



PLANNING COMMISSION MEETING

Kiawah Island Municipal Center
September 10, 2025; 1:00PM

AGENDA

- I. **Call to Order:**
- II. **Roll Call:**
- III. **Approval of Minutes:**
 - A. Planning Commission Meeting Minutes of August 6, 2025 [Tab 1]
- IV. **Public Comments**
(Agenda Items Only)
- V. **Old Business:**
 - A. **Zoning Text Amendment Application(s):**
 - 1) **#AZO25-00004 | Use Regulations (Ordinance 2025-10)** [Tab 2]
An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance Article II. - Zoning, Division 3 - Use Regulations and Section 12-374- Definitions to refine and regulate uses which are compatible with the purpose of that district, with or without conditions, or to restrict uses. *(1st Reading Approved by Town Council July 1, 2025)*
 - 2) **#AZO25-000009 | Beachfront Overlay District** [Tab 3]
Request to create a beachfront overlay zoning district to establish a consistent visual, spatial and ecological transition buffer zone between the built environment and the beach and dune system.
 - 3) **#AZO25-000010 | Town of Kiawah Island Architectural Review Controls** [Tab 4]
Request to amend the Town of Kiawah Island's Land Use Planning and Zoning Ordinance to establish a design review board and associated architectural standards.
- VI. **New Business:**
 - A. **Zoning Text Amendment Application(s):**
 - 1) **#AZO25-000012 | Minimum Parking Standards** [Tab 5]
Request to amend Chapter 12 - Land Use Planning and Zoning Ordinance Article II. - Zoning, Division 4 - Supplemental Regulations, Sec. 12-128. - Access, parking and loading regulations. to modify minimum parking standards.
 - 2) **#AZO25-000013 | Planning Board Memberships (PC, BZA, LTPB)** [Tab 6]
Request to amend Chapter 12 - Land Use Planning and Zoning Ordinance Article II. - Zoning, Division 1 - Generally Sec. 12-23. - Planning Commission., Sec. 12-24. -

Board of Zoning Appeals., and Sec. 12-24.1. - Landscape and Tree Preservation Board. to clarify memberships of planning and zoning boards.

VII. Correspondence/Staff Comments:

- A. KiawahNext Update
- B. Development Project Updates
- C. Resiliency Committee Updates

VIII. Public Comments:

IX. Commissioner Comments:

X. Adjournment:

Public Comments: The public is encouraged to attend meetings to share comments directly to members of the Planning Commission. Persons interested in submitting written public comments should email their comments to the Planning Department, tokiplanning@kiawahisland.gov referencing the case number.

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](#).

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

August 6, 2025, 1:00 pm

Minutes

I. **Call to Order:** *Ms. Hennessy called the meeting to order at 1:00 pm.*

II. **Roll Call:**

Present: Joanne Hennessy, *Chair*
Larry Iwan, *Vice Chair*
Gene Babinec
Sandy Devine
Maribeth Schmersal
Rob Ryan

Also Present: John Taylor, Jr., *Planning Director*
Daniel Vincent, *Planner 1*
Patrea St. John, *Planner 1*
Mac McQuillin, *Town Attorney*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of July 2, 2025

Mr. Ryan made a motion to approve the minutes of the July, 2025, Planning Commission meeting. Ms. Schmersal seconded the motion, and it was approved unanimously.

IV. **Public Comments:** *(Agenda Items Only)*

Mark Permar, 81 Dungannon Hall, stated he had comments on both old and new business items. He provided a handout for commissioners and requested to offer his comments during the discussion of each agenda item rather than all at once, which was accepted by the Chair.

Ben Daily, owner of Royal Indigo Construction, who has been building on the island for 25 years, provided information about padel courts. He noted that the standard height for Padel court fencing is 4 meters tall (approximately 13.2 feet), which is 1.2 feet taller than the current 12-foot maximum fence height requirement in the proposed regulations.

Mr. Daily explained that Padel courts cannot be modified to smaller dimensions as the game is played off the backboard. He also addressed lighting concerns, noting that his company has worked with various island entities to demonstrate that court lighting can be designed not to impact adjacent properties, the beach, or roadways. He suggested that rather than prohibiting lighting altogether, the town could consider a case-by-case approach for the limited number of properties that could accommodate sports courts.

The Chair acknowledged Mr. Daily's input but emphasized that lighting restrictions are important not only for neighbors but also for wildlife protection. Mr. Daily indicated he would provide additional information to the commission, including details on noise levels, which he noted would be less intrusive than pickleball.

V. Old Business

A. Zoning Text Amendment Application(s):

1) #AZO25-000004 | Use Regulations (Ordinance 2025-10)

An Ordinance to Amend Chapter 12-Land Use Planning and Zoning Ordinance Article II-Zoning Division 3-Use Regulations and Section 12-374 – Definitions to refine and regulate uses which are compatible with the purpose of that district, with or without conditions, or to restrict uses.

(1st Reading Approved by Town Council July 1, 2025)

Mr. Taylor presented the Use Regulations ordinance and explained that Town Council had discussed the accessory uses section and made clarifications to the ordinance at the July 1st Town Council meeting.

The first change was to Section 12-164 regarding fuel stations, clarifying the difference between fuel pumps and fuel bays. The Council reduced the maximum number from 6 to 4 fuel pumps (serving 8 fuel bays) and added a definition for fuel bay to Section 12-374.

The second change broadened the definition of "private tennis courts" to include "Padel, pickleball, or other similar sports courts" in the accessory structures section for residential districts.

A significant discussion followed regarding the scope of "similar sports courts." Commissioners debated whether the language should be broader to include all sports courts or more specific to racket sports. Concerns were raised about the potential noise impacts of sports like basketball compared to tennis or pickleball.

The Commission also discussed the current 20-foot setback requirement for sports courts from adjoining properties, with some commissioners noting this might not be sufficient distance for noise buffering and visual impact. Commissioner Devine suggested that administrative exceptions might be appropriate in some cases, while maintaining stricter standards for others.

Mr. Taylor suggested that the commission could consider adding specific conditions for proper screening, increased distances, and potentially time-of-use restrictions. He also noted that prohibiting lights on sports courts would naturally limit the hours of use.

The Commission agreed to revisit the issue at the September meeting with refined language addressing: (1) broadening the scope to include all sports courts, (2) potentially increasing setback requirements, (3) maintaining the prohibition on lighting, and (4) addressing the height limitation for Padel courts.

Ms. Schmursal made a motion to table the item to allow for clarification of language regarding sports courts. Mr. Ryan seconded the motion, and it was approved unanimously

B. Zoning Text Amendment Application(s):

1) Update Establishing Town of Kiawah Island Architectural Review Controls

Mr. Taylor provided an update on the Town's efforts to establish its own architectural review controls. He explained that the purpose was for the Town to have a vehicle to introduce architectural design standards, noting that the joint Kiawah Island Community Association and Town of Kiawah Island task force looking at transitioning the existing architectural review board has been in a state of uncertainty for over two years.

Ms. Devine and Mr. Ryan were selected at the last meeting to spearhead next steps. They have suggested that staff draft an ordinance for review in September, using an identified model that is

straightforward. The scope would be specific to commercial and multifamily properties at this point.

Mr. Taylor emphasized that the proposed Town's architectural review controls would include any property within the Town's jurisdiction, including any future annexed properties. This would include properties within town boundaries that are not currently subject to the existing ARB oversight.

The Commission agreed to continue the process with the goal of having a draft ordinance to review at the September meeting.

2) Proposed Beachfront Overlay District

Mr. Taylor and Ms. Schmersal presented the proposed beachfront overlay district and provided context through a slide presentation, explaining that the overlay aims to establish a consistent visual, spatial, and ecological transition zone between developed areas and the beach.

Key factors in developing the overlay included:

- Most beachfront properties are single-family residential, while remaining undeveloped lands are primarily non-single family
- Recent multifamily developments on the West End have created larger mass structures with more prominent visual impact
- Kiawah has a unique protection layer where land has been conveyed to the community association for much of the beachfront
- Beachfront setbacks vary across the island, ranging from 20 to 120 feet
- The center part of the island around Eugenia Avenue presents challenges regarding the distance from the baseline, raising long-term resiliency concerns

Mr. Taylor demonstrated an interactive GIS tool that showed how the proposed 150-foot overlay zone would affect different properties along the beachfront. The overlay would establish two zones:

- Zone A (closer to the ocean): No structures permitted
- Zone B (further inland): Height maximum of 10 feet

Mr. Permar commented that applying a 150-foot standard would capture entire houses on Eugenia Avenue, not just partially. He questioned why the overlay extended to 150 feet rather than 100 feet, noting there appeared to be no standards proposed for the area between 100-150 feet.

The Commission discussed how the overlay would affect existing structures, which would be grandfathered but subject to new standards if redeveloped beyond a certain threshold (50% of structure value). They also discussed the impact on pools, potential height restrictions, and administrative exceptions.

Ms. Devine raised questions about lot coverage calculations if the developable area is reduced, and Ms. Schmersal noted they need to better understand where the beach might be less stable and how that affects the overlay parameters.

The Commission agreed to continue working on the proposal with the goal of having something to vote on at the September meeting. Mr. Taylor and Ms. Schmersal would work to refine the concept, addressing the questions raised about the 150-foot distance, modulated building heights, and appropriate standards for different zones.

VI. New Business

A. Zoning Text Amendment Application(s)

#AZO25-000008 Modified Zoning District Standards

An ordinance to Amend Chapter 12- Land Planning and Zoning Ordinance Article II- Zoning, Division 2- Zoning Map/Districts to modify zoning standards including but limited to lot coverage, height, and setbacks within several residential, resort, commercial, community support, and parks and recreation zoning districts.

Mr. Taylor presented proposed changes to zoning district standards that would modify lot coverage, height, and setbacks in various zoning districts. The key changes included:

- R-3 Residential: Reducing multifamily and townhouse maximum lot coverage from 60% to 40%
- Commercial: Reducing maximum lot coverage from 70% to 50%
- RST-1 (Resort): Reducing lot coverage from 70% to 50% and introducing a tiered height system related to setbacks
- RST-2: Elimination of the 4-story/55-foot height option, making 3 stories/55 feet the maximum
- Parks and Recreation: Reducing maximum lot coverage from 70% to 60%

Mr. Permar provided extensive comments, noting that while he supported revisiting zoning standards, he was concerned that the proposed changes would make virtually all existing multifamily properties non-conforming. He suggested:

- Creating new zoning classifications for undeveloped areas rather than making existing developments non-conforming
- Maintaining 70% lot coverage for commercial districts
- Recognizing the existing development agreement with KIGR that allows for expansion of the Sanctuary Hotel with 175 additional rooms
- Considering the West Beach area where significant capital improvements have been made in anticipation of development

The Chair explained that the impetus for these changes came from community input during the comprehensive plan process, with goals to limit density, reduce traffic problems, limit stress on infrastructure, and protect natural habitats.

Several commissioners expressed concerns about the commercial district reduction from 70% to 50% lot coverage, with Mr. Ryan noting this might be too restrictive based on his experience.

Ms. Devine made a motion to approve AZO25-000008 and Ms. Schmersal seconded the motion to open discussion. Mr. Ryan made a motion to amend Section 12-68 Commercial lot coverage to remain at 70%. Ms. Schmersal seconded the motion and the motion passed with 6 ayes and 1 nay vote by Mr. Iwan.

VII. Correspondence/Staff Comments

A. Kiawah Next Update

Mr. Taylor reported that the Comprehensive Plan is scheduled for public hearing at the September Town Council meeting. The plan has been shared with the community for additional comments and will go through the regular process with two readings of Town Council.

B. Development Project Updates

Mr. Taylor noted there were four major projects underway:

- o Seafields
- o MUSC (continuing to move at pace)
- o Night Heron Park Activities Center
- o Ocean Pines (with an update expected next week)

He also mentioned that staff would be meeting with Charleston County the following week to discuss the urban growth boundary, in collaboration with the Town of Seabrook.

C. Resiliency Committee Updates

Ms. St John reported that the Resiliency Committee did not meet in July, but its subcommittees have been active. The Go Green Sub-Committee is working to reinvigorate previous efforts, and the Education Committee is planning a program called "Kiawah Conversations" for the fall, which will include panel discussions and field trips.

VIII. Public Comments:

Mr. Permar thanked the commission for allowing him to participate in the discussions.

IX. Commissioner Comments:

Mr. Iwan clarified that his no vote on the zoning text amendment – Modified zoning district standards was not against the intent of the changes but rather the process.

X. Adjournment

Mr. Ryan made a motion to adjourn the meeting. Ms. Schmersal seconded the motion. The motion was approved unanimously at 3:20 pm.

Submitted by,

Patrea St John, Planner

Date

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000004 Case History

Planning Commission Meeting: June 4, 2025
Public Hearing and First Reading: July 1, 2025
Planning Commission: August 6, 2025
Planning Commission: September 10, 2025
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* Division 3. – Use Regulations and Sec. 12-374. Definitions. to refine and regulate uses which are compatible with the purpose of that district, with or without conditions or to restrict uses.

Key Factors of the Proposed Ordinance:

The proposed amendment:

- Eliminates several commercial retail uses as a by-right or conditional use from several zoning districts.
- Removes residential uses from the CS-2, Community Support zoning district.
- Modifies the PR-OC Zoning District to incorporate conditional use reference based on current conditions of the zoning district pertaining to dwelling units and the integration of residential and nonresidential buildings.
- Qualifies parking areas which are not specifically associated with a proposed development. These include parking facilities as the principal use. Establishes conditions consistent with those of landscaping and parking standards for visual and aesthetic value for such facilities.
- Modifies accessory structure standards pertaining fences, pools and sports courts.

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

The proposed changes to the use regulations are consistent with the land use patterns with the Town of Kiawah Island.

