

**Town of Kiawah Island Zoning Ordinance Amendment Request**  
**Case AZO25-000001 History**

**Planning Commission Meeting: February 5, 2025**  
**Public Hearing and First Reading:**  
**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 12-165. Zoning Permits. and Section 12-374. Definitions

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-165. Zoning Permits and Section 12-374. Definitions to clarify items in which a zoning permit shall be required. The amendment also adds consistent definitions to the zoning code.

**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 FEBRUARY 5, 2025**

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.

**PLANNING STAFF REVIEW**

In application of this ordinance, property owners or respective design teams will be required to formally submit permit applications via our online portal as part of standard zoning review. Specifically for applications for docks, applicants contact the Town to provide notice or inquiry into a proposed dock and its standards. This is to ensure consistency with the Key Dock location ordinance. The Town shares the required standards before a property owner makes investment for a potential dock that is not allowed by the Town's Key Location Map. The state also notifies the Town of such dock applications as docks must be permitted in accordance with state regulations. In the event an applicant has not contacted the Town prior to submitting to the state, the Town's planning department provides comments to the state noting potential inconsistencies with the Town's local ordinance.

With the Town having a local ordinance with specific standards regarding docks, the state has been substantially supportive in deferring to the Town with regard to their approvals, taking into consideration issued Town comments. As a result of these comments, the state encourages the applicant to contact the Town to engage regarding potential inconsistencies and or concerns. With this process, the Town is already conducting a review of the project, in which it should be captured within the permitting history of our public portal.

Please note included sample letters shared with the state.

In 2023, the Town adopted its Comprehensive Marsh Management Plan, which recommends that the Town should regulate bulkheads and other flood/erosion control structures upland of the critical line. It encourages the use of living shorelines where feasible.

*Recommendation: Regulate bulkheads and other flood/erosion control structures upland of critical line.*

*Justification: Article 17 TOKI's municipal code allows TOKI to review bank retention designs and submit comments and recommendations, but provides little authority to guide decision-making. Implementation: Codify ARB standards with a Town ordinance requiring that bulkheads beyond the critical line may only be constructed with prior-OCRM approval, must be constructed flush with adjacent grade/elevation, and any disturbed land must be backfilled and planted with appropriate vegetation. All erosion control or flood mitigation construction regardless of location relative to the critical line requires a Town permit with proof of location and a depiction of the certified critical line. Bulkheads on high ground are not recommended; rather, options for shoreline restoration (like terracing).*

As the Town works to develop specific policies and or standards regarding bulkheads and erosion control structures which interface the critical area and highlands, utilizing the approach of issuing comments to the state for these applications, has shown to be effective. Similarly, the Town issues comments to the state when notified of erosion control structures applications. The proposed ordinance allows the initial stages of such review for bulkheads and other erosion control devices to help capture better data and educating property owners on green or hybrid solutions by having the applicant formally submit for review ahead or simultaneously to the state. The ordinance also allows the Town to have a better medium for the applicant to provide support and information that the proposed structure may not be an adverse impact to adjacent neighbors.

Please note that the ordinance is not intended to cross jurisdictional bounds but provide consistency to local standards.

Planning staff also recommend the Planning Department fee schedule be adjusted to reflect this review.

In addition to providing clarity on the zoning amendment process, the amendment codifies a current practice for structures adjacent to critical which respond to recently adopted CMMP. Planning staff also recommends Town Council amend the Municipal Code Chapter 2. Bank Retention Systems to reflect this standard review practice.

The next phase of review specifically with regard to waterfront development (Marsh, Ponds, Beach) has been introduced to the CMMP. The CMMP workgroup, currently being restructured, is currently studying and preparing for a recommendation on bulkheads, erosion control devices, and buffers of waterfront properties. Following recommendation, this will be brought to the Planning Commission for consideration.

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

**TOWN COUNCIL MEETING PUBLIC HEARING TO BE SCHEDULED**

## Sec. 12-165. Zoning permits.

The purpose of zoning permits is to confirm that the intended use fully complies with the provisions of the zoning district.

