



PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

October 2, 2024; 2:00PM

AGENDA

- I. **Call to Order:**
- II. **Roll Call:**
- III. **Approval of Minutes:**
 - A. Planning Commission Meeting Minutes of July 3, 2024 [Tab 1]
- IV. **Public Comments**
(Agenda Items Only)
- V. **Executive Session:**
 - A. Executive session to receive legal advice protected by the attorney client privilege (S.C. Code Ann. 34-4-70-(a)(2)) concerning pending claims in Case No. 2024-CP-10-00451. The Commission may take action after executive session.
- VI. **Old Business:**
 - A. KiawahNext Update [Tab 2]
- VII. **New Business:**
 - A. **Zoning Text Amendment:** [Tab 3]
 - 1)AZO24-000009 | Request to amend Section 12-192. Nonconforming Structures. and Section 12-193. Nonconforming Uses. to modify nonconformity standards.
 - B. **Discussion Item:** [Tab 4]
 - 1)Discussion Related to Continued Stormwater Management Strategies and Proposed Regulatory Changes
- VIII. **Correspondence/Staff Comments:**
 - A. Landscape and Tree Preservation Standards - Phase II Update
 - B. Development Project Updates
- IX. **Public Comments:**
- X. **Commissioner Comments:**
- XI. **Adjournment:**

FOIA: 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. Meeting materials available for public view online at:

<https://www.kiawahisland.org/meetings-minutes/planning-commission/>

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

July 3, 2024, 2:00 pm

AGENDA

I. **Call to Order:** *Mr. Dowdy called the meeting to order at 2:00 pm.*

II. **Roll Call:**

Present:

Bill Dowdy, *Chairman*
Larry Iwan, *Vice Chairman*
Andy Capelli
John Connolly

Present via Zoom:

Gene Babinec
Joanne Hennessy

Absent:

Dr. Ronald Curran

Also Present:

John Taylor, Jr., *Planning Manager*
Daniel Vincent, *Planner I*
Patera St John, *Landscape and Tree Preservation Specialist*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of April 3, 2024

Mr. Capelli made a motion to approve the Planning Commission Minutes of April 3, 2024. Mr. Iwan seconded the motion.

Ms. Hennessy stated that after the discussion of the zoning amendment from Residential to Active Recreation and Open Space at the April 3rd meeting, she believed that the Commission had agreed on Conservation instead of Active Recreation. However, Mr. Taylor clarified that the actual recommendation was for no change to the zoning or comprehensive plan, maintaining the existing designations.

Following the discussion, the minutes were approved, with Mr. Connolly abstaining.

B. Planning Commission Meeting Minutes of May 8, 2024

Mr. Capelli made a motion to approve the Planning Commission Minutes of May 8, 2024. Mr. Babinec seconded the motion. The minutes were approved, with Mr. Connolly and Ms. Hennessy abstaining.

C. Planning Commission Meeting Minutes of June 5, 2024

Mr. Capelli made a motion to approve the Planning Commission Minutes of June 5, 2024. Mr. Iwan seconded the motion, and it was unanimously approved.

IV. **Public Comments**

(Agenda Items Only)

Lance Spencer – 40 Sunlet Bend

Mr. Spencer expressed his concerns about stormwater management, referencing Mr. Taylor's comments at the Town Council meeting on the topic. He shared an anecdote about recent flooding at the Cape, where contractors were seen pumping water into the Beachwalker Park parking lot. Spencer

highlighted the unsightly nature of the water and thanked Mr. Taylor for his prompt response to the issue after being contacted by Spencer's wife, who had sent pictures of the flooding to the Council Members and Mr. Taylor.

Mr. Spencer discussed the impact of a storm on their community, particularly noting the high water levels in the retention pond near Sparrow Pond and the issues of erosion and water flow through their area, which is located on Inlet Cove just off Beachwalker. He mentioned that KICA is responsible for managing the drainage but expressed concerns about the effectiveness of current measures, such as sandbags, some of which have already failed. The murky water still present underscores the urgency of addressing stormwater management. Although Mr. Spencer believes that the ordinance and plan under consideration might not affect Ocean Pines directly, they are worried about the broader implications for their community, given its downstream position.

V. Old Business:

A. KiawahNext Update

Mr. Taylor discussed the ongoing work on the KiawahNext document. The subcommittee established to review and revise the document has been focused on incorporating substantial feedback and making revisions. He indicated that tentatively, in August, the document will be presented to the full Planning Commission, then to the Town Council, and ultimately to the general public. Describing the process of integrating comments and edits from various sources into a single document was challenging; he thanked those subcommittee members who gave their time to work through the document.