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

PLANNING COMMISSION MEETING JUNE 4, 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 Commission reviewed and recommended approval of the proposed ordinance with minor changes by a vote of 6 to 0.

TOWN COUNCIL MEETING PUBLIC HEARING AND FIRST READING JULY 1, 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.

Town Council voted (4-0) to amend the ordinance on first reading and request the Planning Commission review accessory structures and to specifically provide a recommendation regarding private tennis (sports) courts.

Key amendments to the proposed amendment include:

- Clarifying the modifying and clarifying the number of fuel bays for fuel stations.
- Incorporating the prohibition of chain linked fencing except for temporary construction perimeter fencing.
- Adding site restoration to pre-existing condition for special events

PLANNING COMMISSION MEETING AUGUST 6, 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.

Two people provided public comments regarding this proposed ordinance regarding padel courts and parking use within the Community Support zoning district.

Planning Commission voted (6-0) to table action for further study on a recommendation regarding private tennis (sports) courts to address potential adverse impacts.

PLANNING COMMISSION MEETING SEPTEMBER 10, 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.

Highlighted changes:

- The maximum height of the fencing and wall modified to accommodate a regulation padel court.
- Planning staff provided clarifying language and additional standards regarding screening and buffering from adjacent properties that should incorporate landscaping.
- Community Support Zoning Districts were included within conditional or special exceptional uses for parking lots.

TOWN OF KIAWAH ISLAND

ORDINANCE 2025-10

An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 3. Use Regulations and Section 12-374. Definitions. to refine and regulate uses which are compatible with the purpose of that district, with or without conditions or to restrict uses.

WHEREAS, the Town of Kiawah Island Municipal Code currently contains *Chapter 12 - Land Use Planning and Zoning*; and

WHEREAS, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to refine and regulate land uses to ensure compatibility with the various zoning districts and land use patterns ; and

WHEREAS, the text amendment would be consistent with the purposes and intent of the adopted Comprehensive Plan and would not be detrimental to the public health, safety, and welfare of the Town of Kiawah Island; and

WHEREAS, the Planning Commission held a meeting on June 4, 2025, August 6, 2025 and September 10, 2025 at which time a presentation was made by staff, and an opportunity was given for the public to comment on the text amendment request; and

WHEREAS, the Planning Commission, after consideration of the staff report, subsequently voted to recommend to Town Council that the proposed amendment be approved; and

WHEREAS, Town Council held a Public Hearing on July 1, 2025 providing the public an opportunity to comment on the proposed amendment.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL.

Section 1 Purpose

The purpose of this Ordinance is to amend Chapter 12 - Land Use Planning and Zoning Ordinance refine and regulate uses which are compatible with the purpose of that district, with or without conditions or to restrict uses.

Section 2 Ordinance

- (1) The Town hereby amends Division 3. Use Regulations as shown in the attached “**Exhibit A**” which is hereby incorporated herein by reference.

- (2) The Town hereby amends Section 12-374. Definitions. as shown in the attached “**Exhibit B**” which is hereby incorporated herein by reference.

Section 3 Severability

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind property, circumstances or set of circumstances, such holding shall not affect the circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property, or circumstances.

Section 4 Effective Date and Duration

This Ordinance shall be effective upon its enactment by Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS XX DAY OF XXXX, 2025.

Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: July 1, 2025

2nd Reading:

Chapter 12 - LAND USE PLANNING AND ZONING
ARTICLE II. - ZONING
DIVISION 3. USE REGULATIONS

DIVISION 3. USE REGULATIONS

DRAFT

DRAFT

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.

~~(3.)~~ _____

~~(4.)~~ *Prohibited Use*. A blank cell indicates that the use type is prohibited within the zoning district.

~~(5.)~~ A cell containing multiple classifications as (C/S) indicates a conditional use or a special exception use as specified in the conditional use reference. Refer to Section 12-103, conditions of use.

~~(d)~~ _____

Planned Development. Planned Developments shall follow the Planned Development provisions contained in sections 12-73 and 12-159, and the code text and zoning district map amendments provisions contained in section 12-158.

Table 3A. Authorized Uses in Zoning Districts																
P=Permitted Use		C=Conditional Use		S=Special Exception				Blank Cell=Prohibited Use								
Use Category		Zoning Districts														Conditio nal Use Referenc e
Principal Uses		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC			
Residential																
	Single-family detached ¹	P	P	P					P		<u>PC</u>	€			(a)	
	Single-family attached, also known as townhouses or patio homes ¹		P	P					P		<u>PC</u>	€			(a)	
	Duplex ¹		P	P					P		<u>PC</u>	€			(a)	
	Multifamily (including townhouses and apartments) ¹			P					P		<u>PC</u>	€			(a)	
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											€			(ab)	
	Preschool or educational nursery				C							€	€		(b)	
	Personal improvement education, including golf or fine arts schools					C	C			C	C				(b)	
Health care services																
	Physicians' and dentists' offices				P							€			(c)	
	Medical clinics-outpatient services				C										(c)	
Museums, historical sites and similar institutions																
	Historical sites	C	C	C	P	C	C	C	P	P	P	€			(d)	
	Libraries or archives				P	C	C	C	P			€			(d)	
	Museums or art galleries				P	C	C	C	P			€			(d)	
	Nature exhibitions				<u>P</u>	C	C			P	P	€			(d)	
	Botanical gardens or arboretums				P	C	C			P	P	€			(d)	

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC		Conditional Use Reference
Postal service															
	United States Postal Service				P							€			(e)
Recreation and entertainment															
	Community recreation, including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools)				C	C	C		P	C	C				(f)
	Golf courses or country clubs									C	C				(f)
	Parks	P	P	P	P	C	C	C	P	P	P	€	P		(f)
	Motion picture and live theaters				C	C	C								(f)
	Recreation or vacation camps				C					C	C				(f)
	Recreational equipment storage				C	C	C	C	C	C	C				(f)
Religious, civic, professional and similar organizations															
	Business and professional organizations				P				P						
	Social or civic organizations, including youth organizations, sororities or fraternities				P				P						
	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					(ag)
	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)
	Sewage sludge drying beds							P							
	Water pressure control stations				C	C	C	P		C					(g)
	Water or sewage treatment facilities							P							
	Water storage tanks							P				€			(ag)

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC		Conditional Use Reference
	Utility service, minor														
	Electric or gas power distribution	C	C	C	C	C	C	P		C	C	€			(g)
	Sewage collection service lines	C	C	C	C	C	C	P		C	C	€			(g)
	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	SC		€			(j)
	Restaurant, general, including cafeterias, diners, delicatessens, full-service restaurants or accessory uses to a golf course, club house, or recreational area (with alcoholic beverages)				C	C	C		C	C/S	S	€			(j)
	Information industries														
	Advertising services (not including advertising signs)				C						C/S				(k)
	News syndicate services				P										
	Radio and television broadcasting studios (only)				C	C	C								(k)
	Data processing services				P										

	R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC	Conditional Use Reference
Offices													
Real estate sales and services				P	P	P					€		(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			€		(a)
Legal and other professional services, including accounting, tax preparation, architectural or engineering				P									
Other nonresidential development													
Communications towers				C			C	C	C	C	€		(m)
Convention center, visitors bureaus or conference center				C		P	C/S	P					(n)
Parking													
<u>Parking Lot</u>				C/S	C/S	C/S	C/S	C/S	C/S	C/S	C/S		(v)
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)				€			€						(o)
Retail sales													
Nonstore retailers													
<u>Direct selling establishments</u>				€									{p}
<u>Electronic shopping or mail order houses</u>				€									{p}
Building materials or garden equipment and supplies retailers													
Hardware stores				€									(p)
Home improvement centers				€									

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC	Conditional Use Reference
	Garden supplies centers or nursery and greenhouse retail centers				€									(p)
	Paint, varnish, glass or wallpaper stores				€									(p)
	Food sales, including grocery stores, meat markets or butchers, retail bakeries or candy shops				C					<u>C</u>				(p)
	Liquor, beer, or wine sales				C	<u>C</u>	<u>C</u>			<u>C</u>				(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)
	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				€									(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)

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC		Conditional Use Reference
	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 / <u>Limousine</u> / <u>Rideshare</u>				C	C		C							(u)
	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. 2017-14, § 1(Exh. A), 7-11-2017; Ord. No. 2018-05, § 1(att. A), 5-1-2018)

Sec. 12-103. Conditions of use.

(a) ~~(a)~~ Dwelling units in the PR-OC Zoning District may be attached to and integrated with non-residential buildings, but shall be no more than four dwelling units in any building for this district.

~~(a) Planned Development. Planned Developments shall follow the Planned Development provisions contained in sections 12-73 and 12-159, and the code text and zoning district map amendments provisions contained in section 12-158.~~

(b) ~~(b)~~ Educational services. Educational services are those services offered for the exclusive use of residents, on island employees and guests of Kiawah Island for instruction and care of their dependent children. The following conditions must be met for an educational services use:

- (1) Proof of application for the facilities license from the South Carolina Department of Social Services where appropriate;
- (2) Play areas within 50 feet of a residential zoning district shall be buffered pursuant to section 12-127;
- (3) Off-street parking requirements contained within this article are met and are buffered in accordance with section 12-128;
- (4) Site plans for ingress/egress, loading/unloading and the location of the parking areas are approved by the Planning Director; and
- (5) Proposed outdoor lighting of the facility does not negatively impact neighboring properties or the beachfront.

(c) Health care services. These services include medical clinics with outpatient services, physicians' and dentist's offices. Outpatient clinics, including offices for physicians or dentists, shall be limited to 2,000 square feet of floor area and shall not provide a base for emergency medical vehicles or service unless approved as a special exception pursuant to special exception provisions contained in this article.

(d) Museums, historical sites and similar institutions.

- (1) Historical sites within residential areas shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.
- (2) Historical sites, libraries, archives, museums and/or art galleries shall be completely housed within the principal use.
- (3) Nature exhibitions.
 - a. Where nature exhibitions are of public ownership or listed in the National Registry of Natural Landmarks or registered as a Heritage Site with the South Carolina Heritage Trust in accordance with the provisions of Act No. 600 of the 1976 Acts and Joint Resolutions, either in public or private ownership, accessory uses to acquire maintenance revenue are permitted.
 - b. Accessory uses are limited to the retail sale of gifts, novelties, souvenirs, and food services. Accessory structures so used shall not exceed ten percent in size of the principal structures when the nature exhibit is housed, or 1,200 square feet for each acre when the nature exhibit is not enclosed.
 - c. Parking requirements for each accessory use, in addition to the parking requirements for the principal use, shall comply with the parking requirements of section 12-128.
 - d. Signs advertising accessory uses shall be located on the premises and not visible from a public road.

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- (4) Botanical gardens and/or arboretums shall be housed completely on the grounds of the principal use.
- (e) *Postal Service of the United States.* Any postal service facility shall have a maximum floor area of 5,000 square feet or less.
- (f) *Recreation and entertainment.* The following standards shall apply to approval of a site plan for community recreation, including, but not limited to, sports activities, playgrounds, athletic areas or swimming areas and recreation or vacation day camps:
- (1) All parks with soccer, baseball and similar playfields shall meet all off street parking requirements of section 12-128. The Planning Director shall determine the need for additional spaces based on available parking studies for similar uses in similar communities;
 - (2) All parking areas and recreational equipment storage areas shall meet the buffering requirements of section 12-127 and be screened from view from any adjacent residential use. Screening shall be opaque and shall be at least four feet in height. Screening may be masonry or natural materials if approved by the Planning Director;
 - (3) Small passive parks of one acre or less within residential neighborhoods shall have no parking requirements;
 - (4) Be designed so that light sources are shielded from adjacent single-family residential properties and the beachfront.
- (g) *Utilities and waste-related uses.*
- (1) Aboveground water storage tanks, sewage pumping stations, telephone relay towers, electric regulating substations and similar utility/communications structures shall comply with the following standards:
 - a. Facilities shall be located at least 50 feet from any residential property line;
 - b. Facilities shall be secured by a fence located at least 25 feet from any residential property line;
 - c. Facilities shall be surrounded by a buffer pursuant to section 12-127;
 - d. Telephone exchange stations and communications towers shall be limited to unmanned facilities, and shall provide at least two parking spaces for service vehicles; and
 - e. Radio transmitting stations and towers shall be set back from zoning district boundaries a distance equal to their height.
 - (2) Communications, utility distribution lines and water transmission lines shall be located underground in all districts.
 - (3) The equipment set forth in this subsection is permitted in all zoning districts. Aboveground equipment (e.g., pad-mounted transformers) shall be screened from public view:
 - a. Electrical pedestals.
 - b. Electrical pad-mounted transformers.
 - c. Electrical switch gear cabinets.
 - d. Electrical service meters.
 - e. Telephone equipment cabinets.
 - f. Telephone pedestals.
 - g. Irrigation controllers.