- (1) *Required.* A zoning permit shall be required before any of the following are permitted:
  - a. The issuance of a building permit under the Town of Kiawah Island building code;
  - b. New construction;
  - c. Additions to existing structures;
  - d. Relocation of any house;
  - e. Excavation, clearing, and/or grubbing preparatory to constructing a structure for which a building permit is required;
  - f. Improvement any lot by grading, filling, or surfacing or by constructing driveways or by constructing or enlarging parking areas containing six or more parking spaces;
  - g. Change in the use classification of any part of a structure or lot including any increase in the number of families or dwelling units occupying a building or lot;
  - h. Installation of any sign as specified within this article;
  - h.i. Fences;
  - i.i. Utility construction;
  - j.k. Obtainment of a business license;
  - l. Tree removal pursuant to section 12-129, Tree Preservation and Landscaping Standards;
  - k.m. Docks, erosion control devices or structures as specified within this article; or
  - l.n. Any earth disturbing activity.
- (2) *Zoning permit application forms.* Requests for approval of zoning permit applications shall be made on forms provided by the Town. The Town may promulgate submittal requirements, instructions for completing forms, internal procedures for acceptance and filing of development applications, and provisions for waiver through the establishment of administrative guidelines.
- (3) *Submission and determination of a complete zoning permit application.* All zoning permit applications shall be submitted to the Planning Director or authorized designee. If all required information is included per section 12-155, the application shall be deemed complete and accepted, along with any established fees. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this article. Submittal of a complete application initiates the application process.
- (4) *Official filing date.* All time limits for processing or acting upon development applications shall commence on the date that a completed application, along with any established fees, are submitted to the Planning Director. Substantial modification of an application by the applicant following the filing of the zoning permit application but prior to the expiration of the period within which the Town is required to act shall extend the period for a like time following the Planning Director's determination that the modified zoning permit application is complete.
- (5) *Time of expiration.* Zoning permits shall become invalid if a building permit is required but not issued within 12 months of the date of issuance of the zoning permit or if a building permit is not required.

(Code 1993, § 12A-511; Ord. No. 2005-08, § 12A-511, 10-12-2005; Ord. No. 2024-01, § 2(Exh. C), 4-2-2024)

**Proposed added definitions.**

Text: Definitions are the same as defined within the municipal code.

Text: Proposed New

**ARTICLE IV. - DEFINITIONS**

**Sec. 12-374. - Definitions.**

\*Bulkhead means a retaining wall designed to retain fill material, but not to withstand wave forces on an exposed shoreline.

\*Coastal waters means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark.

\*Coastal zone means all coastal waters and submerged lands seaward to the state's jurisdictional limits and all lands and waters in the counties of the state which contain any one or more of the critical areas. These counties include Charleston.

\*Erosion means wearing away of highland by tidal action.

Erosion control structure or device means a barrier that prevents or reduces soil erosion. Examples of erosion control structures include breakwaters, bulkheads, groins, jetties, revetments, and seawalls.

\*Escarpment means the point at which the high land descends in a vertical or near vertical slope to mean low-water mark.

\*Revetment means a sloping structure built along an escarpment or in front of a bulkhead to protect the shoreline or bulkhead from erosion.

## **CHAPTER 2. BANK RETENTION SYSTEMS**

### **Sec. 17-201. Simultaneous application submittal required.**

A property owner or his designate who wishes to apply for a permit to construct a bulkhead or revetment on marshlands or creeks within the limits of the Town must submit simultaneously and immediately to the Town's ~~administrator~~ Planning Director a complete copy of the application and all referenced exhibits and attachments thereto, including any subsequent amendments to such application with all attachments thereto, submitted to ~~DHEC~~ Department of Environmental Services as required by law.

(Code 1993, § 17-201; Ord. No. 2009-08, § 2(2), 9-1-2009)

### **Sec. 17-202. Permitting specifications and procedures.**

During the ~~DHEC~~ Department of Environmental Services application review process, the Town may review the design and submit comments and recommendations.

(Code 1993, § 17-202; Ord. No. 2009-08, § 2(3), 9-1-2009)

### **Sec. 17-203. Penalties.**

Unless a different penalty is specified, any person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than \$25.00 nor more than \$200.00 or imprisoned for not more than 30 days.

(Code 1993, § 17-203; Ord. No. 2009-8, 9-1-2009; Ord. No. 2015-01, § 2.21, 2-10-2015)

**MAYOR:**

John Labriola

**TOWN ADMINISTRATOR:**

Stephanie Monroe Tillerson

**TOWN ATTORNEY:**

Joseph Wilson

**TOWN OF**



**TOWN COUNCIL MEMBERS:**

John Moffitt

Bradley D. Belt

Michael Heidingsfelder

Russell A. Berner

January 17, 2024

South Carolina Department of Health and Environmental Control  
Office of Ocean & Coastal Resource Management  
1362 McMillan Avenue, Suite 400  
Charleston, SC 29405  
Via email [tylerej@dhec.sc.gov](mailto:tylerej@dhec.sc.gov).

