~~ Tree Preservation Plans shall be reviewed and approved by the Landscape and Tree Preservation Board pursuant to Section 12-129 prior to the issuance of site plan review approval.

~~d.e.~~ Site plans for planned developments shall be reviewed by the Planning Director, Planning Commission and Town Council pursuant to section 12-158 when the planned development does not contain a detailed site plan.

e.f. A site plan may be approved, approved with conditions, or denied.

(4) *Submittal requirements.* A site plan must be drawn to engineers scale and contain the following information:

- a. The shape and dimensions of the zoning lot;
- b. The size and location of all existing structures;
- c. The lines within which any proposed structures shall be erected, altered, or moved; and the locations of any officially approved building setback lines;
- d. The heights of all proposed structures and parts thereof;
- e. The existing and proposed use of each structure and part thereof;
- f. The uses and zoning of adjoining properties;
- g. The number of dwelling units in each existing building and the number of dwelling units that each proposed building is intended to accommodate;
- h. The size and location of all proposed driveways, off-street loading areas and off-street parking areas ~~containing more than six parking spaces~~;
- i. Finished first floor elevation above mean sea level requirement and the flood hazard zone designation if in a special flood hazard A or V zone;
- j. Review comments from the St. John's Fire District;
- k. [Tree survey, tree preservation plan, and or landscape plan as required by this Article](#); and
- l. Such other reasonable and pertinent information with regard to the zoning lot or neighboring lots as the Planning Director may find necessary to carry out the purposes and intent of this article.

(Code 1993, § 12A-508; Ord. No. 94-12, § 2(12A-507), 9-26-1994; Ord. No. 2005-08, § 12A-508, 10-12-2005)



Planning Commission

April 3, 2024

Subdivision Application(s)

#SBD24-000002

#SBD24-000003

Town of Kiawah Island Subdivision Request
Case #SBD24-000002

Planning Commission Meeting: April 3, 2024

CASE INFORMATION

Applicant: KDP II LLC

Property Owner(s): KDP II LLC

Surveyor: Southeastern Land Surveying LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: 207-05-00-0011 and 001

Property Size:

Proposed Lot Approximately 465,417 SQFT | 10.684 Acres

Highlands Approximately 455,228 SQFT | 10.451 Acres

Marsh Areas 10,189 SQFT | 0.234 Acres

Deed: Book 0335 Page 077

Application:

The subdivision request is sited at the western end of the island and is adjacent to the Kiawah River to the north and Atlantic Ocean to the south. Located across the Kiawah River to the north is unincorporated Charleston County, and to the northwest is the Town of Seabrook Island. Located to the east is a multifamily development (The Cape) within the municipal boundaries of the Town of Kiawah Island. The subject parcel has been historically identified into two planning areas (Parcel 12A: Beachwalker Park and Parcel 12B: Captain Sams Spit) based on the formerly executed *2013 Amended and Restated Development Agreement By and Between Kiawah Resort Associates and the Town of Kiawah Island* (2013 ARDA). This development agreement terminated December 4, 2023. The subject parcel is principally undeveloped; however, a portion of the subject parcel has been developed. The portion of the parcel that is developed, which would be located on Parcel 12A, is Beachwalker County Park. The property owner leases this portion of the parcel to Charleston County, in which the park is operated by Charleston County Parks and Recreation Commission. Beachwalker County Park is open to the public accessed via Beachwalker Drive.

The subject parcel is currently under consideration for rezoning. The current zoning for the parcel is R-1, Residential and R-2, Residential for the area identified by TMS# 207-05-00-001.

The subject area in question of the submitted subdivision plat and waiver request is Parcel 12A. The total area is approximately 1,693,395 square feet (38.875 acres) in size. The subject area identified as Oceanfront Highlands is a portion of beachfront highlands measured from the OCRM critical line to the property line on the northwest portion of the property.

The Planning Commission approved the waiver for the first subdivision, SBD24-000001 on March 8th, 2024.

In seeking approval of the proposed subdivision, the applicant is requesting a waiver from the Town of Kiawah Island Subdivision Regulations pursuant to Sec. 12-254. - Waivers.

DECISION OF THE PLANNING COMMISSION

Pursuant to Sec. 12-246. - Administration. (b) Planning Commission (3), the Planning Commission shall act to “consider any waiver requests with respect to the requirements contained in this article.”

Pursuant to Sec. 12-254. – Waivers.

(a) *Where extraordinary hardships may result from strict interpretation of this article, the Planning Commission may, by an affirmative vote of at least two-thirds of its members present at a meeting, approve a waiver from strict compliance with this article so that fairness is realized and the public interest is protected, provided that such waiver does not have the effect of nullifying the intent and purpose of the comprehensive plan, article II of this chapter or this article.*

(b) *The applicant shall submit a petition in writing stating clearly and definitely the reason for the waiver request. Consideration will be given if each of the following factors is found:*

- 1) Special and/or unique conditions affecting the property;*
- 2) Undue hardships that will result from adherence to one or more of the relevant requirements; and*
- 3) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest.*

STAFF REVIEW AND APPROVAL CRITERIA

The Planning Department has reviewed this document for FINAL APPROVAL of this subdivision to be known as A Subdivision Plat of Parcel 12A TMS# 207-05-00-0011 and 001 and finds that it is inconsistent with Chapter 12 Article III Subdivision Regulations as the proposed subdivision does not satisfy the requirements of the Town’s subdivision regulations. Pursuant to Sec. 12-284. and 12-309. - Lots. (h)., “All lots shall be provided with access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed in article V of this chapter, the road code.”

In the event the Planning Commission considers approval of the subdivision application #SBD24-000002, planning staff recommends that:

A. The Planning Commission must consider approval of the applicant’s waiver request where consideration will be given if each of the following factors is found:

- 1) *Special and/or unique conditions affecting the property;***
- 2) *Undue hardships that will result from adherence to one or more of the relevant requirements; and***
- 3) *Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest.***

Staff finds that there may be special and unique conditions affecting the subject property including but not limited to the irregular and unique shape of the subject parcel. Staff finds that there may be undue hardships that will result from adherence to one or more of the relevant requirements such as the connection of a roadway to the existing west parcel (Parcel 12B) being separated by the proposed subdivision. Staff finds that the granting of the waiver may not be detrimental to adjacent properties, property owners or to the public interest. The subject area is currently partially

developed. Beachwalker County Park currently operates on the subject parcel.

B. Upon approval, the following statement should be added to the subdivision plat:

- 1) *"This subdivision restricts road access (ingress and egress) to the adjacent parcel west of the parcel shown by means of streets which are constructed in conformance with standards and specifications prescribed within the Town of Kiawah Island's Land Use Planning and Zoning Ordinance and was granted a waiver by the Planning Commission pursuant to § 12-254. Waivers."*

PLANNING COMMISSION MEETING APRIL 3, 2024

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

Town of Kiawah Island

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

April 3, 2024



SUBDIVISION APPLICATION

#SBD24-000002

#SBD24-000002

A Subdivision Plat & Waiver Request
Subdivision Plat of Parcel 12A #TMS 207-05-00-0011 and -001

Applicant/Property Owner: KDP II LLC

Surveyor: Southeastern Land Surveying, LLC.