Commissioners discussed the desire to see changes made to the document in a redline version to identify revisions easily. The updated document was requested to be provided by July 17th, allowing ample time for review before a scheduled meeting on August 12th. Plans were made to distribute the revised document with redline changes to Commission Members for review.

There was an in-depth discussion of what version of the document was being modified and how changes were being tracked, touching on the roles played by the consultants, staff, and the Planning Commission in revising the document.

VI. New Business:

A. Introduction of Stormwater Management Strategies and Proposed Regulatory Amendments

Mr. Taylor stated that the proposed zoning text amendment, case number AZO24-000008, aims to modify existing sections of the zoning code to address parking, driveways, and pervious paving requirements. The amendment seeks to align with recommendations from the Comprehensive Marsh Management Plan, which emphasizes limiting impermeable surfaces and implementing stormwater best management practices.

Mr. Taylor stated that the recommendation from the Comprehensive Marsh Management Plan subcommittee was supported not only by staff but also by the following: noting that the documents and the recommendation are consistent with the Town's Comprehensive Plan.

- 2022 Comprehensive Marsh Management Plan
- 2018 Flood Mitigation and Sea Level Rise Adaptation Report
- Nature-Based Solutions Manual for Kiawah Island – Green Infrastructure
- Low Impact Development in Coastal South Carolina; A Planning and Design Guide.

B. Zoning Text Amendment

- 1) AZO24-000008 | Request to amend Section 12-128. Access, Parking and Loading Regulations, Sec. 12-63. Description of Zoning Districts and Regulations, and Sec. 12-374. Definitions to modify driveway and parking standards for pervious paving requirements.

Mr. Taylor reviewed an outline of the approval criteria and provided details of the proposed text amendments to sections 12-128, 12-63, and 12-374. Commissioners reviewed the redlined document presented, posing questions for clarification or further discussion.

After Mr. Capelli's question on whether the Planning Commission would hold a Public Hearing, there was an in-depth discussion on whether the Commission should obtain community feedback on any potential issues prior to recommending the text amendments through the Council's Ordinance adoption process. Mayor Belt added that the Council planned to hold a workshop to discuss storm management issues. Included would be input from KICA, the Conservancy, and various consultants in which the Planning Commission could participate.

Ms. Hennessy made a motion to recommend to the Town Council the approval of the proposed text amendments to sections 12-128, 12-63, and 12-374. Mr. Iwan seconded the motion.

Many of the commissioners agreed that the island's existential problem with water is only going to get worse, and anything that can be done to curtail it should be tried.

Following further discussion, the motion was approved by a 6 to 1 vote, with Mr. Capelli voting "No."

C. Discussion Item

1) Continued Stormwater Management Strategies and Proposed Regulatory Changes | Introduction Enhanced Stormwater Management Standards and Proposed Text Amendments Sec. 12-169. Stormwater Management Plan Review.

Mr. Taylor presented some possible stormwater management strategies for proposed regulatory changes for discussion. As part of a comprehensive approach to stormwater management, he outlined initiating a phased approach to ensure that decisions on changes, including setting standards, are made strategically and methodically. He reviewed each of the three phases in detail and the recommendation process that would include guidance from the Planning Commission in preparing draft language, working with island entities, and engaging the community and engineers for further guidance.

Commissioners raised concerns about their lack of confidence in making competent recommendations on stormwater management strategies and the need for more information before making informed decisions. To address these concerns, a workshop was planned with engineers to discuss stormwater management strategies in detail.

VII. **Correspondence/Staff Comments:**

A. Development Project Updates

Mr. Taylor stated that at the Town Council meeting, the update on the MUSC project indicated it was still under the site plan review process. It is anticipated to take a couple of weeks to go through the review process and get the encroachment permit from the Town of Seabrook Island.

Mr. Taylor reported that there was yet to be an update on the status of the Main Road Corridor project. Over 400 comments were submitted regarding Segment C. County staff will present those public comments to the County Council at some point; the anticipated date right now is late August.

B. Comprehensive Marsh Management Plan Workgroup

Mr. Taylor stated that he asked Mr. Babinec to represent the Planning Commission on a new subcommittee to engage with regimes, provide updates, and try to get some on board with the permeable surface element.

C. Landscape and Tree Preservation Workgroup

Mr. Taylor reported that the Landscape and Tree Preservation Board met last week and will meet on the second Thursday of each month to continue their process. Dr. Curran is part of the workgroup.