**RE: THOMPSON / PUBLIC NOTICE IN YOUR AREA (TAMARA THOMPSON, HQ0-GCCC-YWZPJ)**

Permit to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control.

Greetings:

The Town of Kiawah Island Planning Department is in receipt of the above referenced OCRM permit request to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control. (2) 20 LF bulkhead returns will be installed at either end of the bulkhead, parallel to the property line on and adjacent to Kiawah River at 490 Old Dock Road, Kiawah Island, Charleston County, South Carolina TMS: 207-04-00-098.

Pursuant to the *Town of Kiawah Island's Municipal Code Article 17 – Tidelands Management*, the proposed plans at 490 Old Dock Road are consistent with Chapter 2 Band Retention Systems regarding contacting DHEC OCRM for permitting specifications. However, the proposed two (2) 20LF returns to be installed at either end of the bulkhead, parallel to the property line require Town of Kiawah Island Zoning approval. We request the applicant contact this office immediately to ensure consistency with the Town's Zoning Ordinance, pursuant to *Sec. 12-165. - Zoning permits*.

Please also note that Town adopted a Comprehensive Marsh Management Plan on February 7, 2023. This comprehensive plan guides the Town responsibility to manage a significant natural resource for Kiawah property owners in outlining natural based solutions as living shorelines. Living shorelines are a method of shoreline stabilization using plants and natural materials to reduce erosion and slow the wave energy associated with storms. Rather than creating a barrier between the shore and water, as with conventional bulkheads and seawalls, a living shoreline allows for a natural transition. The shoreline can thus provide erosion protection while still performing valuable ecosystem services and maintaining aesthetic character that makes Kiawah unique. With the proposed plans being inconsistent with the goals of the Comprehensive Marsh Management Plan, we request the applicant to contact the Town to consider alternative natural based solutions for potential erosion control measures as recommended within the Town of Kiawah Island Comprehensive Marsh Management Plan. A copy of this plan can be found online by visiting [https://www.kiawahisland.org/marsh\\_management\\_plan.php](https://www.kiawahisland.org/marsh_management_plan.php).

If you have any questions or concerns, please do not hesitate to contact the Planning Department at 843-768-9166.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Taylor, Jr.', written in a cursive style.

John Taylor, Jr.,  
Planning Director  
[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)  
Phone: 843-768-9166  
Direct:843-768-9979  
Mobile: 843-830-9544

## John Taylor

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**From:** Tyler, Evan J. <tylerej@dhec.sc.gov>  
**Sent:** Wednesday, January 17, 2024 2:32 PM  
**To:** John Taylor  
**Cc:** Daniel Vincent; Jim Jordan; Lee Bundrick; jmaybank@kiawah.com  
**Subject:** Re: Town of Kiawah Island Public Notice Response OCRM DHEC (HQ0-GCCC-YWZPJ)

Mr. Taylor,

Thank you for sending this information. I will ensure the applicant is aware of this and reaches out to your office for further discussion.

Thank you,  
Evan T

### Evan Tyler

Critical Area Project Manager  
Ocean and Coastal Resource Management  
S.C. Dept. of Health & Environmental Control  
Office: 843-953-2009



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**From:** John Taylor <jtaylor@kiawahisland.org>  
**Sent:** Wednesday, January 17, 2024 10:06 AM  
**To:** Tyler, Evan J. <tylerej@dhec.sc.gov>  
**Cc:** Daniel Vincent <dvincent@Kiawahisland.org>; Jim Jordan <jjordan@kiawahisland.org>; Lee Bundrick <lee@kiawahconservancy.org>; jmaybank@kiawah.com <jmaybank@kiawah.com>  
**Subject:** Town of Kiawah Island Public Notice Response OCRM DHEC (HQ0-GCCC-YWZPJ)

\*\*\* Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Good morning,

Please note the attached public notice response letter from the Town of Kiawah Island regarding permit application (HQ0-GCCC-YWZPJ) for request to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control. (2) 20 LF bulkhead returns will be installed at either end of the bulkhead, parallel to the property line on and adjacent to Kiawah River at 490 Old Dock Road, Kiawah Island, Charleston County, South Carolina TMS: 207-04-00-098.

Please let me know if you have any questions.

All the best,

John T.