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel(s): #TMS 207-05-00-0011 (#TMS 207-05-00-001)

Zoning District: R-1, Residential (R-2, Residential – BWCP Leased Site)

Acres: Proposed Lot Approximately 465,417 SQFT | 10.684 Acres
Highlands Approximately 455,228 SQFT | 10.451 Acres
Marsh Areas 10,189 SQFT | 0.234 Acres

Lot(s): 1 Lot

3



4

#SBD24-000002 | Case Information

- The subdivision request is sited at the western end of the island and is adjacent to the Kiawah River to the north and Atlantic Ocean to the south.
- Located across the Kiawah River to the north is unincorporated Charleston County, and to the northwest is the Town of Seabrook Island. Adjacent to the east is a multifamily development (The Cape).
- The subject parcel has been historically identified into two planning areas (Parcel 12A: Beachwalker Park and Parcel 12B: Captain Sam's Spit) based on the formerly executed 2013 ARDA. The subject area is identified as Parcel 12A.
- The subject parcel is principally undeveloped; however, a portion of the parcel is developed in Beachwalker County Park (leased to Charleston County, operated by CCPRC). Beachwalker County Park is open to the public.
- The proposed subdivision formally delineates Parcel 12A and Parcel 12B.

5

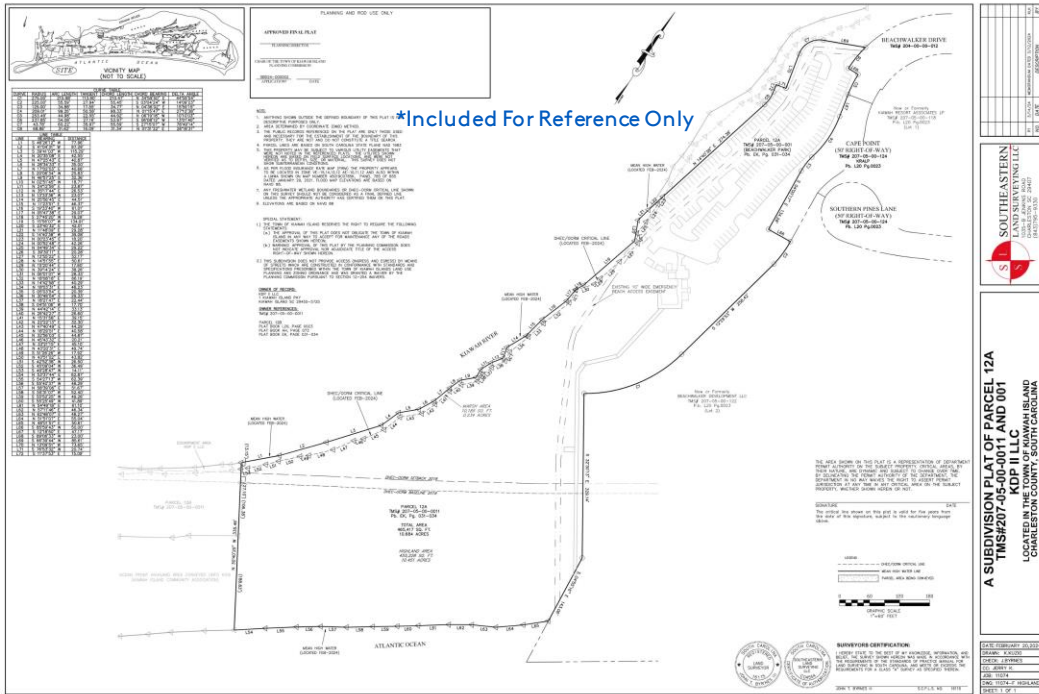
5

#SBD24-000002 | Case Information

- The subdivision request only creates new parcel boundaries. The proposed subdivision is not subject to conveyance to KICA as noted in 2013 ARDA. Section 16(f). Captain Sam's Spit.

6

6



#SBD24-000002 | Case Information

- In seeking approval of the proposed subdivision, the applicant is requesting a waiver from the Town of Kiawah Island Subdivision Regulations pursuant to Sec. 12-254. – Waivers as the proposed subdivision does not connect to a roadway.

#SBD24-000002 | Waiver Request

Pursuant to Sec. 12-254. - Waivers.

- a) "Where extraordinary hardships may result from strict interpretation of this article, the Planning Commission may, by an affirmative vote of at least two-thirds of its members present at a meeting, approve a waiver from strict compliance with this article so that fairness is realized and the public interest is protected, provided that such waiver does not have the effect of nullifying the intent and purpose of the comprehensive plan, Article II of this chapter or this article.
- b) The applicant shall submit a petition in writing stating clearly and definitely the reason for the waiver request. Consideration will be given if each of the following factors is found:
 - 1) Special and/or unique conditions affecting the property;
 - 2) Undue hardships that will result from adherence to one or more of the relevant requirements; and
 - 3) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest."

9

9

#SBD24-000002 | Staff Review

A Subdivision Plat | Subdivision Plat of Parcel 12A #TMS207-05-00-0011; -001

The Planning Department has reviewed this document for FINAL APPROVAL of this subdivision to be known as Oceanfront Highlands Parcel 12B TMS# 207-05-00-0011 and finds that it is inconsistent with Chapter 12 Article III Subdivision Regulations as the proposed subdivision does not satisfy the requirements of the Town's subdivision regulations.

Pursuant to Sec. 12-284. and 12-309. - Lots. (h)., *"All lots shall be provided with access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed in article V of this chapter, the road code."*

The proposed subdivision would remove road access (ingress and egress) to the adjacent lot west (Parcel 12B) of the newly proposed subject parcel (Parcel 12A).

10

10

#SBD24-000002 | Staff Review

A Subdivision Plat | Subdivision Plat of Parcel 12A #TMS207-05-00-0011; -001

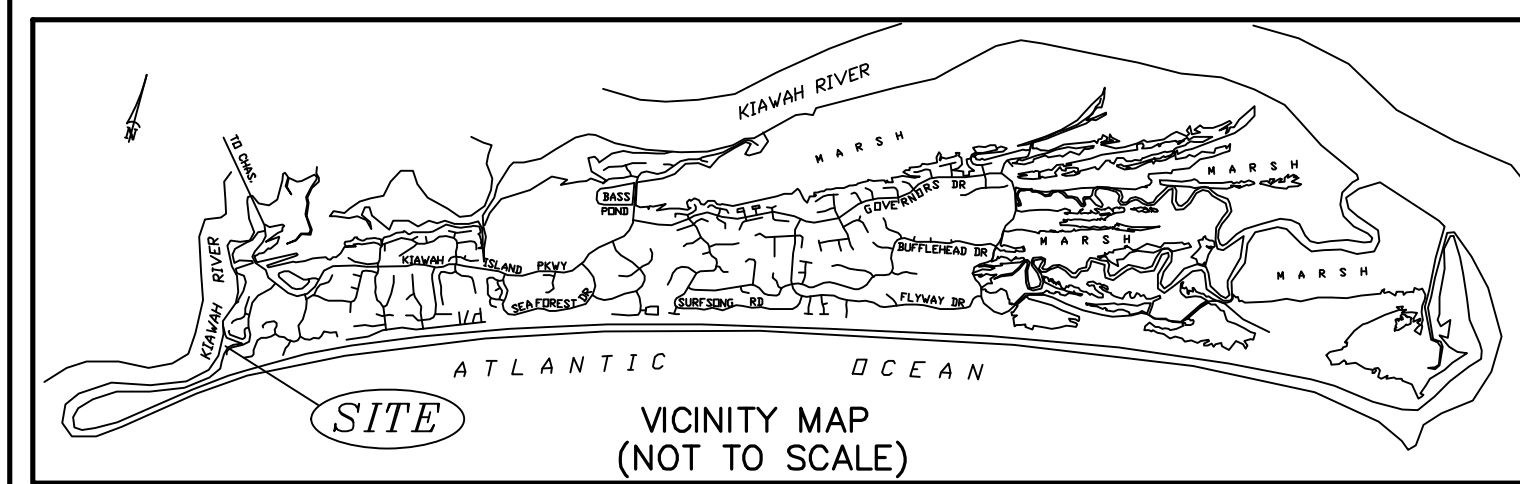
In the event the Planning Commission considers approval of subdivision application #SBD24-000002, planning staff recommends that:

A. The Planning Commission must consider approval of the applicant's waiver request pursuant to Sec. 12-254. Waivers. Staff finds that the consideration factors pursuant to this section would be found given the proposed subdivision application.