VIII. Public Comments:

Melissa Yeardon – 40 Inlet Cove

Ms. Yeardon commended the Commissioners for working on the critical issue of stormwater management. As a coastal community, the issue is only going to get worse, highlighting some of the issues she has recently encountered and the urgency of addressing stormwater management issues on the island.

IX. Commissioner Comments:

Mr. Iwan requested that the meeting scheduled with the experts be done in a workshop format.

Mr. Connolly raised a question about whom to contact for website corrections related to the Planning Department.

Mr. Capelli expressed appreciation to Mr. Iwan for accepting responsibilities for various subcommittees and discussed personal experiences with stormwater problems at his house. He noted that except for storm surges, rainfall and water runoff have not been issues due to the current effective stormwater management on the island.

X. Adjournment:

Mr. Iwan made a motion to adjourn the meeting at 3:37 pm. Mr. Connolly seconded the motion, and it was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Date

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO24-000009

Planning Commission Meeting: October 2, 2024
Public Hearing and First Reading: November 5, 2024
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* Section 12-192. Nonconforming Structures. and Section 12-193. Nonconforming Uses. to modify nonconformity standards.

Key Factors of the Proposed Ordinance:

The proposed amendment to Sec. 12-192. Nonconforming Structures and Section 12-193. Nonconforming Uses. will modify standards for all properties considering repair, maintenance, restoration, and replacement for structures damaged by casualty including but not limited to fire, explosion, named storms or other natural forces, acts of God, or the public enemy). The proposed amendment will also modify the nonconforming use standard and time period of abandonment and discontinuance.

Relevant Defined Terms:

Base building height elevation (BBHE) means the elevation using the NGVD29 Datum as shown on the Charleston County, South Carolina Flood Insurance Rate Map with an effective date of November 17, 2004. Such elevations will be determined without respect to the flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the flood insurance rate maps dated November 17, 2004.

Nonconforming structure means a structure or portion thereof which was lawfully erected or altered, but which does not comply with the regulations applicable to new structures in the zoning district in which it is located.

Nonconforming use means a use which was lawfully established and maintained, but which does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

FEMA - Special Flood Hazard Area are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year.

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 REVIEW OCTOBER 2, 2024

The proposed amendment clarifies the standards in which an existing structure can be repaired, restored or replaced given damage created by casualty including but not limited to fire, explosion, named storms or other natural forces, acts of God, or the public enemy. The proposed amendment provides clarity on the standards relative to use and building height for FEMA flood hazard areas.

The proposed ordinance has also been reviewed by the Building Official in which no concerns have been identified.

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.

TOWN COUNCIL MEETING PUBLIC HEARING NOVEMBER 5, 2024

Town of Kiawah Island

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

October 2, 2024



The seal of the Town of Kiawah Island is circular, featuring a central illustration of a bird, likely a heron, standing on a lily pad. The text 'TOWN of KIAWAH ISLAND' is written in a circular path around the top, and 'ESTABLISHED 1988' is written around the bottom.

1

PROPOSED ZONING TEXT AMENDMENTS

#AZO24-000009

2

Proposed Text Amendment: #AZO24-000009**(Sec. 12-192. Nonconforming Structures and Sec. 12-193. Nonconforming Uses.)**

Application: The Town of Kiawah is requesting to amend the Town of Kiawah Island Land Use Planning and Zoning Ordinance Section 12-192. Nonconforming Structures. and Section 12-193. Nonconforming Uses. to modify nonconformity standards.

Key Factors of the Proposed Ordinance:

The proposed amendment to Sec. 12-192. Nonconforming Structures and Section 12-193. Nonconforming Uses. will modify standards for all properties considering repair, maintenance, restoration, and replacement for structures damaged by casualty including but not limited to fire, explosion, named storms or other natural forces, acts of God, or the public enemy).

The proposed amendment provides clarity on the standards relative to use and building height for FEMA flood hazard areas.

The proposed amendment will modify the nonconforming use standard and time period of abandonment and discontinuance.

- 180 Consecutive Days Period
- 18 Months Permit Period with completion diligently pursued

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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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Zoning Ordinance Text & Map Amendment Applications: Approval Criteria

(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 finds the proposed text amendment consistent with each of the outlined criteria.

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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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**Town of Kiawah Island
Zoning Text Amendment Application(s)**

Case# AZO24-000009

Planning Commission Meeting: October 2, 2024

Town Council Public Hearing and First Reading: November 5, 2024

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Chapter 12 - LAND USE PLANNING AND ZONING
ARTICLE II. - ZONING
DIVISION 6. NONCONFORMITIES AND VESTED RIGHTS

DIVISION 6. NONCONFORMITIES AND VESTED RIGHTS

Sec. 12-190. Purpose and intent.