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- h. Backflow preventors.
 - i. Cable television amplifiers.
 - j. Other such similar equipment, typically installed above ground.
- (4) *Utility cabinets, utility structures.* For utility cabinets which measure approximately nine feet in length by six feet in width, and once installed, stand approximately five feet above grade, and for any other utility structures which the zoning administrator determines are similar in size and impact on the community shall be treated as accessory structures and the following standards shall apply:
- a. Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
 - b. Structure shall be surrounded by a landscaped buffer, pursuant to section 12-127.
- (h) *Commercial accommodations.* Hotels or inns providing more than 50 guestrooms shall comply with the special exception provisions of this article or shall be a part of a development agreement.
- (i) *Financial services.*
- (1) Automated teller machines (ATM), stand-alone.
 - (2) ATMs shall be walk-up style and shall be permitted as accessory uses.
- (j) *Food and beverage services.*
- (1) *Bars, cocktail lounges, taverns.*
 - a. Bars or lounges, including taverns, cocktail lounges or member exclusive bars or lounges serving alcoholic beverages are only permitted in restaurants, private clubs, hotels, inns, or country clubs.
 - b. Where applicable, these uses shall comply with the special exception provisions of this article.
 - (2) *Catering services.* Catering service facilities shall only prepare and store food in permitted restaurants, private clubs, hotels, inns, or country clubs.
 - (3) *Restaurant, general.* All general restaurants not a part of a hotel, inn, golf course clubhouse, private club or country club and occupying over 2,000 square feet of floor area shall comply with the special exception provisions of this article.
 - (4) Café, coffee shop or snack bar may be permitted in the PR zoning district as an accessory use to the building's primary function.
 - (45) Restaurant, café, coffee shop or snack bar is only permitted in the CS-2 as an ancillary use to the building's primary function as office and meeting space.
 - (56) Be designed so that light sources are shielded from adjacent single-family residential properties, and property zoned R-2.
- (k) *Information industries.*
- (1) *Advertising services.* All advertising associated with this use shall be contained within the structure and not visible, except for any permitted sign, on the exterior of the structure.
 - (2) *Radio and television broadcasting studios.* All radio or television broadcast studios shall be located within a structure. No mobile radio or television broadcast stations are permitted as a permanent use. Temporary use permits may be granted if applicant complies with temporary use permit requirements.
- (l) *Government offices.* Government offices shall:

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- (1) Meet the buffer requirements of section 12-127;
 - (2) Provide off-street parking as required in section 12-128; and
 - (3) Be designed so that light sources are shielded from adjacent single-family residential properties.
- (m) *Communications towers.*
- (1) *Purpose and legislative intent.* The Federal Telecommunications Act of 1996 affirmed the Town of Kiawah Island's authority concerning the placement, construction and modification of wireless telecommunications facilities. The regulations of this section are designed to site communications towers on Kiawah Island. It is the intent of this article to allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of this article to reduce the overall negative impact of communications towers by:
 - a. Reducing the number of towers needed through a policy of encouraging collocation; and
 - b. Encouraging the following, if collocation is not feasible:
 1. The use of stealth tower design, as defined in subsection (m)(3) of this section;
 2. The clustering of towers (tower farms);
 3. The placement of towers away from roadways;
 4. The provision of effective screening; and
 5. The location of communications equipment on existing structures.
 - (2) *Collocation exemption.* Proposed communications equipment collocating on existing towers and structures without adding to their height shall require only a zoning permit and shall not be subject to the requirements of this section.
 - (3) *Stealth tower provision.*
 - a. For the purposes of this section, the term "stealth tower" means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into its existing surroundings so as not to have the appearance of a communications tower and is designed to hide, obscure, or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.
 - b. All proposed stealth tower designs must be approved by the Planning Director.
 - c. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.
 - (4) *Preapplication meeting.* Prior to submitting a formal application for a zoning permit for a communications tower the applicant is required to attend one or more preapplication meetings. The purpose of the preapplication meeting is to address key issues which will help to expedite the review and permitting process. The Planning Director may conduct a site visit at the preapplication meeting.
 - (5) *Zoning permit submittal requirements.* Prior to zoning permit approval, all applications for communications towers shall complete the site plan review process as provided in section 12-162. In addition to any site plan review requirements, the application must contain the following items:
 - a. A site plan, drawn to engineer's scale, showing the location of the tower guy anchors (if any), existing or proposed buildings and structures or improvements, including parking, driveways or

access roads, fences and protected Grand Trees affected by the proposed construction. If there are no Grand Trees affected, a surveyor's statement on the site plan must be shown. Adjacent land uses shall also be noted on the site plan, with precise measurements noted between the proposed tower and any residential structures on surrounding properties.

- b. The site plan must show a vegetated buffer, either existing or installed, that provides an effective screen from public rights-of-way and adjacent property owners and across view corridors. If a buffer is to be installed, its placement on the site will vary in order to provide the most effective screening from public view. Required materials will be based on installation of a 25-foot buffer around the fenced area.
- c. The height and typical design of the tower, typical materials to be used, color, and lighting shall be shown on elevation drawings. The applicant shall submit documentation justifying the total height of any communications towers, facility and/or antenna and the basis therefor.
- d. Additionally, color and material samples shall be provided. The tower must be located no closer to a residential structure than a distance equal to 1.5 feet for each foot in height of the proposed tower plus 50 feet as measured from the center of the proposed tower. At a minimum, there must be a 150-foot distance between the proposed tower and a residential structure.
- e. A six-foot nonclimbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
- f. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties. The fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal.
- g. For the purposes of collocation review and review of efforts at siting a tower on the same lot near an existing tower, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings, or other structures are not available or suitable for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria, providing a location free of interference from other communication towers, or available at the prevailing market rate (as determined by staff communication with persons doing business within the industry). Additionally, the applicant shall make every effort to build the proposed tower in such a manner as may allow other telecommunication users to collocate.
- h. Proposed towers may not be located within 1,000 feet of the center of an existing tower unless the applicant certifies that the existing tower does not meet the applicant's structural specifications and the applicant's technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate. In the event of the situation set forth in this subsection, the clustering of new towers on the same parcel near existing towers is permitted.
- i. The proposed tower shall only be illuminated as required by the Federal Communications Commission or Federal Aviation Administration. Nighttime strobe lighting shall not be incorporated unless required by the Federal Communications Commission or Federal Aviation Administration. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting that shall be as unobtrusive and inoffensive as permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the communications towers are located.
- j. Communications towers shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has

transmission capabilities. The sign shall contain the names of the owners and operators of the antennas, as well as emergency phone numbers. The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless required by law.

- k. A copy of the tower's search ring.
 - l. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
 - m. The applicant shall furnish a visual impact assessment which shall include:
 - 1. A zone visibility map which shall be provided in order to determine locations where the tower may be seen.
 - 2. Pictorial representations of before and after view from key viewpoints both inside and outside the Town including, but not limited to:
 - (i) Major highways and roads;
 - (ii) State and local parks;
 - (iii) Historic districts;
 - (iv) Preserves and historic sites normally open to the public; and
 - (v) Any other location where the site is visible to a large number of visitors, travelers or residents.
 - 3. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets
- (6) *Retention of expert assistance and reimbursement by the applicant.*
- a. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
 - b. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of the consultant and expert evaluation and consultation to the Town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The application will not be processed until receipt of this initial deposit. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If, at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The applicant shall not be entitled to receive any interest earnings on unused funds.
 - c. The total amount of the funds needed as set forth in subsection (m)(6)b of this section may vary with the scope and complexity of the project, the completeness of the application and other

information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

(7) *Surrounding property owner notification.*

- a. In order to better inform the public, in the case of a new communications towers, the applicant shall hold a balloon test as follows:
 1. Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of three-foot diameter brightly colored balloon at the maximum height of the proposed new tower.
 2. The dates, (including a second date, in case of poor visibility on the initial date) shall be provided to the Planning Director ten days after receipt of the complete application notice.
 3. The dates shall be set at minimum 15 days prior to the Planning Director making a final decision on the zoning permit.
 4. The balloons shall be flown for ten consecutive hours between 8:00 a.m. and 6:00 p.m.
- b. Once the application is deemed complete by the Planning Director for a communications tower zoning permit, the Planning Department shall provide parties in interest, personal, posted and newspaper notice in accordance with the requirements of section 12-156. The public notice shall include the dates of the balloon tests as provided by the applicant and the date the Planning Director must make a final decision on the zoning permit.

(8) *Time limit for staff review.* Upon receipt of an application deemed complete by the Planning Director for a communications tower zoning permit, the Planning Director shall have a maximum of 45 days to act on the application. The 45 days begins from the date the applicant is sent written notice of a complete application from the Planning Director. Failure to act on the application within 45 days will result in the applicant being granted a zoning permit.

(9) *Zoning permit approval criteria.*

- a. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.
- b. Upon review of a complete application, no zoning permit shall be issued for a communications tower, until the Planning Director determines that the proposed tower complies with the following criteria and standards:
 1. The location and height of the proposed tower will not substantially impact the character of property listed in or eligible for the National Register of Historic Places, other significant environmental, cultural or historical site officially designated scenic roads or rivers and that the tower is designed to blend into the environment and minimize visual impact.
 2. If a completely new tower is necessary, the applicant must provide written proof of attempts at collocation and siting a tower on the same lot near an existing tower were proven not feasible or practical.
 3. The applicant has pursued any available publicly owned sites and privately owned sites occupied by a compatible use, and if not utilized, that these sites are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
 4. Staff shall review and approve the color and materials to be used for the proposed tower.
 5. If the Planning Director finds a proposed communications tower will have a substantially negative impact on a surrounding area or adjoining property, the use shall fall under the special exception (S) provisions of this article.

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- c. In determining whether the use shall fall under the special exception (S) provisions the Planning Director may consider one or more of the following items:
1. The proposed use will be detrimental to adjacent land uses including historical sites;
 2. The proposed use will have a negative aesthetic visual impact;
 3. The proposed use will have an adverse affect on the environment (not including radio frequency emissions); and
 4. The proposed use is contrary to the public health, safety or welfare.
- (10) *Tower abandonment.* A tower that is not used for communication purposes for more than 120 days (with no new application on file for any communication user) is presumed to be out of service and the owner of such tower must notify the staff and remove the tower within 50 days. Towers which are not maintained by the owner according to the Town building code shall be removed by the owner within 60 days. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. Removal costs shall be charged to the tower owner. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
- (n) *Convention center or visitors bureau.* The convention center or visitors bureau using over a total of 10,000 square feet must comply with the special exception provisions of this article.
- (o) *Repair and maintenance services.*
- (1) *Consumer repair services.* Consumer repair services, including repair and servicing of appliances, shoes, watches, furniture, jewelry, musical instruments or similar items, may only occur within an enclosed structure. No noise or other emissions from the structure are permitted.
 - (2) *Vehicle service.* Limited vehicle service, including automotive oil change or lubrication operations and shall be conducted within an enclosed building. Vehicle storage shall be located in an enclosed building or in an opaquely screened yard.
- (p) *Retail sales and retail or personal services.* Retail sales, display and storage of goods are permitted only within a designated building for that particular use.
- (1) Personal improvement services shall be included as a permitted use as within the PR category as accessory to golf clubhouses, or other private club amenities within a designated building for such uses.
- (2) Fuel stations shall have no more than sixfour fuel pumps servicing eight fuel bays and shall be buffered and screened from any right of way with landscaping and architecturally integrated fencing approved by the Planning Director.
- (3) Liquor, beer, or wine sales may be permitted as an accessory use to resort or golf clubhouses.
- (q) *Construction services.* Contract construction services operations (e.g., contractor's shops, plumbing shops, heating and air conditioning shops, etc.) excluding construction sites for authorized development activities, shall be conducted within an enclosed building. Authorized development activities, for the purpose of this section, include the permitted installation, construction of buildings, structures or utilities at the site on which they will be used. Vehicle, equipment and materials storage at construction services offices shall be located in an enclosed building or in an opaquely screened yard.
- (r) *Warehouse and storage facilities.* Warehouse and storage facilities shall be designed so that all stored items are located within a completely enclosed building, or are completely screened from view from adjacent

property lines. Portable storage units shall not be allowed to remain on any property for more than 72 hours within a week.

- (s) *Vehicle storage, including boat or recreational vehicle storage.*
 - (1) Storage of boats, campers and other major recreational equipment, if provided, must be contained within completely enclosed buildings or opaquely screened storage areas on an approved lot. No such equipment shall be used for living, sleeping or housekeeping purposes.
 - (2) Canoes and kayaks may be stored in a semi-enclosed storage rack which is suitably landscaped.
- (t) *Recycling services; recycling collection, dropoff.* Recycling collection and dropoff structures are limited to the following:
 - (1) Maximum dimensions: Nine feet in length by six feet in width, and once installed, stands no more than five feet above grade.
 - (2) Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
 - (3) Structure shall be surrounded by a landscaped buffer, as determined by the Planning Director pursuant to section 12-127.
- (u) *Transportation; bus passenger stands and rideshare zones.* The design and location of bus passenger stands and rideshare zones shall only be approved after completing the site plan review procedures contained within section 12-162.

(v) Parking Facilities. All parking facilities shall comply with Sec. 128 Access, parking and loading regulations and standards of Sec. 12-127. Compatibility Buffering. Parking facilities not associated with minimum parking requirements for a proposed development and including more than 10 spaces shall be approved as a special exception pursuant to special exception provisions contained in this article.

(Code 1993, § 12A-302; Ord. No. 2005-08, § 12A-302, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-302), 11-7-2006; Ord. No. 2016-04, § 1, 9-6-2016; Ord. No. 2023-22, § 2(Exh. A), 11-28-2023)

Sec. 12-104. Accessory uses, buildings/structures.

The purpose and intent of this section is to describe the standards for accessory uses as follows:

- (1) *Definition and applicability.*
 - a. The terms "permitted uses" and "approved special exception uses" include accessory uses and structures that are necessarily associated with, and appropriate, incidental and subordinate to, the allowed principal use. Accessory uses and structures shall be subject to the same regulations that apply to principal uses and structures in each zoning district, unless otherwise expressly stated.
 - b. Permits for accessory uses and structures shall be issued by the Town of Kiawah Island Planning Director.
 - c. In a residential zoning district, an accessory building or structure is a subordinate or incidental structure, attached to or detached from the principal building, which is not used for commercial purposes and which is not rented.