B. Upon approval, the following statement is noted on the subdivision plat:

- 1) *"This subdivision restricts road access (ingress and egress) to the adjacent parcel west of the parcel shown by means of streets which are constructed in conformance with standards and specifications prescribed within the Town of Kiawah Island's Land Use Planning and Zoning Ordinance and was granted a waiver by the Planning Commission pursuant to § 12-254. Waivers."*

11



CURVE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	275.00	215.98	113.90	210.47	N 34°59'50" E	44°59'54"
C2	225.00	55.59	27.94	55.45	S 03°04'24" W	14°09'23"
C3	125.00	34.88	17.55	34.77	N 04°36'02" E	15°59'15"
C4	209.01	99.26	50.58	98.33	N 01°15'47" E	27°12'38"
C5	253.49	44.98	22.55	44.92	N 06°19'18" W	10°10'03"
C6	237.85	54.08	27.16	53.97	S 06°08'12" W	13°01'40"
C7	43.78	60.22	35.97	55.59	S 27°15'07" W	78°49'14"
C8	68.86	31.62	16.09	31.34	N 01°31'22" E	26°18'31"

LINE	BEARING	DISTANCE
L1	S 46°26'12" W	77.96
L2	S 41°04'31" W	97.29
L3	S 39°41'03" W	115.29
L4	N 20°33'08" E	42.55
L5	N 47°25'43" E	40.87
L6	N 28°34'33" E	35.00
L7	N 17°02'03" E	40.66
L8	S 20°06'54" W	25.83
L9	N 48°37'25" E	32.36
L10	N 02°51'45" W	18.71
L11	N 24°12'59" E	23.87
L12	N 35°17'44" E	26.53
L13	N 13°33'56" W	23.07
L14	N 25°56'45" E	44.51
L15	N 11°23'51" E	46.37
L16	S 19°33'40" W	61.01
L17	N 08°07'28" E	29.07
L18	S 27°42'20" W	18.09
L19	S 15°58'07" W	134.91
L20	S 23°40'32" E	42.01
L21	N 11°48'09" E	29.28
L22	S 14°40'38" W	39.08
L23	N 00°23'45" E	18.20
L24	N 00°52'48" E	42.26
L25	N 04°49'34" E	29.22
L26	S 39°30'11" E	20.28
L27	N 12°25'22" E	52.17
L28	N 14°51'55" E	50.61
L29	N 15°20'44" E	17.60
L30	N 39°14'24" E	38.26
L31	N 06°01'01" W	28.33
L32	N 8°08'18" E	66.19
L33	N 14°42'58" E	40.29
L34	N 18°03'31" E	48.23
L35	S 05°03'54" E	20.39
L36	N 30°49'54" E	23.33
L37	N 18°21'47" E	22.44
L38	S 04°51'06" W	17.70
L39	N 44°42'14" E	33.13
L40	N 28°42'27" E	26.60
L41	N 15°31'58" E	39.15
L42	N 22°22'13" E	32.30
L43	N 47°40'49" E	44.29
L44	N 18°29'51" E	40.58
L45	N 32°26'03" E	44.87
L46	N 45°43'32" E	20.21
L47	N 33°21'16" E	45.10
L48	N 43°20'31" E	49.74
L49	S 51°26'28" W	17.92
L50	N 43°51'02" E	43.82
L51	S 42°52'38" W	26.50
L52	S 45°09'04" W	36.49
L53	S 49°28'47" W	14.11
L54	N 53°37'44" E	62.57
L55	S 54°27'13" W	62.39
L56	S 58°40'37" W	48.29
L57	N 58°39'06" E	51.67
L58	S 55°31'07" W	52.40
L59	S 55°52'25" W	49.26
L60	S 55°25'49" W	41.89
L61	N 54°49'18" E	61.10
L62	N 57°11'46" E	46.34
L63	N 62°48'07" E	48.27
L64	N 51°51'07" E	55.04
L65	N 48°01'57" E	50.61
L66	S 85°59'43" W	50.00
L67	S 12°18'50" E	47.17
L68	S 89°08'53" W	23.00
L69	S 66°39'44" W	85.61
L70	N 12°09'51" W	73.65
L71	S 76°53'32" W	20.74
L72	S 11°57'53" E	15.09