The purpose and intent of this division is to define types of nonconforming uses and their ultimate disposition and handling.

- (1) Nonconformities include lots, structures, land, and other uses.
- (2) Nonconformities that were otherwise lawful on the effective date of a zoning regulation may be continued. However, these uses are hereby declared to be incompatible with permitted uses in the district involved.
- (3) The burden shall be on the landowner or developer to establish an entitlement to continue a nonconformity or to complete a nonconforming project.

(Code 1993, § 12A-601; Ord. No. 2005-08, § 12A-601, 10-12-2005)

Sec. 12-191. Nonconforming lots.

The purpose and intent of this section is to define undeveloped nonconforming lots and requirements and restrictions for lot development.

- (1) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. For purposes of this section, a substantial structure shall include any structure in excess of 600 square feet of floor area which was constructed as a principal use permitted in the zoning district at the time of construction. A change in use of a developed nonconforming lot may be accomplished only in accordance with section 12-193.
- (2) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum lot area applicable to that zoning district, the lot may be used as proposed just as if it were conforming.
- (3) Notwithstanding any other provision of this article, the owner of a lot of record located in any single-family residentially zoned district may construct one single-family detached dwelling unit on such lot, provided that the development conforms to the appropriate dimensional standards of this article.

(Code 1993, § 12A-602; Ord. No. 94-12, § 2(12A-602), 9-26-1994; Ord. No. 2005-08, § 12A-602, 10-12-2005)

Sec. 12-192. Nonconforming structures.

Nonconforming structures are structures or portions thereof that were lawfully erected or altered, but which do not comply with the regulations applicable to new structures in the zoning district in which they are located. This section defines the requirements for the extension, enlargement, repair, maintenance, restoration, and replacement of nonconforming structures.

- (1) *Extension or enlargement.* Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of an existing nonconformity. Physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

- a. An increase in the total amount of space or building area devoted to a nonconforming use.
 - b. Greater nonconformity of dimensional restrictions such as setback requirements, height limitations, density requirements, or any other requirements prescribed in this article.
 - c. A nonconforming structure may be extended or enlarged to an extent that the costs of the extension or enlargement will not exceed 50 percent of the appraised value of the structure at the time the extension or enlargement occurs.
- (2) *Repair, maintenance, restoration, and replacement.*

- a. If a nonconforming structure is damaged by casualty (including, but not limited to fire, explosion, named storms or other natural forces, act of God, or the public enemy) to an extent that the costs of repair or restoration will exceed 50 percent of its appraised value of the structure at the time the damage occurs, the damaged portions of the structure may be repaired or restored to ~~their exact~~ the same prior nonconforming dimensional states (size, shape, building footprint, height, density, etc.) ~~prior to the destruction~~, provided that ~~it~~ the repaired or restored structure meets all applicable building code requirements.
- b. If a nonconforming structure is destroyed by casualty (including, but not limited to fire, explosion, named storms or other natural forces, act of God, or the public enemy), the structure may be replaced with a structure ~~identical in~~ having the same prior nonconforming dimensional states (size, shape ~~-,~~ building footprint), ~~and~~ height, density, etc., provided ~~it~~ the replaced structure meets all applicable building code requirements.
- c. Repairs may be made to any nonconforming structure so long as the extent of any original nonconformity is not increased. Any repairs, renovation, restoration, or replacement of a structure pursuant to this section shall require a permit pursuant to Town regulations.
- d. For structures located in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA), the nonconforming building height allowed to be repaired, restored or replaced pursuant to subsection 12-192(2) shall be measured in feet and stories vertically from either the base building height elevation (BBHE) or the elevation of the lowest habitable floor for which a building permit may be issued at the time of such repair, restoration or replacement, whichever is higher.

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

Appraised value of a structure or improvement means the fair market value of the structure or improvement.

Cost of renovation, repair or restoration means the fair market value of the materials and services necessary to accomplish such renovation, repair or restoration. The term "cost of renovation or repair or restoration" means the total cost of all such intended work, and no person may seek to avoid the intent of this chapter by doing such work incrementally or without compensation.

(Code 1993, § 12A-603; Ord. No. 94-12, § 2(12A-603, 12A-604), 9-26-1994; Ord. No. 2005-08, § 12A-603, 10-12-2005)

Sec. 12-193. Nonconforming uses.