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- d. In nonresidential zoning districts, an accessory building or structure is a subordinate building or structure, the use of which is secondary to and supportive of the principal building.
 - e. Accessory buildings or structures shall not be permitted without a principal building or primary use being in existence.
 - f. Accessory uses include any use that is authorized in the district which is secondary or subordinate to the primary use.
- (2) *Standards for detached accessory dwelling units in residential districts.* An accessory dwelling unit to be occupied by family members or caretakers may be allowed as an accessory use to the principal dwelling unit under the following conditions:
- a. No detached accessory dwelling unit may be constructed on a lot less than 15,000 square feet;
 - b. The detached accessory dwelling unit may not be sold separately from the sale of the entire property, including the principal dwelling unit, and shall not be leased or sublet;
 - c. The detached accessory dwelling unit shall comply with all required building setbacks for the principal residential use and shall be located in the buildable area of the lot;
 - d. The overall height of a detached accessory dwelling shall be limited to one story, provided that an accessory dwelling may be located over a garage;
 - e. When the accessory dwelling is directly attached to the principal dwelling with a roof connection of a minimum of four feet in width, or a wall connection of a minimum of four feet in height, it shall be considered an integral part of the main building; and
 - f. Detached accessory dwellings shall not exceed 1,500 square feet of heated area.
- (3) *Standards for accessory dwelling units in existing structures and nonresidential districts.*
- a. Accessory dwellings for nonresidential structures shall be solely for use by fulltime caretakers of the structure. Such dwellings shall have at least one access through the business that employs the caretaker.
 - b. The overall height of an accessory dwelling shall be limited to one story, provided that a garage apartment or nonresidential caretaker's quarters may be located over a garage.
- (4) *Standards for accessory buildings in residential districts.* Accessory buildings may be allowed in residential zoning districts pursuant to the following conditions:
- a. No accessory building may be constructed on a lot less than 15,000 square feet;
 - b. Detached accessory buildings shall be prohibited from being placed in front of the principal building and shall be placed in the rear yard. Except that a detached accessory use may be constructed in front of the principal residence where the residence backs up to a beach, golf course, lagoon or marsh and is only permitted after approval as a special exception. Accessory buildings will be located within the buildable area of the lot as delineated by the setback requirements;
 - c. Subleasing or renting an accessory building separately from the primary use shall constitute a violation of this article.
- (5) *Standards for accessory structures in residential districts.* Accessory structures may be allowed in residential districts under the following conditions:
- a. Private swimming pools, along with incidental installations such as pumps and filters, may not be located in the front yard. Any pool equipment shall be properly screened. A pool including vanishing edges and associated discharge troughs or catch basins shall be set back a distance of

not less than ten (10) feet from all lot lines, except that a pool adjacent to a BCM Critical Line shall be set back a distance of not less than fifteen (15) feet from a critical line. A pool including vanishing edges and associated discharge troughs or catch basins that is elevated more than four feet above the average natural ground level at the nearest property line shall comply with required building setbacks. All swimming pools shall be gated and enclosed by a fence, wall, building, or other enclosure and fenced. The fence or other enclosure height shall be five-a minimum of four feet.

- b. Private tennis, padel, pickleball or other sports courts shall not be constructed within 20 feet of any adjoining property under other ownership. Tennis-Sports court fences or walls shall not exceed 12-13 feet 6 inches in height, and no lights for the tennis-sports court shall be permitted. All sports courts must be adequately screened on all sides facing rear or side lot lines using landscaping to buffer from adjacent properties.
- c. Fences shall be limited to landscaped hedgerows of dense plant material and/or wooden, masonry or wrought iron metal material, all of which are required to be architecturally integrated with development of the lot or parcel. Chain linked fencing shall be prohibited, with the exception for temporary construction perimeter fencing, which shall be accompanied by a screen. Fences shall not exceed five feet in height from grade for residential development; provided, however, that this five-foot height restriction shall not apply to the hedgerow portion of any fence or to a fence consisting completely of a hedgerow. This five-foot height restriction shall apply to any gate or gates in any fence of any kind. Solid wood fences shall not be permitted in front yards. Fences (excluding the use of plant material) shall not be permitted within five feet of a side or rear property line. Fences taller than three feet from pavement shall not be located within a sight triangle. Fence heights and setback restrictions shall not apply to the patio wall of patio homes. In measuring the height of a fence to determine whether it complies with the height restrictions, the measurement shall be made to the uppermost portion of the fence, and, if there is anything affixed to or regularly placed or resting thereon, including, without limitation, decorative or ornamental elements or features, all of which shall be considered a part of the fence for the purposes of this section, then the height measurement shall be to the top of any such thing, element or feature.

(Code 1993, § 12A-303; Ord. No. 94-12, § 2(12A-302), 9-26-1994; Ord. No. 2005-08, § 12A-303, 10-12-2005; Ord. No. 2008-04, § 2, 6-3-2008; Ord. No. 2010-02, § 2.2, 3-2-2010)

Sec. 12-105. Home occupations.

The purpose of this section is to permit home occupations that will not change the character of the residential areas in the Town. The intent of this article is to conserve property values, as well as protect residential neighborhoods from excessive noise, excessive traffic generation, nuisances, health and safety hazards which may result from a home occupation conducted in the residential zones.

- (1) All home occupations must comply with the following conditions:
 - a. The use of the dwelling unit in connection with an occupation shall be deemed to be clearly incidental and subordinate to its use for residential purposes if the home occupation occupies no more than 25 percent of the heated and cooled square footage of the residence, and no more than 25 percent of the garage or other enclosed areas which may be utilized to store supplies or materials associated with the home occupation.
 - b. No employees other than persons residing on the premises shall be engaged in the activities of the home occupation.

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- c. There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment and materials, vehicles with business logos, and no exterior indication of the home occupation which may change the outside appearance of the principal residence or change the residential character of the building.
 - d. No on-premises advertising for the home occupation shall be allowed, nor shall advertisement of the address of the property to attract customers, clients or the public to the premises allowed. Window areas must not purposely or intentionally be used as display areas or offer merchandise for sale.
 - e. Home occupations shall not require internal or external structural alterations of the principal residence or require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customary in a residential area.
 - f. The home occupation shall take place entirely within the residential dwelling.
 - g. No open lot storage shall be permitted in connection with a home occupation.
 - h. No pedestrian or vehicular traffic shall be generated by the home occupation.
 - i. No home occupation requiring any equipment or processing which creates noise, vibration, glare, fumes, odors, smoke or dust which disturb neighbors and/or alters the residential character of the premises shall be permitted.
 - j. No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio or TV receivers causing fluctuations in the line voltage off the premises.
 - k. Delivery trucks shall not operate out of a residential area as a function of a home occupation.
 - l. Offices for professional or business activities may be permitted; provided, however, that they adhere to the provisions of this article and that they do not violate any condition prescribed herein.
- (2) The following occupations, professions, and business activities and those of a similar nature are some of, but not intended to be a complete list of prohibited home occupations:
- a. Clinics, hospitals;
 - b. Funeral homes, mortuaries;
 - c. Animal/veterinary clinics;
 - d. Restaurants;
 - e. Large scale repair services;
 - f. Construction activities;
 - g. Ambulance services;
 - h. Taxi services;
 - i. Beauty salons, barbershops; and
 - j. Vehicle sales or parts sales.
- (3) This section does not permit the establishment of unlisted home occupations unless they comply with all other standards and conditions of this article.

(Code 1993, § 12A-304; Ord. No. 2005-08, § 12A-304, 10-12-2005)

Sec. 12-106. Temporary uses.

The purpose of this section is to define the type and scope of temporary uses. A temporary zoning permit is required for the following temporary uses:

- (1) Temporary zoning permits are obtained from the Town of Kiawah Island Planning Director.
- (2) *Temporary buildings and temporary building material storage areas.*
 - a. Temporary buildings and temporary building material storage areas may be used for construction purposes on a site which is not yet occupied. Temporary buildings and temporary material storage areas for construction purposes located on the project site shall be approved as part of the site plan review. For any temporary buildings or material storage areas situated off-site, a separate permit is required. This separate permit must be approved independently of the site plan review process.
 - b. The site may not be permanently altered in any manner, by e.g., removal of "trees" (as defined in section 12-374, Definitions) or vegetation. However, trees of two DBH inches or less or minor vegetation for proposed temporary uses, which do not require grading or land disturbance activities that alter existing site conditions, may be removed as determined by the Planning Director, if such trees are replaced with a similar/like kind planting of the same DBH inches of trees removed. Replacement trees shall be approved by the Planning Director prior to removal.
 - c. Such buildings shall be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
 - d. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
 - e. Upon completion or abandonment of construction or expiration of the permit, such temporary buildings and building material storage areas shall be removed and the site shall be restored to its pre-existing condition to the satisfaction of the Planning Director. The Planning Director may require the planting of additional vegetation to satisfy this requirement.
- (3) *Special events.*
 - a. A temporary zoning permit shall be issued for public assembly use and for events of public interest. Temporary zoning permits shall be issued for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown. Such permit may be extended by the Planning Director. Examples of special events include: Concerts, religious and/or cultural events, sports tournaments or competitions, and parking for special events.
 - b. Temporary buildings associated with special events may be used on the site which the event is to take place.
 - c. Such buildings shall be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
 - d. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
 - e. Upon completion or abandonment of the special event or expiration of the permit, such temporary buildings and associated equipment shall be removed and the site shall be restored to its pre-existing condition to the satisfaction of the Planning Director.

(Code 1993, § 12A-305; Ord. No. 94-12, § 2(12A-316), 9-26-1994; Ord. No. 2005-08, § 12A-305, 10-12-2005; Ord. No. 2024-08, § 2(Exh. A), 6-4-2024)

Secs. 12-107—12-125. Reserved.

Text: Existing Text

Text: New text

Fuel bay means a designated vehicular fueling position, located adjacent to a fuel pump, where a single motor vehicle may be temporarily stationed for the purpose of receiving fuel. Each side of a dual-sided fuel pump shall be counted as one (1) fuel bay. Fuel bays are not considered parking spaces.

Fuel pump means a mechanical dispensing unit designed and constructed to deliver motor vehicle fuels, including but not limited to gasoline, diesel, ethanol blends, or alternative fuels. A single fuel pump may include one or more dispensing nozzles and is typically capable of serving one or more fueling bays simultaneously.

Gasoline service station.

(1)The term "gasoline service station" means any premises used primarily for the retail sale of fuel for automobiles, light and medium trucks, motorcycles, recreational vehicles, and other consumer motor vehicles. The term "gasoline service stations" may include light maintenance such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning, but shall not include heavy vehicle maintenance activities such as engine overhauls, automobile painting, and body fender work. The term "gasoline service station" may also include the sale of motor vehicle accessories or used tires taken in trade on the premises.

(2)The term "gasoline service station" does not include vehicle, moving truck, or trailer sales or rental.

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000009 Case History

Planning Commission Meeting: September 10, 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 create a beachfront overlay zoning district establishing a consistent visual, spatial and ecological transition buffer zone between the built environment and the beach and dune system.

Kiawah Beachfront Contextual Factors:

- Kiawah’s developed beachfront properties are largely single family residential.
- Remaining undeveloped parcels are principally non-single family residential properties owned by Kiawah Island Golf Resort (West Beach - Old Inn Site, East Beach - Sanctuary).
- Recent multifamily developments have created larger massed structures with more prominent visual presence and impact to beach profile.
- The vast majority of Kiawah’s beachfront has been conveyed to the Kiawah Island Community Association, adding a unique protection layer.
- Kiawah beachfront uniquely has parcels which extend to the MHW (West End – Timbers, Cape) (Royal Beach).
- Beachfront Setbacks: Rear setbacks vary for properties adjacent to the beachfront. They range from 20’ to 120’ depending on location and zoning district. Majority of rear setbacks are 25’, 30’, 50’, or 120’ measured from the rear property line. Property rear setbacks also factor in height of structures as the oceanfront setbacks for RST-2 Resort Zoning District include tiered heights lower closer to the ocean.
- Beachfront jurisdictional lines encroach in varied locations across the beach and dune system. These include developed lots along Eugenia Ave, which create areas of concern for long-term resiliency.
- TOKI has recently modified its Beachfront Jurisdiction and Management Ordinance, broadening the definition of beach to encompass primary dune.
- 2018 SC Beachfront Jurisdictional Lines provide a mapped reference point.
- South Carolina Code of Laws §48-39-280 requires SCDES BCM to establish and periodically review two beachfront jurisdictional lines - the baseline and the setback line - which delineate the extent of the state’s direct permitting authority for activities proposed within the beach/dune system critical area. The baseline is the more seaward (towards the ocean) line, while the setback line is the landward (towards the land) line. South Carolina will be updating the jurisdictional lines in 2026.

The proposed ordinance organizes additional beachfront standards within established buffer zones along the beachfront for the following intent and purposes.

- Establish a consistent visual, spatial, and ecological transition buffer zone between the built environment and the ocean, beach, and dune system;
- Protect Kiawah Island’s beachfront profile, view corridor and the ecological function of dune systems and maritime forest habitats;
- Promote coastal resilience and aesthetic compatibility through zoning and vegetation standards; and
- Maintain and enhance ocean views from properties and public vantage points, including boardwalks and beach access paths.

Key Factors of the Proposed Ordinance:

- The two buffer zones are established utilize the 2018 beachfront jurisdictional lines. The 2018 jurisdictional lines represent a consistent, known and measurable line that can be applied to surveys and site plans for proposed developments. It is anticipated that future jurisdictional baselines will not move any closer to the ocean, however, should future baselines move, the 2018 baseline creates a frame of reference for existing and future development as much of the ocean front properties have been developed.
- The ordinance does incorporate a clause should there be a need to reconsider the boundaries of the BOD, that the Planning Commission shall provide a recommendation to Town Council determining any adjustment to the district boundaries.
- The authorized uses of the underlying zoning district remain in place for the BOD.
- Seawalls, bulkheads or other hard erosion control structures are prohibited. Please note the referenced studies which highlight how seawalls increase erosion through wave reflection, reduce biodiversity, starve adjacent beaches of sediment and emphasize the importance of preserving natural dune systems and implementing living shoreline strategies (e.g., oyster reefs, dune restoration) as resilient and ecologically sound alternatives.
 - Seawalls are often considered visually unappealing and detract from the natural beauty of the coastline, which is important for tourism and recreation in coastal towns.
 - Seawalls stop the natural landward migration of the beach, causing it to narrow and eventually disappear in front of the wall as sea levels rise. As beaches narrow due to erosion caused by seawalls, access to the beach can become limited or even unsafe. Wave energy reflected off the seawall can scour the base of the wall and increase erosion on adjacent, unprotected beaches.
 - Seawalls replace natural sandy beach habitat with a hard, artificial structure, negatively impacting plants and animals that depend on the beach for nesting, breeding, and foraging. Studies have shown that beaches with seawalls have fewer and smaller intertidal species and significantly lower numbers of shorebirds and other birds compared to unarmored beaches.
- The ordinance increases oversight of dune and wildlife habitat protection by requiring coordination with the Town’s Environmental & Natural Resources Department for development projects impacting the beachfront.
- Existing structures within any of the established zones would be grandfathered.