PLANNING AND ROD USE ONLY

APPROVED FINAL PLAT

PLANNING DIRECTOR

CHAIR OF THE TOWN OF KIAWAH ISLAND PLANNING COMMISSION

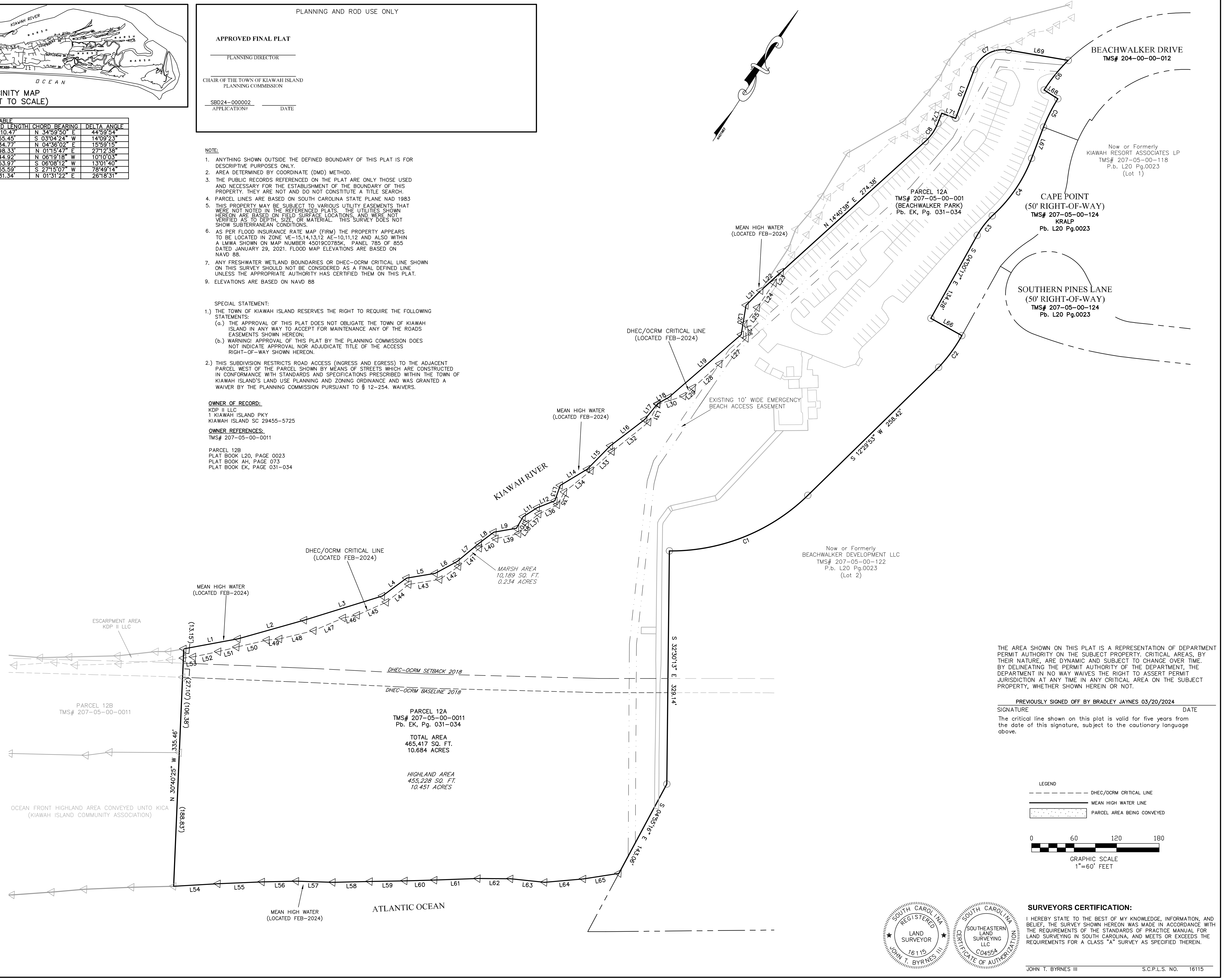
SBD24-00002 APPLICATION# DATE

- NOTE:
1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.
 2. AREA DETERMINED BY COORDINATE (DMD) METHOD.
 3. THE PUBLIC RECORDS REFERENCED ON THE PLAT ARE ONLY THOSE USED AND NECESSARY FOR THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
 4. PARCEL LINES ARE BASED ON SOUTH CAROLINA STATE PLANE NAD 1983.
 5. THIS PROPERTY MAY BE SUBJECT TO VARIOUS UTILITY EASEMENTS THAT WERE NOT NOTED IN THE REFERENCED PLATS. THE UTILITIES SHOWN HEREON ARE BASED ON FIELD SURFACE LOCATIONS AND WERE NOT VERIFIED AS TO DEPTH, SIZE, OR MATERIAL. THIS SURVEY DOES NOT SHOW SUBTERRANEAN CONDITIONS.
 6. AS PER FLOOD INSURANCE RATE MAP (FIRM) THE PROPERTY APPEARS TO BE LOCATED IN ZONE VE-15.14.13.12 AE-10.11.12 AND ALSO WITHIN A LMWA SHOWN ON MAP NUMBER 45019C0785K, PANEL 785 OF 855 DATED JANUARY 29, 2021. FLOOD MAP ELEVATIONS ARE BASED ON NAVD 88.
 7. ANY FRESHWATER WETLAND BOUNDARIES OR DHEC-OCRM CRITICAL LINE SHOWN ON THIS SURVEY SHOULD NOT BE CONSIDERED AS A FINAL DEFINED LINE UNLESS THE APPROPRIATE AUTHORITY HAS CERTIFIED THEM ON THIS PLAT.
 8. ELEVATIONS ARE BASED ON NAVD 88.

- SPECIAL STATEMENT:
- 1.) THE TOWN OF KIAWAH ISLAND RESERVES THE RIGHT TO REQUIRE THE FOLLOWING STATEMENTS:
 - (a.) THE APPROVAL OF THIS PLAT DOES NOT OBLIGATE THE TOWN OF KIAWAH ISLAND IN ANY WAY TO ACCEPT FOR MAINTENANCE ANY OF THE ROADS EASEMENTS SHOWN HEREON;
 - (b.) WARNING! APPROVAL OF THIS PLAT BY THE PLANNING COMMISSION DOES NOT INDICATE APPROVAL NOR ADJUDICATE TITLE OF THE ACCESS RIGHT-OF-WAY SHOWN HEREON.
 - 2.) THIS SUBDIVISION RESTRICTS ROAD ACCESS (INGRESS AND EGRESS) TO THE ADJACENT PARCEL WEST OF THE PARCEL SHOWN BY MEANS OF STREETS WHICH ARE CONSTRUCTED IN CONFORMANCE WITH STANDARDS AND SPECIFICATIONS PRESCRIBED WITHIN THE TOWN OF KIAWAH ISLAND'S LAND USE PLANNING AND ZONING ORDINANCE AND WAS GRANTED A WAIVER BY THE PLANNING COMMISSION PURSUANT TO § 12-254. WAIVERS.

OWNER OF RECORD:
KDP II LLC
1 KIAWAH ISLAND PKY
KIAWAH ISLAND SC 29455-5725

OWNER REFERENCES:
TMS# 207-05-00-0011
PARCEL 12B
PLAT BOOK L20, PAGE 0023
PLAT BOOK AH, PAGE 073
PLAT BOOK EK, PAGE 031-034

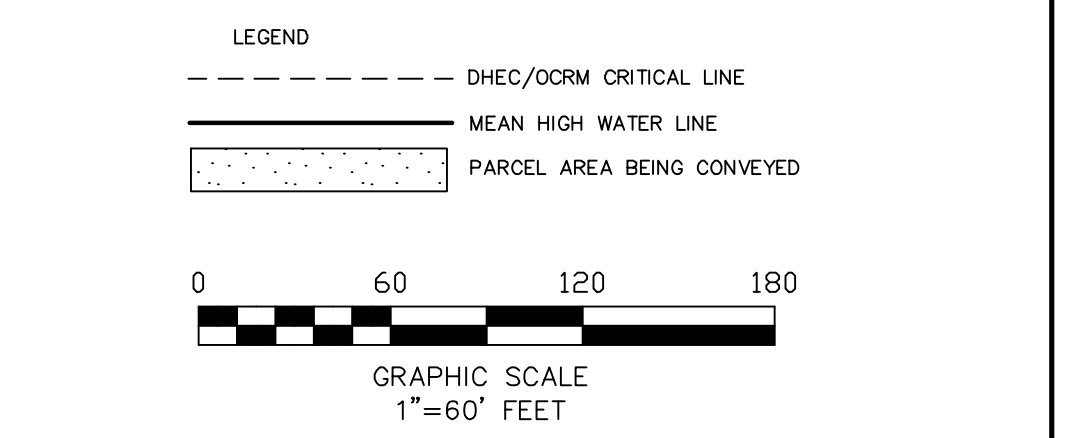


THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

PREVIOUSLY SIGNED OFF BY BRADLEY JAYNES 03/20/2024

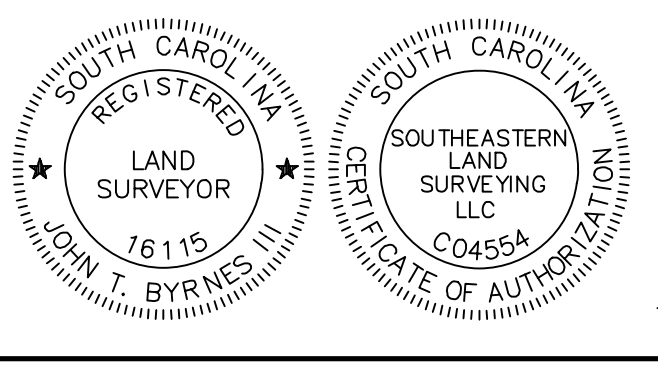
SIGNATURE _____ DATE _____

The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.



SURVEYORS CERTIFICATION:

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.



JOHN T. BYRNES III S.C.P.L.S. NO. 16115

NO.	DATE	DESCRIPTION
RT	3/14/24	MEMORANDUM DATED 3/12/2024
KLK		
BY		

SOUTHEASTERN LAND SURVEYING LLC

1035-B JENKINS ROAD
CHARLESTON, SC 29407
(843)795-9330

**A SUBDIVISION PLAT OF PARCEL 12A
TMS#207-05-00-0011 AND 001
KDP II LLC
LOCATED IN THE TOWN OF KIAWAH ISLAND
CHARLESTON COUNTY, SOUTH CAROLINA**

DATE: FEBRUARY 20, 2024
DRAWN: K.KUZIO
CHECK: J.BYRNES
CC: JERRY K.
JOB: 11074
DWG: 11074-F HIGHLAND
SHEET: 1 OF 1



CHARLESTON
COUNTY
SOUTH CAROLINA

PLANNING DEPARTMENT

843.202.7200
1.800.524.7832
Fax: 843.202.7222
Lonnie Hamilton, III
Public Services Building
4045 Bridge View Drive
North Charleston, SC 29405-7464

Joel H. Evans, RLA, AICP
Zoning/Planning Department Director

PERMIT APPLICATION: RESTRICTIVE COVENANTS AFFIDAVIT

I, Jordan Phillips, Vice President of KDP II LLC have reviewed the restrictive covenants applicable to Parcel Identification Number(s) 207-05-00-001 and 207-05-00-0011 located at the west end of Kiawah Island, being a portion of Captain Sam's Spit, Parcel 12A, and the proposed permit application is not contrary to, does not conflict with, and is not prohibited by any of the restrictive covenants, as specified in South Carolina Code of Laws, Section 6-29-1145.