## John Taylor

Planning Manager

📞 Direct: 843-768-9979

✉️ [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)

🌐 [www.kiawahisland.org](http://www.kiawahisland.org)

📍 4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455

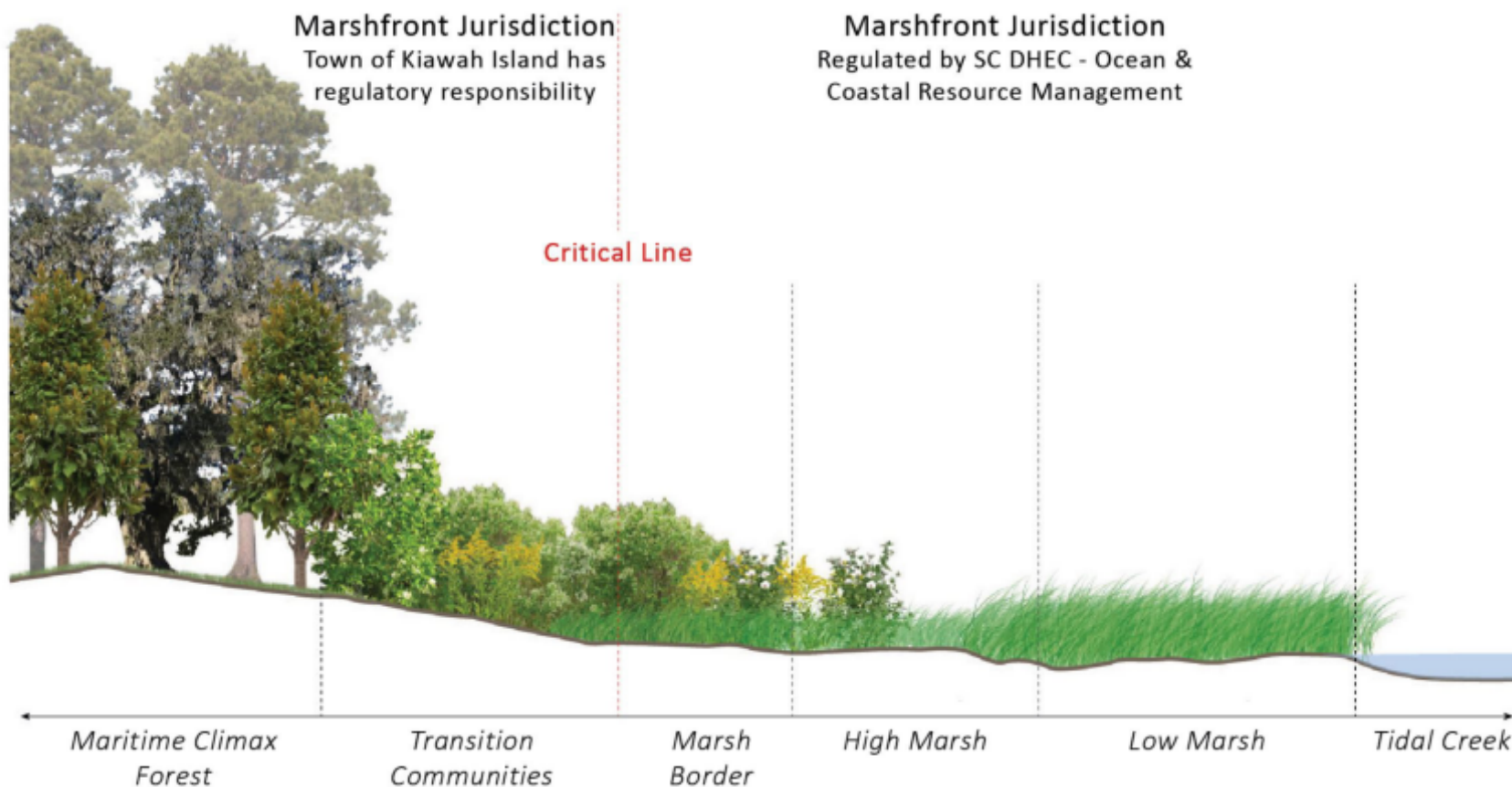
Get Social



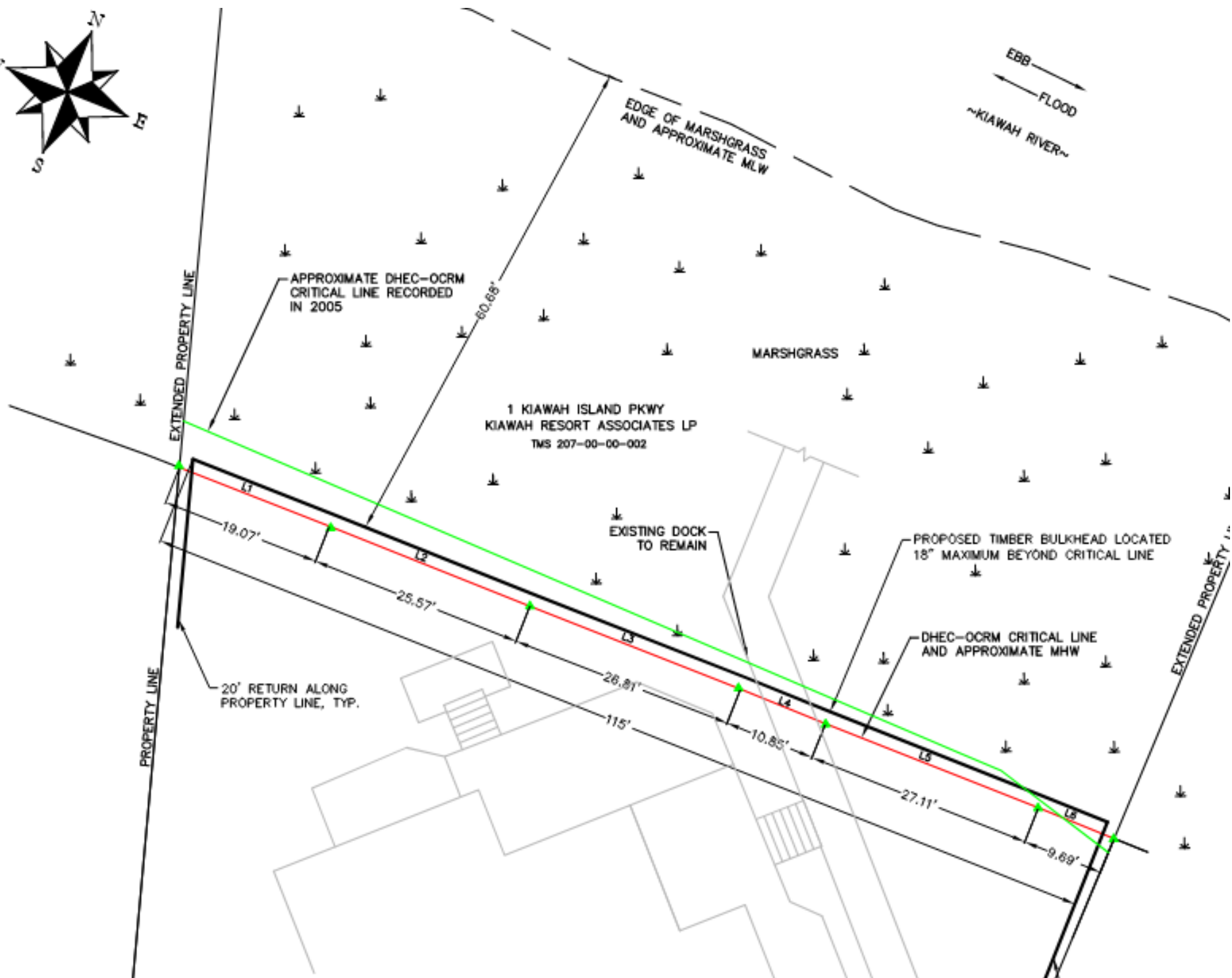
## II: Protect

A consistent management approach to Kiawah’s marsh will depend on a regulatory framework that governs the actions that organizations or individuals are allowed to take in the marsh. SC DHEC will be engaged

in this effort because they have jurisdiction from the critical line to open water (figure 8). This section describes six policy or regulatory actions to protect Kiawah’s marsh.



**Figure 8** - The “Critical Line” is a biophysical jurisdictional feature that will shift with the edge of the marsh as it migrates due to sea level rise



APPROXIMATE DHEC-OCRM CRITICAL LINE RECORDED IN 2005

1 KIAWAH ISLAND PKWY  
KIAWAH RESORT ASSOCIATES LP  
TMS 207-00-00-002

EDGE OF MARSHGRASS AND APPROXIMATE MLW

EBB  
FLOOD  
~KIAWAH RIVER~

MARSHGRASS

EXISTING DOCK TO REMAIN

PROPOSED TIMBER BULKHEAD LOCATED 18" MAXIMUM BEYOND CRITICAL LINE

DHEC-OCRM CRITICAL LINE AND APPROXIMATE MHW

20' RETURN ALONG PROPERTY LINE, TYP.

EXTENDED PROPERTY LINE

PROPERTY LINE

EXTENDED PROPERTY LINE

L1

L2

L3

L4

L5

L6

19.07'

25.57'

26.81'

115'

10.85'

27.11'

9.69'

60.68'