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

The proposed ordinance establishes a consistent visual, spatial and ecological transition buffer zone between the built environment and the beach and dune system. The proposed ordinance considers existing structures potentially impacted by proposed standard reinforcing nonconformity status.

Pursuant to SC Code Title 48 - Environmental Protection and Conservation, Chapter 39, Coastal Tidelands and Wetlands, the proposed regulations will require review and approval by the South Carolina Department of Environmental services, specifically the Bureau of Coastal Management.

SECTION 48-39-100. Plan developed in cooperation with local governments.

(A) The management program specified in Section 48-39-90 shall be developed in complete cooperation with affected local governments in the coastal zone. This cooperation shall include, but not be limited to:

- (1) Involvement of local governments or their designees in the management program.*
- (2) Provision of technical assistance and grants to aid local governments in carrying out their responsibilities under this chapter.*
- (3) Dissemination of improved informational data on coastal resources to local and regional governmental units.*
- (4) Recommendations to local and regional governmental units as to needed modifications or alterations in local ordinances that become apparent as a result of the generation of improved and more comprehensive information.*

(B) Any city or county that is currently enforcing a zoning ordinance, subdivision regulation or building code, a part of which applies to critical areas, shall submit the elements of such ordinances and regulations applying to critical areas to the department for review. The department shall evaluate such ordinances and plans to determine that they meet the provisions of this chapter and rules and regulations promulgated hereunder. Upon determination and approval by the department, such ordinances and regulations shall be adopted by the department, followed by the department in meeting its permit responsibilities under this chapter and integrated into the Department's Coastal Management Program. Any change or modification in the elements of approved zoning ordinances, subdivision regulations or building codes applying to critical areas shall be disapproved by the department if it is not in compliance with the provisions of this chapter and rules and regulations promulgated hereunder.

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

- 1) **The South Carolina Department of Environmental Services Bureau of Coastal Management provides, review and affirms required coordination for consistency with its Coastal Management Program.**

PLANNING COMMISSION MEETING SEPTEMBER 10, 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.

Environmental and Legal Impacts of Seawalls and Hard Erosion Control Structures in South Carolina

South Carolina has conducted extensive research and developed clear policies discouraging the construction of seawalls and other hard erosion-control structures due to their environmental, ecological, and aesthetic impacts.

The South Carolina Beachfront Management Act explicitly states that such structures can exacerbate beach erosion, degrade public access, and create long-term dependency on costly interventions. Studies by SC DHEC, USGS, and environmental organizations such as SCELPA and the Coastal Conservation League highlight how seawalls increase erosion through wave reflection, reduce biodiversity, and starve adjacent beaches of sediment.

State-sponsored monitoring and annual reports emphasize the importance of preserving natural dune systems and implementing living shoreline strategies (e.g., oyster reefs, dune restoration) as resilient and ecologically sound alternatives. These findings are highly relevant for communities like Kiawah Island that are actively pursuing beach resilience and zoning updates.

References:

South Carolina Beachfront Management Act (1988)

This foundational legislation discourages new hard erosion-control structures along the beachfront and highlights their tendency to worsen erosion and degrade beach quality. It promotes soft engineering solutions like dune preservation and natural buffers.

Source: [SC DHEC Beachfront Management](#)

SCDES BCM's [Beach Erosion Research and Monitoring \(BERM\) Explorer Web Application](#).

This application shows monitoring station IDs, locations, and beach profiles. The application also allows users to calculate changes in sand volume between years at each profile and download raw data for additional analysis.

“Seawalls erode public beaches but save private homes” – The State (2024)

This article documents tensions between private property protection and public beach preservation, especially in Charleston, Hilton Head, and the Grand Strand. It outlines ecological consequences and the financial burden of renourishment.

Source: [The State Article](#)

USGS Coastal Erosion Study – Circular 1339

A multi-year study identifying shoreline retreat patterns in northeastern SC. It provides quantitative evidence that seawalls disrupt natural sediment transport, worsening erosion.

Source: [USGS Circular 1339](#)

Shoreline Issues: Past, Present and Future – South Carolina Environmental Law Project & Coastal Conservation League

This legal and policy review criticizes hard armoring for long-term coastal adaptation and promotes alternatives such as managed retreat and living shorelines.

Source: [SCELP Report](#)

NOAA/Nature Conservancy Living Shoreline Projects

This initiative highlights successful nature-based solutions like oyster reefs and marsh edge stabilization, improving biodiversity while reducing erosion.

Source: [NOAA Living Shorelines](#)

Sec. 12-81. Beachfront Overlay Zoning District.

(a) Purpose and intent. The purpose and intent of the Beachfront Overlay Zoning District (BOD) is to:

- (1) Establish a consistent visual, spatial, and ecological transition buffer zone between the built environment and the ocean, beach, and dune system;
- (2) Protect Kiawah Island's beachfront profile, view corridor and the ecological function of dune systems and maritime forest habitats;
- (3) Promote coastal resilience and aesthetic compatibility through zoning and vegetation standards; and
- (4) Maintain and enhance ocean views from properties and public vantage points, including boardwalks and beach access paths.

Activities or uses that would compromise these purposes and intents shall be prohibited or strictly regulated within the BOD.

(b) Effect & Applicability of overlay zoning district. The BOD shall apply to all properties within the established district boundaries as depicted on the official zoning map titled, "Town of Kiawah Island Beachfront Overlay Zoning District."

The BOD regulations of this section apply in addition to the underlying (base) zoning district regulations. In case of conflict between the regulations of this section and other regulations in this chapter, the regulations of this section shall prevail.

(c) District boundaries. The BOD includes parcels located within one hundred and fifty (150) feet of the 2018 South Carolina Beachfront Jurisdictional Setback Line, as established by the State of South Carolina, or parcels adjacent to the primary dune line of the beachfront as determined by the Town of Kiawah Island Beachfront Overlay Zoning District Boundaries. The official zoning map may be supplemented by a GIS overlay to refine exact boundaries.

- (1) No less than 120 calendar days after the South Carolina Department of Environmental Bureau of Coastal Management reviews and establishes the position of the beachfront jurisdictional lines, the Planning Commission shall provide a recommendation to the Town Council determining any adjustment to the district boundaries of the established Beachfront Overlay District.

(d) Authorized and prohibited uses.

- (1) Authorized uses. All uses permitted in the underlying zoning district shall be permitted unless otherwise restricted by the provisions of this article.
- (2) Beach walkovers shall be exempt from the provisions of this article and may be permitted in accordance with the Town of Kiawah Island Municipal Code Article 16 Beach Management.
- (3) Prohibited uses. Seawalls, bulkheads, and other hard erosion control structures shall be prohibited.

(e) Buffer Zones.

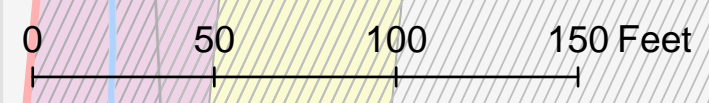
- (1) Buffer Zone A: A fifty (50) foot buffer zone shall be established landward from the 2018 South Carolina Beachfront Jurisdictional Baseline, as depicted in the Town of Kiawah Island Beachfront Overlay Zoning Map. (Buffer Zone A shall be measured from the baseline to fifty feet (50') landward from the baseline.

- a. No structures, including pools, shall be permitted within Buffer Zone A.

DRAFT

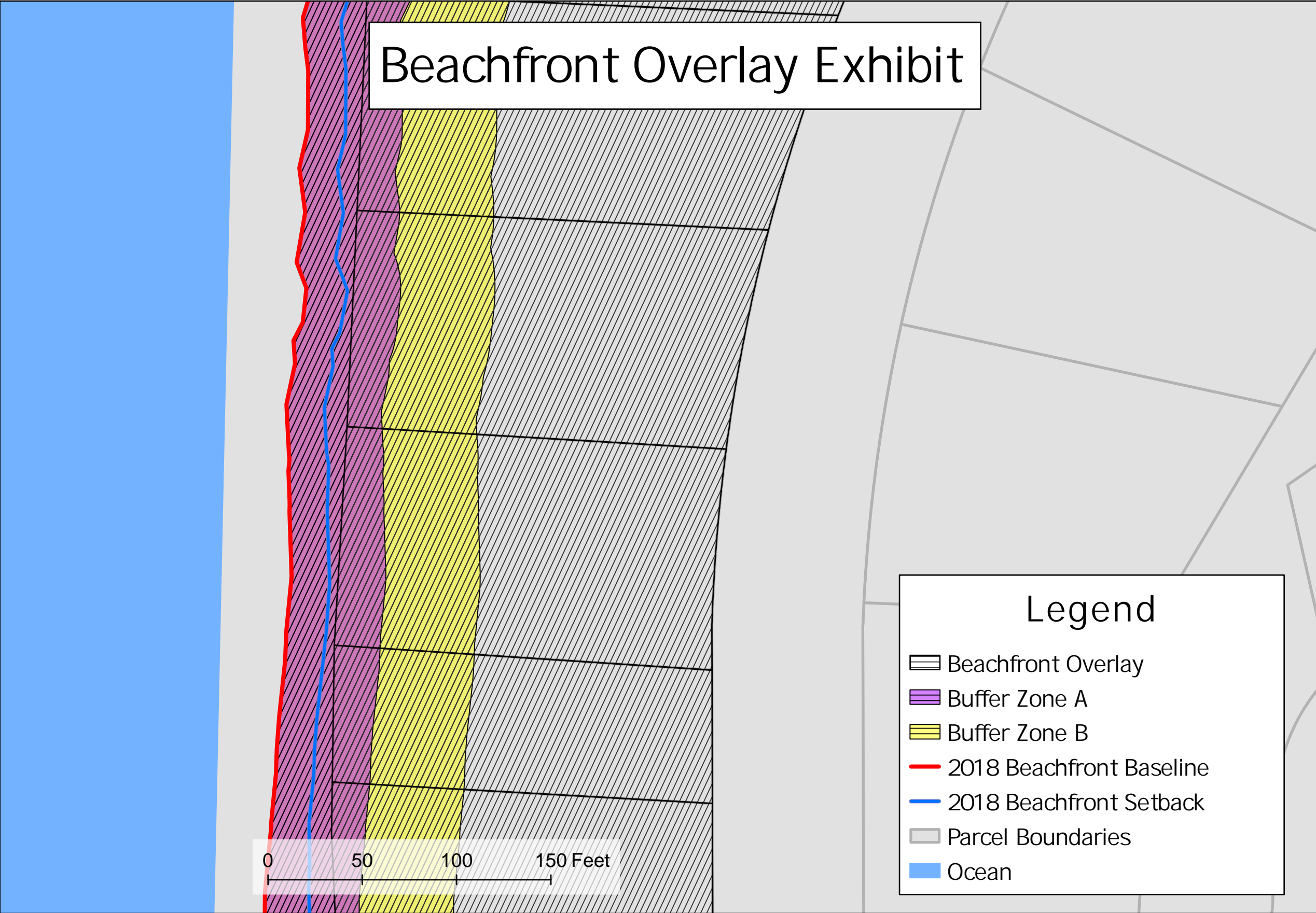
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- (2) **Buffer Zone B:** A fifty (50) foot buffer zone shall be established extending from the landward edge of Buffer Zone A (50 feet from the baseline) to a distance of one hundred (100) feet from the 2018 South Carolina Beachfront Jurisdictional Baseline, as depicted in the Town of Kiawah Island Beachfront Overlay Zoning Map. (Buffer Zone B shall be measured fifty feet (50') from the baseline measured landward to one hundred feet (100') from the baseline).
- a. Structures within Buffer Zone B shall not exceed a maximum building height of ten (10) feet as measured from the base building height elevation.
 - b. Improved areas within Buffer Zone B shall not exceed 20% of the total buffer zone area of the subject property. For purposes of application, improved areas includes any physical alteration to the existing site involving construction, as structures, paving, hardscapes, whether impervious or pervious.
- (f) **Building height.** Developments within the BOD should incorporate varied heights of a building's elements or sections, rather than maintaining a uniform height throughout the structure, to reduce visual massing toward the ocean.
- (g) **Dune protection.** No alteration, grading or site work shall impact the primary dune without prior coordination and written approval from the Town's Environmental & Natural Resources Department.
- (h) **Tree preservation and landscaping.**
- (1) Tree Protection and Landscaping Standards (Sec. 12-129) shall apply to the Beachfront Overlay District.
 - (2) Only native South Carolina coastal species may be planted within established Buffer Zones A and B.
 - (3) Invasive plant species are prohibited.
- (i) **Lighting.** All lighting within the BOD shall comply with the standards of the Town of Kiawah Island Municipal Code Article 16 Beach Management.
- (j) **Nonconformities.** Existing structures legally established prior to the adoption of this article shall be deemed nonconforming.
- (k) **Variances.** Relief from the provisions of this section may be granted by the Board of Zoning Appeals where strict application would result in undue hardship, provided such relief does not compromise the public interest or the purposes of this section.