KDP II LLC

By:

3/12/24

Name: Jordan Phillips, Vice President

[Date]

*Effective July 1, 2007, South Carolina Code of Laws Section 6-29-1145 requires local governments to inquire in the permit application, or in written instructions provided to the applicant, if a tract or parcel of land is restricted by a recorded covenant that is contrary to, conflicts with or prohibits an activity for which a permit is being sought.
[Section 6-29-1145 is copied on the back of this page]*

For Staff Use Only:

Received by _____

Date _____

Application Number: SBD24-000002

Sworn to before me this
27th day of March, 2024.


 (SEAL)

Notary Public for South Carolina

My commission expires: 9/29/2026

CELESTE K. MARCECA
NOTARY PUBLIC
SOUTH CAROLINA

KDP II LLC (Corp. Seal)

By: 
Jordan Phillips
Its: Vice President

Town of Kiawah Island Subdivision Request
Case #SBD24-000003

Planning Commission Meeting: April 3, 2024

CASE INFORMATION

Applicant: KDP II LLC

Property Owner(s): KDP II LLC

Surveyor: Southeastern Land Surveying LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: 207-05-00-0011

Property Size: Approximately 2,337,134 SQFT | 53.653 Acres

Proposed Lot:

965,333 SQFT (22.161 Acres)

(Acres to be conveyed) Marsh (21.570 Acres); Highlands (0.591 Acres)

Deed: Book 0335 Page 077

Application:

The subdivision request is sited at the western end of the island and is adjacent to the Kiawah River to the north and Atlantic Ocean to the south. Located across the Kiawah River to the north is unincorporated Charleston County, and to the northwest is the Town of Seabrook Island. Located to the east is a multifamily development (The Cape) within the municipal boundaries of the Town of Kiawah Island. The subject parcel has been historically identified into two planning areas (Parcel 12A: Beachwalker Park and Parcel 12B: Captain Sams Spit) based on the formerly executed *2013 Amended and Restated Development Agreement By and Between Kiawah Resort Associates and the Town of Kiawah Island* (2013 ARDA). This development agreement terminated December 4, 2023. The subject parcel is principally undeveloped; however, a portion of the subject parcel has been developed. The portion of the parcel that is developed, which would be located on Parcel 12A, is Beachwalker County Park. The property owner leases this portion of the parcel to Charleston County, in which the park is operated by Charleston County Parks and Recreation Commission. Beachwalker County Park is open to the public accessed via Beachwalker Drive.

The subject parcel is currently under consideration for rezoning. The current zoning for the parcel is R-1, Residential and R-2, Residential for the area identified by TMS# 207-05-00-001.

The subject area in question of the submitted subdivision plat and waiver request would be located on Parcel 12B. The total area being conveyed is approximately 965,333 square feet (22.161 acres) in size. The subject area identified as Oceanfront Highlands is a portion of beachfront highlands measured from the OCRM critical line to the property line on the northwest portion of the property.

The Planning Commission approved the waiver for the first subdivision, SBD24-000001 on March 8th 2024.

The applicant intends to subdivide a portion of the subject parcel 207-05-00-0011 for the purposes of conveyance to the Kiawah Island Community Association (KICA). This conveyance is pursuant to *Section 16(f) Captain Sam's Spit – Parcel 12B* of the formerly executed 2013 Amended and Restated Development Agreement. This section states, "On or before the Termination date of this Agreement, Property Owner shall convey to KICA (for nominal consideration by quitclaim deed) such areas of highland depicted in light green

and cream on Exhibit 16.2 as are then seaward (as to land on the ocean side of Parcel 12B) of the crest of the primary oceanfront dune, less only such areas/lots as may have been encumbered by easements or conveyed to third parties (e.g., lot owners, KICA, etc. pursuant to the authorizations hereinabove noted)."

In seeking approval of the proposed subdivision, the applicant is requesting a waiver from the Town of Kiawah Island Subdivision Regulations pursuant to Sec. 12-254. - Waivers.

DECISION OF THE PLANNING COMMISSION

Pursuant to Sec. 12-246. - Administration. (b) Planning Commission (3), the Planning Commission shall act to *"consider any waiver requests with respect to the requirements contained in this article."*

Pursuant to Sec. 12-254. – Waivers.

(a) Where extraordinary hardships may result from strict interpretation of this article, the Planning Commission may, by an affirmative vote of at least two-thirds of its members present at a meeting, approve a waiver from strict compliance with this article so that fairness is realized and the public interest is protected, provided that such waiver does not have the effect of nullifying the intent and purpose of the comprehensive plan, article II of this chapter or this article.

(b) The applicant shall submit a petition in writing stating clearly and definitely the reason for the waiver request. Consideration will be given if each of the following factors is found:

- 1) Special and/or unique conditions affecting the property;*
- 2) Undue hardships that will result from adherence to one or more of the relevant requirements; and*
- 3) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest.*

STAFF REVIEW AND APPROVAL CRITERIA

The Planning Department has reviewed this document for FINAL APPROVAL of this subdivision to be known as Marsh Area Parcel 12B, TMS# 207-05-00-0011 and finds that it is inconsistent with Chapter 12 Article III Subdivision Regulations as the proposed subdivision does not satisfy the requirements of the Town's subdivision regulations. Pursuant to Sec. 12-284. and 12-309. - Lots. (h)., *"All lots shall be provided with access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed in article V of this chapter, the road code."*

In the event the Planning Commission considers approval of the subdivision application #SBD24-000003, planning staff recommends that:

A. The Planning Commission must consider approval of the applicant's waiver request where consideration will be given if each of the following factors is found:

- 1) Special and/or unique conditions affecting the property;***
- 2) Undue hardships that will result from adherence to one or more of the relevant requirements; and***

3) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest.

Staff finds that there may be special and unique conditions affecting the subject property including but not limited to the irregular and unique shape of the subject parcel, and the formerly executed 2013 ARDA conveyance obligations pursuant to the referenced conveyance clause Section 16(f) Captain Sam's Spit "such areas of highland depicted in light green and cream on Exhibit 16.2 as are then seaward (as to land on the ocean side of Parcel 12B) of the crest of the primary oceanfront dune." Staff finds that there may be undue hardships that will result from adherence to one or more of the relevant requirements such as the connection of a roadway to the proposed subdivision due to the challenges presented of developing a roadway on this parcel which meet the requirements of the code. Staff finds that the granting of the waiver may not be detrimental to adjacent properties, property owners or to the public interest. The subject area is currently undeveloped and there are no active development plans submitted for the subject area. The subject area is to be conveyed to the Kiawah Island Community Association. Similarly, and historically in the land use and development patterns of Kiawah, other oceanfront property has also been conveyed to KICA for the benefit of the community.

B. Upon approval, the following statement should be added to the subdivision plat:

- 1) *"This subdivision does not provide access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed within the Town of Kiawah Island's Land Use Planning and Zoning Ordinance and was granted a waiver by the Planning Commission pursuant to § 12-254. Waivers."*

PLANNING COMMISSION MEETING APRIL 3, 2024

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

Town of Kiawah Island

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

April 3, 2024



SUBDIVISION APPLICATION

#SBD24-000003

#SBD24-000003

A Subdivision Plat & Waiver Request
Residual and Marsh Area of Parcel 12B Conveyance Subdivision Plat
#TMS207-05-00-0011

Applicant/Property Owner: KDP II LLC

Surveyor: Southeastern Land Surveying, LLC.