Nonconforming uses are uses that were lawfully established and maintained, but do not comply with the use regulations applicable to new uses in the zoning district in which it is located. This section sets forth the

requirements for the extension and/or enlargement, the conditions whereby a change in an existing nonconforming use may be permitted and the loss of legal nonconforming use status as follows:

(1) *Extension or enlargement.*

- a. A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this article, was manifestly designed or arranged to accommodate such use. A nonconforming use may not be extended to additional buildings or to land outside the original building.
- b. A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- c. Where a nonconforming use exists, new equipment and processes may be utilized in order to modernize the operation but not to change the use.

(2) *Change in use of property where a nonconformity exists.*

- a. A change in the use of property where a nonconformity exists may not be made except in accordance with subsections (2)b and c of this section.
- b. If the intended change in use is to a principal use that is permissible in the zoning district in which the property is located, and all other requirements of this chapter applicable to that use are satisfied, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.
- c. The change in use shall not be permitted if compliance cannot be achieved without adding additional land to the lot where the nonconformity is found or by moving a substantial structure that is on a permanent foundation.

(3) *Abandonment and discontinuance of a nonconforming use.*

- a. When a nonconforming use is ~~discontinued~~abandoned for a consecutive period of 180 days, the property involved shall thereafter be used only for conforming purposes.
- b. For purposes of determining whether a right to continue a nonconformity is lost pursuant to this section, ~~all~~:

(i) All buildings, activities, and operations maintained on a lot are generally to be considered as a whole. However, if a nonconforming use is maintained in conjunction with a conforming use, ~~discontinuance~~abandonment of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(ii) Discontinuance of a nonconforming use for a period of 180 consecutive days or longer after an event of casualty (including, but not limited to fire, explosion, named storms or other natural forces, act of God, or the public enemy) shall not constitute abandonment, and the nonconforming use shall be allowed to resume and continue, if an application for a building permit to repair, restore or rebuild the structure used for the nonconforming use is submitted within eighteen (18) months after the casualty event and completion is diligently pursued after such building permit has been issued.

(Code 1993, § 12A-604; Ord. No. 94-12, § 2(12A-604—12A-607), 9-26-1994; Ord. No. 2005-08, § 12A-604, 10-12-2005)

Sec. 12-194. Vested rights.

The purpose and intent of this section is to provide for the establishment of vested rights to develop property pursuant to S.C. Code 1976, § 6-29-1510 et seq.

- (1) *Scope.* All applicable ordinances, municipal code sections, and regulations relating to zoning, planning and land development within the municipality are subject to the vested rights established herein.
- (2) *Definitions.*
 - a. Except as hereinafter set forth, the words, terms and phrases when used in this article shall have the meaning as set forth in S.C. Code 1976, § 6-29-1520, as enacted by Act 287 of 2004.
 - b. The term "site specific development plan," in addition and as a supplement to the definition set forth in S.C. Code 1976, § 6-29-1520, as enacted by Act 287 of 2004, is further defined to mean those documents that comprise a complete application for a zoning permit, certificate of zoning compliance, variance, special exception, planned unit development, sketch plat or sketch plan, or other similar approval that authorizes the landowner to proceed with investment in grading, installation of utilities, streets and other infrastructure, and to undertake other significant expenditures necessary to prepare for application for a building permit.
- (3) *Establishment and conditions.*
 - a. A vested right to develop property in accord with a site specific development plan is triggered upon the final approval of the site specific development plan by the final official or body of the municipality authorized to approve a site specific development plan and the payment to the municipality of all applicable established fees.
 - b. Except as hereinafter set forth, a vested right established by this article is subject to the conditions and limitations as set out in S.C. Code 1976, §§ 6-29-1540 and 6-29-1550, as enacted by Act 287 of 2004.
 - c. A vested right for an approved site specific development plan expires two years after the date of final approval by the final official or body authorized to approve a site specific development plan.
 - d. No vested rights are established for phased development plans, including approved or conditionally approved phased development plans and including phased development plans applicable to property proposed for annexation. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.
 - e. A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the municipal zoning, planning and land development ordinances, municipal code sections or regulations. Approval or conditional approval of an amendment does not reset or restart the expiration period of a vested right.
 - f. No sooner than three months, and no later than 45 days prior to the expiration of the two-year vested right period for an approved site specific development plan, the landowner of property with a vested right in a site specific development plan may apply to the authorized official or body for an annual extension of the vested right. The authorized official or body must approve an application for an annual extension of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. No more than five annual extensions of the vested right may be approved.

(Code 1993, § 12A-606; Ord. No. 2005-08, § 12A-606, 10-12-2005)

Secs. 12-195—12-211. Reserved.