Beachfront Overlay Exhibit

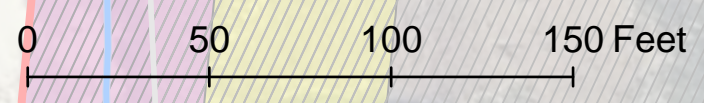


Legend







-  Beachfront Overlay
-  Buffer Zone A
-  Buffer Zone B
-  2018 Beachfront Baseline
-  2018 Beachfront Setback
-  Parcel Boundaries
-  Ocean

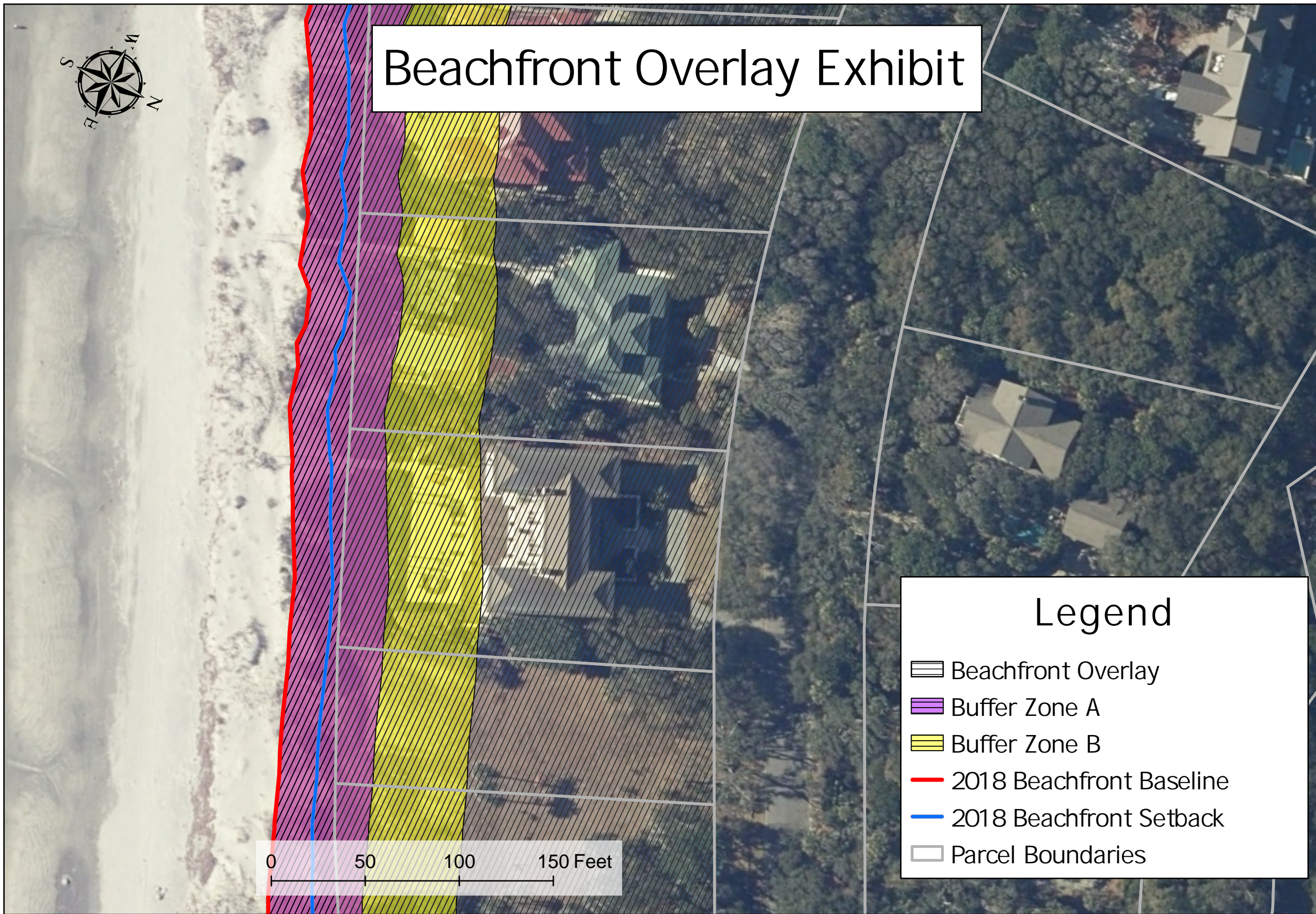


Beachfront Overlay Exhibit



Legend

-  Beachfront Overlay
-  Buffer Zone A
-  Buffer Zone B
-  2018 Beachfront Baseline
-  2018 Beachfront Setback
-  Parcel Boundaries



Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000004 Case History

Planning Commission Meeting: September 10, 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 establish a review body to provide a clear and transparent process for the architectural design review of commercial, mixed-use, civic, and multi-family residential developments in the Town of Kiawah Island, ensuring new development projects support community character and environmental stewardship.

The proposed ordinance establishes two new sections as referenced:

- Section 12-24.2. Design Review Board
- Section 12-130. Architectural Design Standards.

Background: In 2023, The Town of Kiawah Island and the Kiawah Island Community Association formed the Architectural Review Board Joint Workgroup with the goal of collaborating on the formation of a new, community-led architectural control function. This workgroup initially focused on identifying concerns around the cost, consistency and transparency of the existing architectural control processes on Kiawah. The goal of this transition was to permanently place responsibility for the architectural integrity of Kiawah Island into the hands of property owners. With the efforts, considerations and actions of this transition process to date, there is uncertainty of the comprehensive timeline and future architectural controls for development on Kiawah. With the uncertainty of architectural controls for development in the future for Kiawah Island, the Town of Kiawah Island now finds that it is in the public interest to amend the Town of Kiawah Island Land Use Planning and Zoning Ordinance to establish a body which makes provisions to protect and improve the unique character of Kiawah Island. The Town of Kiawah's proposed design review board will operate and function independently of any existing architectural review controls.

Legal Framework: The proposed DRB would be established under the authority of South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (Title 6, Chapter 29, SC Code) (S.C. Code 1976, §§ 6-29-870—6-29-910)

The proposed ordinance establishes a Design Review Board and administration of architectural design controls via an established *Town of Kiawah Island Architectural Design Principles and Guidelines*.

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

The next stage of this process in establishing architectural review controls for the Town, is to formulate principles, standards, and or guidelines. Planning staff recommends design principles be established to guide decisions of the proposed design review board. These principles consider the following elements:

- Site Orientation and Building Layout
- Massing and Scale
- Building and Structure Heights
- Fenestration
- Environmental Stewardship

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

PLANNING COMMISSION MEETING SEPTEMBER 10, 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.

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Sec. 12-24.2. Design Review Board.

- (a) *Creation.* The Town of Kiawah Island Design Review Board (DRB) has been created and is authorized to act pursuant to S.C. Code 1976, §§ 6-29-870—6-29-910.
- (b) *Composition and appointment of term of office of members.*
- (1) The Design Review Board shall consist of five members. The DRB shall consist of a cross section of compensated design professionals and non-compensated property owners or resident members, all to be appointed by the Town Council. At least four members shall be registered design professionals or have relevant professional credentials and expertise in the areas of architecture, landscape architecture, urban planning, construction or similar field. The term "resident member" means a person who resides permanently within the Town of Kiawah Island for not less than eight months of each calendar year.
 - (2) The term of office for members shall be four years from the date of appointment. Any vacancies shall be filled for the unexpired term by the Town Council. Only compensated members are eligible to receive compensation for their service at the discretion of Town Council. All members may also be reimbursed for actual expenses incurred in connection with their official duties, provided the Town Council has approved such expenditures in advance. Compensation shall be set by Town Council.
 - (3) No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of 12 months.
 - (4) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - (5) The DRB shall elect a chair and vice-chair for one-year terms.
 - (6) The Planning Director or designee shall serve as Secretary of the DRB.
- (c) *Administrative office.* The Office of the DRB shall be located in the Town Municipal Center. All applications or requests and other papers to be filed with the DRB are to be filed with the Planning Director or designee of the Kiawah Island Planning Department not less than 30 working days prior to the DRB meeting at which the matter will be heard.
- (d) *Meetings.* Meetings of the DRB shall be at the call of the Chairperson and at such other times as the DRB may determine.
- (1) All meetings of the DRB shall be open to the public.
 - (2) The Chairperson may call a special meeting of the Design Review Board. In the event that such a special meeting is called, the Chairperson, at their discretion, shall give notice to interested parties that any or all pending matters before the DRB will be heard and considered at such special meeting.
- (e) *Rules of procedures and records.* The DRB shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such actions, all of which shall immediately be filed in the office of the DRB and shall be a public record. The DRB may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
- (f) *Functions and powers.* The Design Review Board shall have the following powers:
- (1) The DRB shall have jurisdiction over all lands within the municipal limits of the Town of Kiawah Island.
 - (2) The DRB shall establish a process for sequenced reviews that will protect and improve the visual and aesthetic character of development within the Town of Kiawah Island.

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- (3) The DRB shall review and render decisions using guidelines as referenced within the “Town of Kiawah Island Design Review Principles and Guidelines”.
 - (4) The DRB shall be in place to review and render decisions on proposed non-single-family residential developments pursuant to established architectural standards and guidelines of the Town of Kiawah Island.
 - (5) The DRB may recommend such legislation as may be needed and practicable to pursue the purpose for which the DRB was established.
- (g) *Filing of applications to the Design Review Board.*
- (1) All applications and matters brought before the DRB shall be heard in the order of filing at the regular meeting of the DRB; provided, however, that the DRB shall set its meeting agenda and determine the number of applications it will hear.
- (h) *Published notice for hearings of the Design Review Board.* Applications considered for a final review decision of the DRB shall be held pursuant to notice provisions as specified in Section 12-156.
- (i) *Decisions of Design Review Board.* The DRB shall approve, approve with conditions or disapprove applications submitted pursuant to this article and the “Town of Kiawah Island Design Review Principles and Guidelines”.
- (1) The DRB may grant relief from established principles and guidelines, where exceptional circumstances exist and where the DRB determines that the applicant demonstrates the relief does not adversely affect the character of the properties within the vicinity nor interfere with the purposes of this article.
 - (2) The DRB may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the DRB may consider advisable to protect neighborhood character, aesthetic or property values in the surrounding area, or to promote the public health, safety, or general welfare.
- (j) *Lapse of approval.* DRB approval shall lapse and be of no further effect 18 months after the date the application and development plans were granted approval by the DRB.
- (k) *Minutes of the Design Review Board.* The decisions of the DRB shall be in writing and signed by the Chairperson or designee. The minutes of the DRB shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the DRB shall be filed in the offices of the DRB. These decisions shall be a public record.
- (l) *Appeals from Design Review Board decisions.* Any person who may have a substantial interest in any decision of the DRB or any officer or agent of the Town may appeal from any decision of the DRB to the Circuit Court in and for the county by filing with the clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the DRB is rendered.

(Ord. No. 2024-01, § 2(Exh. E), 4-2-2024)

Sec. 12-130. Architectural Design Standards.

- (1) *Purpose and Intent.* The purpose of these regulations are to provide a clear and transparent process for the architectural design review of commercial, mixed-use, civic, and multi-family residential developments in the Town of Kiawah Island, ensuring new development projects support community character and environmental stewardship.

The intent of these regulations is to:

- a. Preserve the natural character of existing neighborhoods;
 - b. Ensure aesthetic compatibility with existing character of Kiawah;
 - c. Promote integrated development with nature;
 - d. Maintain and or improve aesthetic values; and to
 - e. Establish consistent application of minimum standards and guidelines for architectural design.
- (2) *Applicability & Exemptions.* The provisions of this article apply to all real property within the municipal limits of the Town of Kiawah Island, excluding single-family residential developments, except single family residential developments which are not subject to review or purview of any established architectural review board.
- (3) *Architectural Standards and Guidelines.* Proposed developments shall be reviewed in accordance the provisions of this article and the “Town of Kiawah Island Design Review Principles and Guidelines”.
- (4) *Application & Review Stages.*
- a. *Preliminary Review:* Prior to advancing a development project, the applicant shall submit for preliminary review and approval to the Design Review Board. Preliminary Review shall not constitute final approval of architectural design.
 - b. *Final Review:* Prior to submitting for zoning review and approval, applicants shall receive final Design Review Board approval.
- (5) *Design Review Board.*
- a. The Design Review Board shall review with the authority to approve, approve with conditions, or disapprove developments in accordance with the provisions of the article.
- (6) *Inspections, Violations, and Fines.*
- a. The Town reserves the right to inspect the site or property at any reasonable time for compliance with approved standards and guidelines. Town Staff may inspect the site one year after the issuance of a permanent Certificate of Occupancy in order to ensure compliance with the approved plans.
 - b. If the Town finds a development in violation of this article or if an applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the proposed development that was made pursuant to the provisions of this article, the applicant or property owner shall be in violation of this article.
 - c. Any applicant or property owner in violation of this ordinance shall be subject to fines or penalties as prescribed in this article and or other remedies and enforcement actions pursuant to section 12-214.

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Town of Kiawah Island

Design Review Board – Architectural Design Principles & Guidelines

Purpose

These design principles and guidelines are intended to guide property owners and design professionals in achieving thoughtful, context-sensitive architecture that reflects Kiawah Island's unique character. All projects should reinforce the Town's principle of Living with Nature within the comprehensive plan by integrating built form with the Island's natural landscape, scale, and community character.

Implementation and Review

- The Design Review Board will apply these guidelines as a framework for review, balancing flexibility with consistency.
 - Applicants are encouraged to submit contextual studies, perspective renderings, and material samples demonstrating how projects meet these principles.
 - The DRB may require modifications where proposals conflict with the intent of these principles and guidelines.
-

A. Site Orientation and Layout

Principles

- Respect the Island's natural topography, vegetation, and ecological systems.
- Prioritize site planning that reduces visual and environmental impacts.
- Encourage connections to the pedestrian and open space network.