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel(s): #TMS 207-05-00-0011 (#TMS 207-05-00-001)

Zoning District: R-1, Residential (R-2, Residential – BWCP Leased Site)

Total Area (Parcel 12B): 2,337,134 SQFT (53.653 Acres)
Proposed Lot: 965,333 SQFT (22.161 Acres) (Acres to be conveyed)
 Marsh (21.570 Acres); Highlands (0.591 Acres)

Lot(s): 1 Lot

3

3



4

4

#SBD24-000003 | Case Information

- The subdivision request is sited at the western end of the island and is adjacent to the Kiawah River to the north and Atlantic Ocean to the south.
- Located across the Kiawah River to the north is unincorporated Charleston County, and to the northwest is the Town of Seabrook Island. Adjacent to the east is a multifamily development (The Cape).
- The subject parcel has been historically identified into two planning areas (Parcel 12A: Beachwalker Park and Parcel 12B: Captain Sam's Spit) based on the formerly executed 2013 ARDA. The subject area would be sited on Parcel 12B.
- The subject parcel is principally undeveloped; however, a portion of the parcel is developed in Beachwalker County Park (leased to Charleston County, operated by CCPRC). Beachwalker County Park is open to the public.

5

5

#SBD24-000003 | Case Information

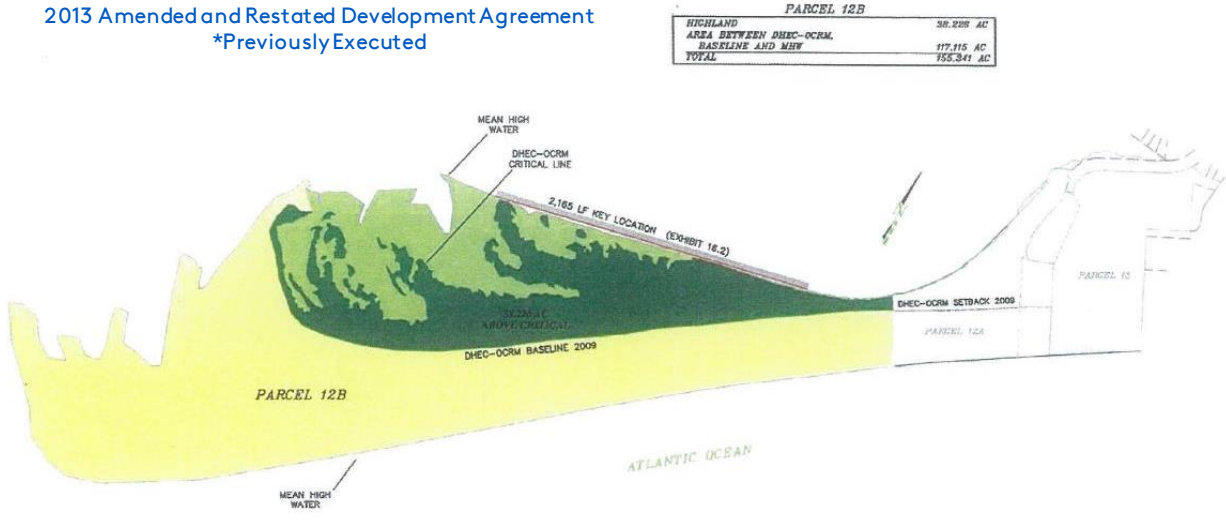
- The subject area identified are marsh areas of the subject property. The marsh areas to be conveyed also include approximately 0.591 highland acres (marsh hammocks).
- The applicant is subdividing a portion of the subject parcel for the purposes of conveyance to the Kiawah Island Community Association (KICA). This conveyance is pursuant to Section 16(f) Captain Sam's Spit – Parcel 12B of the formerly executed 2013 ARDA. This section states:

"On or before the Termination date of this Agreement, Property Owner shall convey to KICA (for nominal consideration by quitclaim deed) such areas of highland depicted in light green and cream on Exhibit 16.2 as are then seaward (as to land on the ocean side of Parcel 12B) of the crest of the primary oceanfront dune, less only such areas/lots as may have been encumbered by easements or conveyed to third parties (e.g., lot owners, KICA, etc. pursuant to the authorizations hereinabove noted)."

6

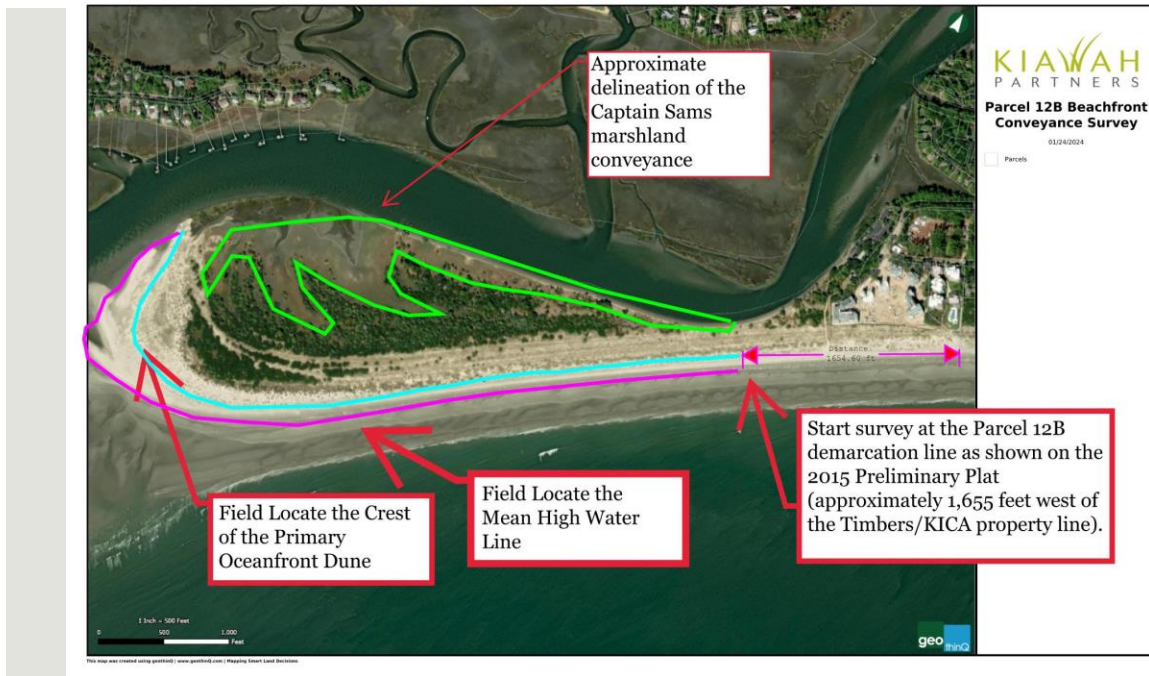
6

Exhibit 16.2
2013 Amended and Restated Development Agreement
*Previously Executed



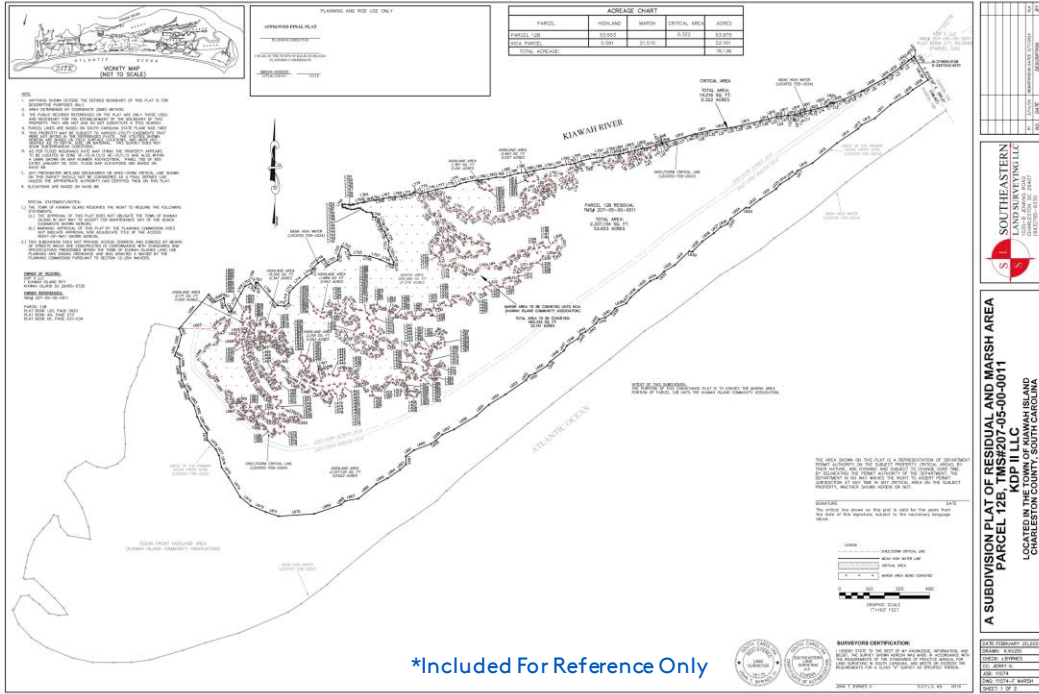
Captain Sams
EXHIBIT 16.2
07.08.2011

7



8

8



#SBD24-000003 | Case Information

- In seeking approval of the proposed subdivision, the applicant is requesting a waiver from the Town of Kiawah Island Subdivision Regulations pursuant to Sec. 12-254. – Waivers as the proposed subdivision does not connect to a roadway.

#SBD24-000003 | Waiver Request

Pursuant to Sec. 12-254. - Waivers.

- a) "Where extraordinary hardships may result from strict interpretation of this article, the Planning Commission may, by an affirmative vote of at least two-thirds of its members present at a meeting, approve a waiver from strict compliance with this article so that fairness is realized and the public interest is protected, provided that such waiver does not have the effect of nullifying the intent and purpose of the comprehensive plan, Article II of this chapter or this article.
- b) The applicant shall submit a petition in writing stating clearly and definitely the reason for the waiver request. Consideration will be given if each of the following factors is found:
 - 1) Special and/or unique conditions affecting the property;
 - 2) Undue hardships that will result from adherence to one or more of the relevant requirements; and
 - 3) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest."

12

12

#SBD24-000003 | Staff Review

A Subdivision Plat | Oceanfront Highlands Parcel 12B #TMS207-05-00-0011

The Planning Department has reviewed this document for FINAL APPROVAL of this subdivision to be known as Oceanfront Highlands Parcel 12B TMS# 207-05-00-0011 and finds that it is inconsistent with Chapter 12 Article III Subdivision Regulations as the proposed subdivision does not satisfy the requirements of the Town's subdivision regulations.

Pursuant to Sec. 12-284. and 12-309. - Lots. (h)., *"All lots shall be provided with access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed in article V of this chapter, the road code."*

13

13

#SBD24-000003 | Staff Review

A Subdivision Plat | Marshland Conveyance Parcel 12B #TMS207-05-00-0011

In the event the Planning Commission considers approval of subdivision application #SBD24-000003, planning staff recommends that:

- A. The Planning Commission must consider approval of the applicant's waiver request pursuant to Sec. 12-254. Waivers. Staff finds that the consideration factors pursuant to this section would be found given the proposed subdivision application.
- B. Prior to recording the approved subdivision plat, OCRMCritical Line shall be certified.

Approximate
delineation of the
Captain Sams
marshland
conveyance

Distance:
1654.60 ft

Start survey at the Parcel 12B
demarcation line as shown on the
2015 Preliminary Plat
(approximately 1,655 feet west of
the Timbers/KICA property line).

Field Locate the Crest
of the Primary
Oceanfront Dune

Field Locate the
Mean High Water
Line

1 Inch = 500 Feet
0 500 1,000
Feet

- (e) Archeological Studies. Subject to the provisions of § 6-31-80, the Programmatic Agreement heretofore entered between the Property Owner and the State Department of Archives and certain other state and federal entities shall govern all matters dealing with archeology at Kiawah Island. A copy of such Agreement is attached as Exhibit 16.4: Programmatic Agreement.
- (f) Captain Sam's Spit – Parcel 12B.

This parcel is known as Captain Sam's Spit and is shown on Exhibit 16.2. It comprises approximately 155.341 acres of highland of which the Property Owner may plat, Develop, and convey: (a) fee simple title to no more than 20 acres for Single Family Detached Dwelling residential purposes and any uses as are authorized for Parcel 12B as authorized by this Agreement;(b) and utilize additional Parcel 12B highland acreage as may be needed for infrastructure/Development including, but not limited to, road rights-of-way, utilities, beach access easements, paths, trails, green space, community recreation serving Parcel 12B, dock access, parking, etc., with any such Development to comply with this Agreement including but not limited to Exhibits 13.1 and 13.2. *Provided however*, only highland landward of the setback line and/or critical line set by OCRM may have structures built thereon (lot lines and boardwalks permitted by OCRM from time to time may, however, irrespective of the foregoing, extend seaward of the setback line and critical line).

Such developable acreage shall be based on environmentally-sensitive approaches to Development, including limited and careful infrastructure construction. The Town will assist Property Owner in facilitating provision of access strategies that minimize impacts with narrow rights-of-ways to 20' widths or less and narrower road profiles to 16', provided such access is appropriate for emergency vehicles. Property Owner may use pervious material for same.

Notwithstanding any other provision of this Agreement, Property Owner agrees that prior to any conveyance to KICA of rights, title, or interests in any roadway and adjacent right-of-way leading to developable property appearing on recorded plats at Captain Sam's Spit (i.e., on Parcel 12B), the Property Owner shall first obtain and provide to the board of directors of KICA, a certification from a licensed civil engineer with at least 20 years experience in South Carolina coastal development, that such roadway/right-of-way, in such engineer's considered professional opinion, will not unreasonably be subject to tidal erosion from the Kiawah River or the Atlantic Ocean.

When and if such roadway/right-of-way improvements are completed by Property Owner and such certification obtained from the licensed civil engineer, as aforesaid, is so delivered, then the roadway/right-of-way may, with all such improvements as are herein or otherwise authorized or provided for, be conveyed

pursuant to the Kiawah Island General Covenants and/or the KICA Covenants, to KICA in such form as Property Owner has heretofore customarily conveyed rights in other roads and rights-of-way at Kiawah Island to KICA.

Property Owner may construct up to 2 Neighborhood Docks (with OCRM permitting approval) serving Parcel 12B or Parcel 12 A with flexibility for placement per Exhibit 16.2. The Key Location Ordinance shall be amended by the Town to accommodate same as and when the dock(s) are ready to be Developed by Property Owner.

Should the baseline/setback and/or critical lines move (including adjustments as result from periodic measurements by OCRM), allowances and locations for structure placement shall be adjusted accordingly by the parties and confirmed by amendment(s) hereto upon request of either party.

Property Owner shall provide to KICA (by quitclaim deed conveyance) 8 parking spaces at the approximate location on the approved subdivision plat upon completion of the road access and shall improve the spaces with pervious material. An easement to KICA shall be limited to its members' use for access along the road to the 8 parking space area. A beach access path from such parking area shall also be granted by Property Owner to KICA by quitclaim deed for its members' convenient usage. Property Owner shall make these conveyances upon completion of the infrastructure of Phase One of Captain Sam's Spit and the dedication to KICA of said infrastructure in conformance with the provisions of this section.