Guidelines

1. Orient primary building facades to maximize natural light and ventilation while minimizing heat gain.
2. Position buildings to preserve significant trees, wetlands, dunes, and other natural features.

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3. Avoid large expanses of paving; cluster parking areas and screen them with native landscaping.
 4. Site buildings to maintain view corridors to natural features (marsh, forest edges, ocean).
 5. Incorporate pedestrian pathways, shaded outdoor areas, and connections to nearby amenities.
-

B. Massing and Scale

Principles

- Ensure buildings complement the Island's human-scaled, natural character.
- Break down larger developments into visually cohesive but distinct components.
- Use form and rhythm to harmonize with surrounding development and natural setting.

Guidelines

1. Employ varied rooflines, articulated facades, and step-backs to avoid monolithic appearances.
 2. Use massing strategies that reflect a hierarchy of forms (primary volume with secondary wings or terraces).
 3. Break large buildings into smaller scaled segments to maintain pedestrian-friendly proportions.
 4. Design transitions between building elements to reduce perceived bulk at edges or along public frontages.
 5. Consider how massing interacts with the skyline and treeline, ensuring natural dominance.
-

C. Building and Structure Heights

Principles

- Building height should reinforce Kiawah's low-rise, nature-focused identity.

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- Height should transition thoughtfully to surrounding contexts, especially near sensitive habitats and existing neighborhoods.

Guidelines

1. Limit building heights to maintain a harmonious relationship with surrounding vegetation and structures.
 2. Step down heights along sensitive edges (adjacent single-family areas, critical area, marsh fronts, or ocean fronts).
 3. Use roof forms (hipped, gabled, or gently sloped) to blend with the natural canopy line.
 4. Screen rooftop mechanicals and equipment with architectural enclosures integrated into building design.
 5. Avoid flat-topped silhouettes that create stark contrasts with the natural environment.
-

D. Fenestration (Windows, Doors, Openings)

Principles

- Openings should contribute to human scale, rhythm, and transparency while respecting privacy and energy performance.
- Fenestration should enhance the building's relationship to the outdoors and natural light.

Guidelines

1. Windows and doors should be proportioned and grouped to create balanced compositions.
2. Avoid excessive expanses of unbroken glass; use mullions, bays, or screens to provide rhythm.
3. Orient and shade fenestration to minimize glare and heat gain while maximizing natural light.
4. Employ materials and colors that reduce reflectivity and blend with natural surroundings.

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5. Encourage the use of porches, loggias, screened rooms, and recessed openings to create depth and shadow.
 6. Ground-floor fenestration should promote activity and visual connection with the public realm.
-

E. Environmental Stewardship and Process

Principles

- Protect Kiawah's ecosystems during and after construction.
- Minimize disruption and restore impacted areas.

Guidelines

1. Establish tree/vegetation protection zones before construction.
2. Employ low-impact construction access and staging to development sites.
3. Use native plantings for restoration and landscape.
4. Integration of pervious materials and nature based solutions for stormwater management
5. Encourage sustainable materials and energy-efficient building practices.

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000012 Case History

Planning Commission Meeting: September 10, 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* Article II. - Zoning, Division 4 – Supplemental Regulations, Sec. 12-128. - Access, parking and loading regulations. to modify minimum parking standards.

Key Factors of the Proposed Ordinance:

The proposed amendment modifies the minimum parking requirements for multifamily and hotel uses.

- Introduces specific bedroom allocations
- Clarifies hotel guestroom requirements

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

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

PLANNING COMMISSION MEETING: SEPTEMBER 10, 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.

Sec. 12-128. Access, parking and loading regulations.

The following regulations are intended to aid in the design and location of proper access, parking, and loading areas in order to maintain safe and efficient traffic flow and to ensure adequate parking facilities for developments.

- (1) *Access/driveways.* The following regulations shall apply to all development to prevent the proliferation of poorly spaced driveways that can result in reduced safety and carrying capacity of community streets, except that the distances may be varied in accordance with section 12-163 to permit the construction of a single, safe access where no other access to a lot is possible.
 - a. Generally, any lot having access to more than one type of street shall provide access on the street designed for the lowest traffic volume.
 - b. Nonresidential properties having access to a minor and collector street may construct a single driveway on the collector street, provided that the driveway complies with the standards herein.
 - c. There shall be only one curb cut for an individual lot or parcel. ~~Town-Planning Director~~ approval shall be required for more than one curb cut to an individual lot or parcel from any street, where there is a compelling reason.
 - d. No lot or development parcel shall directly access Kiawah Island Parkway and the arterial portions of Governor's Drive and Flyway Drive.
 - e. Private residential driveways shall be a minimum of ten feet in width and provide a vertical clearance of a minimum of 13.5 feet. Nonresidential driveways shall be a minimum of 18 feet in width and provide a vertical clearance of a minimum of 13.5 feet.
- (2) *Spacing between driveways and intersections.* The centerline of driveways shall be separated from the centerline of other driveways and intersections in accordance with the following table 4D, excepting lots platted prior to adoption of the ordinance from which this article is derived and where relief is needed to protect essential natural features, such as specimen trees and dunes:

Road Type	Minimum driveway separation
Arterial	Driveways prohibited
Collector	75 feet
Minor	No spacing limitation

- a. No driveway shall be permitted providing access to an arterial street if the property has access to a collector or minor street.
 - b. On minor streets, no driveway should be permitted within 60 feet of an intersection, except when relief is needed due to an existing tree, unusual lot configuration, wetlands or other topographical or geographic feature of the lot.
 - c. When channelized right turn lanes are used, the Planning Director shall determine the minimum spacing between the driveways and intersections based on AASHTO standards as modified by site-specific conditions.
- (3) *Parking and loading.* This section specifies the minimum parking and loading standards for the Town. Where strict interpretation of these standards creates a unique hardship, an individual may seek a variance pursuant to section 12-163.

- a. *Minimum parking requirements.* Each use shall provide the number of parking spaces specified in table 4F in subsection (3)c of this section and comply with the following:
1. The Planning Director shall determine the number of parking spaces required for uses not referenced in table 4F in subsection (3)c of this section by first applying the standard for the most similar use or uses as listed in the table. If there is no similar use, the Planning Director may make a determination or may request that the applicant undertake a parking study.
 2. Any fraction of a parking space required under this article shall be counted as a full parking space.
 3. Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown below in table 4E in subsection (3)b of this section, or as requirements are amended by Federal Law.
 4. Parking requirements shall be based on gross leasable area.
 5. Off-street parking facilities shall be provided for any new building constructed and for any new use established, for any addition or enlargement of an existing building or use, or for any change of occupancy or manner of operation that would result in additional parking spaces being required; provided, however, if insufficient parking exists on a lot or parcel, then the number of spaces required to meet the needs of both the existing and new buildings or uses shall be provided.
 6. Facilities being used for off-street parking on the effective date of this article shall not be reduced in capacity to less than the number of spaces prescribed, nor shall they be altered in design or function to less than the minimum standards prescribed herein.
 7. For sites with more than one use, or for adjacent sites served by a common parking facility, the parking requirement shall be the total number of spaces required for each site or use.
- b. *Accessible parking for physically disabled persons.* Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown in the following table 4E:

Table 4E. Minimum Number of Accessible Spaces for Physically Disabled Persons			
Total Parking Spaces Provided	Minimum Number of Spaces		
	Accessible	Van Accessible	Car Accessible
1—25	1	1	0
26—50	2	1	1
51—75	3	1	2
76—100	4	1	3
101—150	5	1	4
151—200	6	1	5
201—300	7	1	6
301—400	8	1	7
401—500	9	2	7
501—1,000	2 percent of total spaces	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
Over 1,000	20 + 1 per each 100 spaces over 1,000		

- c. *Minimum dimensions.* All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:
1. *Car accessible spaces.* Car accessible spaces shall have at least a five-foot-wide access aisle located abutting the designated parking space.
 2. *Van accessible spaces.* Van accessible spaces shall have at least an eight-foot-wide access aisle located abutting the designated parking space.
 3. *Proximity to main entrance.* All accessible spaces shall be in close proximity to the main entrance of the facility being served.

Table 4F. Off-Street Parking Requirements	
Type of Development	Required No. of Parking Spaces ⁽¹⁾
Residential	
Single-family detached	2 spaces per dwelling unit (DU) ⁽²⁾
Duplex	2 spaces per dwelling unit
Patio homes	2 spaces per 2 bedroom per dwelling unit
Townhouses	2.5 spaces per 3 or more bedroom per dwelling unit
Multiple-family	Spaces per bedroom type and as required for associated uses 1.5 spaces per efficiency or 1 bedroom per dwelling unit
<u>1 Bedroom</u>	<u>2 spaces per unit per 1 bedroom</u>
<u>2 Bedroom</u>	<u>2 spaces per unit plus 0.25 guest spaces per unit</u>
<u>3+ Bedroom</u>	<u>2.5 spaces per unit plus 0.25 guest spaces per unit</u>
Hotels	
Guestrooms	1.25 spaces per room Guestrooms, conference area, and as required for associated uses <u>1.5 spaces per guestroom 1 space per 4 persons allowed under maximum occupancy</u>
Conference area (part of hotel structure)	<u>1 space per 3 persons allowed under maximum occupancy for public meeting, assembly and or banquet rooms plus 1 space per 75 square feet of indoor seating area, plus 1 per 200 square feet of outdoor seating area</u>
<u>Associated Uses</u>	50 percent of parking required for other uses (<u>restaurants, bar, office, retail, pool, etc.</u>)
<u>Employees</u>	<u>1 space per employee on the largest shift</u>
Other uses⁽²⁾	
General office	1 space per 300 square feet of GLA
Real estate sales/leasing	1 space per 100 square feet of GLA
Doctor/dentist office	1 space per 100 square feet of GLA
Retail/service	1 space per 250 square feet of GLA
Restaurant	1 space per 75 square feet of indoor seating area, plus 1 per 200 square feet of outdoor seating area
Religious activities and public assembly	1 space per 50 square feet of assembly area
Convention center (not accessory to hotel)	1 space per <u>34</u> persons allowed under maximum posted occupancy, plus 1 per employee in <u>of the largest</u> shift
Community services	1 space per 2 employees plus 1 per company car parked on the premises
Recreational	

Driving range	1.5 spaces per tee
Golf courses	4 spaces per hole, plus 50 percent of the other uses, plus 1 space per employee on the largest shift ⁽³⁾
Tennis courts	2 spaces per court, plus 50 percent of the other uses, plus 1 space per employee on the largest shift ⁽³⁾
Marinas	3 spaces per 4 slips, plus 50 percent of the other uses ⁽³⁾
Swimming pool	1 space per 300 square feet pool and deck area
Food and beverage	1 space per 75 square feet of indoor seating area, plus 1 space per 200 square feet of food service area
Other recreational facilities, indoor	1 space per 300 sq. ft
Parks (note: in addition to any other uses in this table)	1 space per 2 acres with minimum of 3 spaces
Mixed use parking	Calculated per individual use as set forth in this table
⁽¹⁾ The Planning Director may determine that parking in addition to any of the parking set forth in this table is necessary in the form of overflow parking on pervious surfaces.	
⁽²⁾ <u>Residential parking space requirements may be satisfied by garage or covered spaces.</u>	
⁽²⁾ Single-family residences shall have adequate turnaround space along driveways so that vehicles do not need to back into or out of driveways.	
⁽³⁾ Other uses may include accessory meeting rooms/convention facilities and accessory restaurants.	

d. *Parking design standards.* The following are minimum design standards, the Planning Director may require modifications to parking lot design to ensure the safety of pedestrians, bicyclists and motorists:

1. All off-street parking shall be located outside of required landscape buffer areas and behind front building lines.
2. Parking facilities constructed, or reconstructed greater than 50 percent of their original size, subsequent to the effective date of the ordinance from which this article is derived shall conform to these design standards.
3. All required parking facilities shall be maintained for the duration of the use requiring such facilities. Parking facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display or storage of merchandise, or for the storage or repair of vehicles or equipment.
4. All required parking facilities shall be located on the same site as the use for which such facilities are required.
5. On street head-in parking is prohibited.
6. Angled parking is prohibited.
7. Required parking for residential uses shall be provided within an enclosed garage.
8. Each standard parking space shall consist of an independently accessible rectangular or trapezoidal area.
9. Each parking space shall have a vertical clearance of at least 7.5 feet.
10. Each parking and loading area shall have adequate drives, aisles, and turning and maneuvering areas for access and usability, and shall at all times have access to a street or alley.

11. The minimum parking facility design standards are listed in table 4G in this subsection.
12. Where applicable, the Planning Director may require overflow parking spaces in addition to those required in table 4F in subsection (3)c of this section. All overflow parking spaces shall be of a pervious surface.
13. Required parking spaces shall not have direct access to a street or highway. Access to required parking spaces shall be provided by on-site driveways. Off-street parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way.

Parking Pattern (degrees)	Maneuvering Lane Width (feet)		Parking Space Dimensions (feet)		Total Width of Two Tiers of Spaces and Maneuvering Lane (feet)	
	One-Way	Two-Way	Width	Length	One-Way	Two-Way
0 (parallel)	11	18	8.5	25	28	35
30—50	12	20	9	18	48	56
54—75	13	22	9	18	49	58
76—90	N/A	24	9	18	N/A	60

- e. *Markings.* In paved parking areas, each off-street parking space shall be identified by surface markings at least four inches in width. Marking shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles.
- f. *Off-street loading requirements.*
 1. *Spaces required.* For every nonresidential use there shall be provided sufficient space to accommodate the maximum number of trucks that will be loading, unloading, or standing at any one time.
 2. *Size of space.* Each off-street loading space shall be of a size commensurate with the buildings to be accommodated. In no case shall required off street loading space encroach upon off street parking space required by this article.
 3. *Location.* All required off street loading spaces shall be located on the same lot as the building which they are intended to serve.
 4. *Entrances and exits.* Off-street loading entrance and exit drives shall be located at least 25 feet from any street intersection.
 5. *Loading spaces adjacent to sidewalks.* Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged, and improved with curbs or other barriers, as to provide adequate protection for pedestrians.
 6. *Maneuvering areas.* All off street loading spaces shall be provided with adequate off street maneuvering areas.