On or before the Termination Date of this Agreement, Property Owner shall convey to KICA (for nominal consideration by quitclaim deed) such areas of highland depicted in light green and cream on Exhibit 16.2 as are then seaward (as to land on the ocean side of Parcel 12B) of the crest of the primary oceanfront dune, less only such areas/lots as may have been encumbered by easements or conveyed to third parties (e.g., lot owners, KICA, etc. pursuant to the authorizations hereinabove noted).

Prior to the Termination Date, Property Owner also agrees to restrict all remaining highlands not devoted to the uses or purposes authorized herein, to non-developable, passive green space by restrictive covenant recorded in the Charleston County RMC office. Property Owner shall grant an easement to KINHC (provided KINHC accepts) for any acreage not subject to Development, including such acreage as is to be conveyed, ultimately, to KICA.

The Town has requested that the Property Owner consider the possibility of establishing a temporary site on the Kiawah River for KICA members to launch kayaks and canoes before further Development of Captain Sam's Spit. Property

Owner agrees to study the issue and consider the request in good faith.

17. [Left intentionally blank]

18. **Kiawah Island Community Association, Inc.**

(a) Waiver.

The Property Owner executed a Limited Waiver under Declaration of Kiawah Island Community Association pursuant to the terms of the 2005 Development Agreement that is recorded in the RMC Office for Charleston County at Book 568, Page 393 (the "Limited Waiver"), copy attached as Exhibit 18.1. The Parties agree that the "retained rights of Kiawah Resort Associates, LP, its successors and assignees" as set forth in Limited Waiver shall expire upon transition under the KICA Covenants or January 1, 2018 whichever occurs first.

(b) KICA Authority.

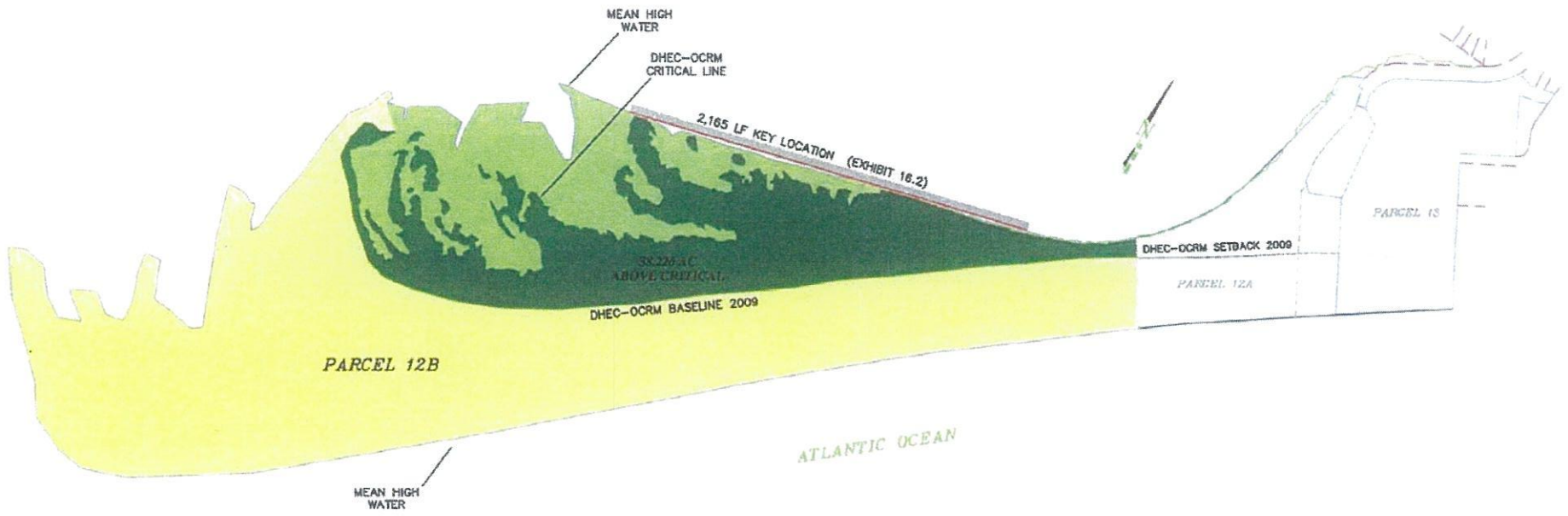
This Agreement shall not be understood as amending the KICA Covenants or changing rights thereunder. Except as expressly provided in this Agreement, the rights granted the Property Owner as the "Company" under the KICA Covenants are not intended to be lessened or abrogated, and any consensual relinquishment herein of rights provided to the Property Owner by the KICA Covenants shall not be deemed or construed to be permanent waivers of its rights under the KICA Covenants except as expressly set forth in the Limited Waiver that was Exhibit 18.1 to the 2005 Development Agreement that is recorded in the RMC Office for Charleston County at Book B 568, Page 393.

(c) The Security Gates.

The Town and the Property Owner recognize and respect the fundamental importance and value of the security gates, private rights-of-way and private amenities to the Town, the Property Owner and the owners of property on Kiawah Island and Cassique and to the enhancement and preservation of every property owner's land values. If a judicial challenge is brought seeking to make one or more of the roads on the island open to the general public and the challenging party prevails based, in whole or in substantial part, on the expenditure of public funds by the Town and/or an ordinance passed by the Town and/or other conduct or ownership of facilities of the Town, the Town agrees that it will immediately cease such expenditures, repeal such ordinance, and refrain from owning such facilities (as are inside the security gates) or continuing such conduct. This paragraph shall be subject to the provisions of § 6-31-80 and shall not be construed to prevent the performance or enforcement of the specific provisions of this Agreement.

PARCEL 12B

HIGHLAND	38.226 AC
AREA BETWEEN DHEC-OCRM, BASELINE AND MHW	117.115 AC
TOTAL	155.341 AC



Captain Sams
EXHIBIT 16.2
07.08.2011



PLANNING DEPARTMENT

843.202.7200
1.800.524.7832
Fax: 843.202.7222
Lonnie Hamilton, III
Public Services Building
4045 Bridge View Drive
North Charleston, SC 29405-7464

Joel H. Evans, RLA, AICP
Zoning/Planning Department Director

PERMIT APPLICATION: RESTRICTIVE COVENANTS AFFIDAVIT

I, Jordan Phillips, Vice President of KDP II LLC have reviewed the restrictive covenants applicable to Parcel Identification Number(s) 207-05-00-0011 located at the west end of Kiawah Island, being a portion of Captain Sam's Spit, Parcel 12B, and the proposed permit application is not contrary to, does not conflict with, and is not prohibited by any of the restrictive covenants, as specified in South Carolina Code of Laws, Section 6-29-1145.

KDP II LLC

By:

3/12/24

Name: Jordan Phillips, Vice President

[Date]

*Effective July 1, 2007, South Carolina Code of Laws Section 6-29-1145 requires local governments to inquire in the permit application, or in written instructions provided to the applicant, if a tract or parcel of land is restricted by a recorded covenant that is contrary to, conflicts with or prohibits an activity for which a permit is being sought.
[Section 6-29-1145 is copied on the back of this page]*

For Staff Use Only:

Received by _____

Date _____

Application Number: SBD24-000003

Sworn to before me this
12th day of March, 2024.

KDP II LLC (Corp. Seal)

Celeste K. Marcega (SEAL)
Notary Public for South Carolina
My commission expires: 9/29/2026

By: [Signature]
Jordan Phillips
Its: Vice President

CELESTE K. MARCEGA
NOTARY PUBLIC
SOUTH CAROLINA