Gross Floor Area (square feet)	Loading and Unloading Spaces Required
0—1,999	None
2,000—4,999	1 space at the discretion of the Planning Director
5,000—19,000	1 space

20,000—99,000	1 space, plus one space for each 20,000 square feet or portion thereof in excess of 20,000 square feet
100,000 or more	5 spaces, plus one space for each 40,000 square feet or portion thereof in excess of 100,000 square feet

g. *Parking, loading and vehicular use area landscaping.* See section 12-129, Tree Preservation and Landscaping Standards.

h. *Paving and drainage.*

1. For all uses except single-family dwellings, parking and loading facilities shall be surfaced and maintained with asphaltic concrete or other permanent hard surfacing material sufficient to prevent mud, dust, loose material and other nuisances. Pervious materials may be allowed as approved by the Planning Director.
2. All parking and loading facilities shall be designed, graded and provided with permanent storm drainage facilities that prevent standing water on any parking area, and do not increase the flow of water onto adjacent properties, streets or alleys.

(Code 1993, § 12A-405; Ord. No. 94-12, § 2(12A-404), 9-26-1994; Ord. No. 2005-08, § 12A-405, 10-12-2005; Ord. No. 2025-02, § 2(Exh. B), 3-4-2025)

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000013 Case History

Planning Commission Meeting: September 10, 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 clarify memberships of planning boards.

The proposed ordinance amends the following sections:

- Sec. 12-23. - Planning Commission.
- Sec. 12-24. - Board of Zoning Appeals.
- Sec. 12-24.1. - Landscape and Tree Preservation Board.

Key Factors:

- Clarifies the composition of the various boards.
- Clarifies resident members are located within the municipal boundaries of the Town opposed to on Kiawah Island.
- With the Town pursuing establishing DRB, the proposed amendment clarifies the reference of "Board" for the BZA to distinguish the Board of Zoning Appeals.
- Incorporates a clause for the Landscape and Tree Preservation Board that Town Council may consider the appointment of nonresident or property owner design professionals members where appropriate for a compelling reason.

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

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

PLANNING COMMISSION MEETING SEPTEMBER 10, 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.

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Sec. 12-23. Planning Commission.

- (a) *Creation.* The Town of Kiawah Island Planning Commission is hereby created as authorized by S.C. Code 1976, §§ 6-29-310—6-29-380.
- (b) *Composition; appointment and term of office of members.*
- (1) The Planning Commission shall consist of seven Kiawah Island property owners; members to be appointed by the Mayor with the consent of the Town Council. At least five of these property owners shall be resident members. The term "resident member" means a person who resides permanently ~~on~~ within the Town of Kiawah Island municipal boundaries for not less than eight months of each calendar year.
 - (2) The term of office shall be for four years. Any vacancy shall be filled for the unexpired term by an individual appointed by the Mayor with the consent of the Council. A Secretary and Chairperson shall be elected at the first meeting of each year. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided the Town Council has approved such expenditures in advance.
 - (3) No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of 24 months.
 - (4) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - (5) Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.
- (c) *Organization and procedural rules governing the Planning Commission.*
- (1) The Planning Commission shall organize itself electing one of its members as Chairperson and one as Vice-Chairperson whose terms are for one year. The Planning Commission shall appoint a secretary who may be an officer or an employee of the Town or of the Planning Commission. The Planning Commission shall meet at the call of the Chairperson and at such times the Chairperson or Planning Commission may determine.
 - (2) The Planning Commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Planning Commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
- (d) *Functions and powers.* The Planning Commission shall have the functions and powers set forth in S.C. Code 1976, § 6-29-340 of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended. In the discharge of its responsibilities, the Planning Commission has the power and duty to:
- (1) Prepare and revise the comprehensive plan and programs for the development and redevelopment for the Town of Kiawah Island.
 - (2) Prepare and recommend for adoption to Town Council the following to implement plans and programs within the Town:
 - a. A zoning ordinance that includes zoning district maps and appropriate revisions thereof;
 - b. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that are adopted by Town Council;
 - c. An official map and appropriate revision of it showing the exact location of existing or proposed public streets, highways, and utility rights-of-way, and public building sites; regulations to control

- the erection of buildings or other structures; changes in land use within rights-of-way, building sites, or open spaces within the Town or specified areas within the Town;
- d. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
 - e. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the Town Council or other governmental bodies responsible for implementation prior to preparation of their capital budget; and
 - f. Policies or procedures to facilitate implementation of planning elements.
- (3) Hear appeals of administrative decisions (by staff) related to subdivision regulations (S.C. Code 1976, § 6-29-1150(C)).
- a. Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the Planning Commission by a party in interest.
 - b. The Planning Commission shall act on the appeal within 60 days and the action of the Planning Commission is final.
 - c. An appeal from the decision of the Planning Commission may be taken to circuit court within 30 days after actual notice of the decision.
- (4) Review site plans pursuant to section 12-162, Site Plan Review.
- (5) Approve street names (S.C. Code 1976, § 6-29-1200).
- a. The Planning Commission shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the Commission has jurisdiction. It is unlawful for a person in laying out a new street or road to name the street or road on a plat, by a marking or in a deed or instrument without first getting the approval of the Planning Commission. Any person violating this provision is guilty of a misdemeanor and, upon conviction must be punished in the discretion of the court.
 - b. The Planning Commission may, after reasonable notice through a newspaper having general circulation in which the Commission is created and exists, change the name of a street or road within the boundary of its territorial jurisdiction:
 - 1. When there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;
 - 2. When it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or
 - 3. Upon any other good and just reason that may appear to the Commission.
 - c. On the name being changed, after reasonable opportunity for a public hearing, the Planning Commission shall issue its certificate designating the change, which must be recorded in the Office of the Register of Mesne Conveyances or Clerk of Court, and the name changed and certified is the legal name of the street or road.

(Code 1993, § 12A-105; Ord. No. 94-12, § 2(12A-104.2), 9-26-1994; Ord. No. 2005-08, § 12A-105, 10-12-2005; Ord. No. 2006-14, § 2.A.1, 1-9-2007; Ord. No. 2024-05, § 2(Exh. A), 4-2-2024; Ord. No. 2024-07, § 2(Exh. B), 5-7-2024)

Sec. 12-24. Board of Zoning Appeals.

- (a) *Creation.* The Town of Kiawah Island Board of Zoning Appeals (~~Board~~BZA) has been created and is authorized to act pursuant to S.C. Code 1976, §§ 6-29-780—6-29-860.
- (b) *Composition and appointment of term of office of members.*
- (1) The Board of Zoning Appeals shall consist of seven ~~members -Kiawah Island property owner resident members,~~ each to be appointed by the Mayor with the consent of the Town Council. At least five of these members shall be resident members. The term "resident member" means a person who resides permanently ~~on~~within the Town of Kiawah Island municipal boundaries for not less than eight months of each calendar year.
 - (2) The term of office for members shall be for three years from the date of appointment. Any vacancies shall be filled for the unexpired term by the Mayor with the consent of the Town Council. A Secretary and Chairperson shall be elected at the first meeting of each year. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided the Town Council has approved such expenditures in advance.
 - (3) No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of 24 months.
 - (4) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - (5) Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.
- (c) *Organizational and procedural rules governing the Board of Zoning Appeals.* The Board of Zoning Appeals has adopted the following rules and regulations:
- (1) *Administrative office.* The Office of the Board of Zoning Appeals shall be located in the Town Hall Office, and the meetings of the ~~Board~~BZA shall be held in the adjacent conference room unless otherwise designated by the Chairperson. All notices of appeal and other papers to be filed with the ~~Board~~BZA are to be filed with the Planning Director of the Kiawah Island Planning Department not less than 30 working days prior to the ~~Board~~BZA meeting at which the matter will be heard. The Planning Director shall prepare the documentation of the variance requested and the associated exhibits and forward these to the ~~Board~~BZA members no fewer than ten working days prior to the next ~~Board~~BZA meeting.
 - (2) *Officers.* The Board of Zoning Appeals shall elect one of its members as Chairperson and one as Vice-Chairperson whose terms are for one year. The Planning Director shall serve as Secretary of the ~~Board~~BZA. Meetings of the ~~Board~~BZA shall be at the call of the Chairperson and at such other times as the Board may determine. All meetings of the ~~Board~~BZA shall be open to the public. The ~~Board~~BZA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such actions, all of which shall immediately be filed in the office of the ~~Board~~BZA and shall be a public record.
 - (3) *Rules of procedures and records.* The Board of Zoning Appeals shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Board of Zoning Appeals may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
- (d) *Functions and powers.* The Board of Zoning Appeals shall have the following powers, pursuant to S.C. Code 1976, § 6-29-800:

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- (1) *Administrative review.* To hear and decide appeals, subject to the procedure and standards set forth in this article, when it is alleged by the appellant that any administrative official has made an error in any order, requirement, decision, or determination. This requirement shall not apply to advisory or recommendatory actions of any such administrative official or agency.
 - (2) *Variations.* To hear and decide applications for variance from zoning standard requirements of this article, subject to the procedure and standards set forth in section 12-163.
 - (3) *Special exceptions.* To permit uses by special exception subject to the terms and conditions for those uses as identified in this article (section 12-161).
 - (4) *Filing of appeals to the Board of Zoning Appeals.*
 - a. Appeals from the acts of officials pursuant to the authority granted by this article shall be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, board or bureau of the Town, as well as by any person having a substantial interest in any decision of an administrative officer to enforce this article. An appeal shall be evidenced by filing with the Planning Director within five working days of the action appealed from, a written notice of appeal specifying the grounds thereof and the modifications being sought.
 - b. All appeals, applications and matters brought before the Board of Zoning Appeals shall be heard in the order of filing at the regular meeting of the Board of Zoning Appeal; provided, however, that the Board of Zoning Appeals shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Board of Zoning Appeals.
 - c. Appeals to consider any such appeal, application or matter. In the event that such a special meeting is called, the Chairperson, at his discretion, shall give notice to interested parties that any or all pending matters before the Board of Zoning Appeals will be heard and considered at such special meeting.
 - d. Published notice for appeals shall be provided in accordance the notice provisions of this article.
 - (5) *Effect of appeal.* An appeal to the Board of Zoning Appeals stays all proceedings in furtherance of the action appealed. An exception is when the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, and notice to the officer from whom the appeal is taken, and on due cause shown.
 - (6) *Hearing on appeal.*
 - a. Hearings on appeals shall be completed within 60 calendar days of the appeal, however, failure to render a decision on an appeal within such time period shall not be deemed an approval of such appeal. At the hearing of an appeal, the parties thereto may offer affidavits, testimony, or other evidence in support of their claims; and the Board of Zoning Appeals, on its own motion, may call before it other witnesses. All persons giving any testimony or evidence whatsoever at a Board of Zoning Appeals meeting must be sworn in. To save time, the oath will be recited as a group prior to the review of cases to be presented. However, anyone not present or not participating in the group swearing in will be required to be separately sworn in prior to giving evidence or testimony.
 - b. At the hearing and consideration of appeals, reasonable time and opportunity shall be allowed to interested parties to introduce testimony and other evidence. Hearings may be continued from time to time by the Board of Zoning Appeals, in its discretion, upon good cause shown. Oral

arguments before the Board of Zoning Appeals shall not exceed 15 minutes to a side, unless upon application before the commencement of arguments, the time shall be enlarged by the Board of Zoning Appeals.

- c. Parties filing appeals may, after the application has been advertised as part of a meeting's agenda, request the application be deferred. A request for deferral must be in writing, signed by the applicant or agent, set forth the reason for requesting deferral, and set a forthcoming meeting date for the matter to be heard. Without an extraordinary and compelling reason, only one deferral will be permitted. Applicants filing petitions for rehearings where the Board of Zoning Appeals is being asked to reconsider a decision, order, requirement or determination shall not be permitted to request deferrals. Cases presented before the Board of Zoning Appeals may be deferred for a period of time specified by the Board of Zoning Appeals, provided that this time does not exceed a period of 30 working days.
 - d. In passing upon an appeal, the Board of Zoning Appeals shall not consider prospective financial loss or gain to the appellant, nor shall the Board of Zoning Appeals, by variance, permit to be established or carried on in any district an activity, business, or operation which is not otherwise allowed in such district by a specific provision of this article.
- (7) *Order of the Board of Zoning Appeals.*
- a. The Board of Zoning Appeals shall decide each appeal within 60 calendar days. In exercising its powers relating to appeals, the Board of Zoning Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made within the spirit and intent of this article.
 - b. When it shall appear to the Secretary of the Board of Zoning Appeals that an appeal presents substantially the same grounds which have been decided by the Board of Zoning Appeals within the previous one year, the Secretary shall notify the Board of Zoning Appeals thereof, but shall not advertise the appeal or give notice to interested parties until the Board of Zoning Appeals shall determine that an amendment of this article or other changed conditions requires reopening the issue.
- (8) *Minutes of the Board of Zoning Appeals.* The decisions of the Board of Zoning Appeals shall be in writing and signed by the Chairperson. The minutes of the Board of Zoning Appeals shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the Board of Zoning Appeals shall be filed in the offices of the Board of Zoning Appeals and the Planning Director. True copies thereof shall be sent by registered mail to each of the interested parties, and shall show the date of the filing and of the decision. These decisions shall be a public record.
- (9) *Appeals from Board of Zoning Appeals decisions.* Any person who may have a substantial interest in any decision of the Board of Zoning Appeals or any officer, board, or bureau of the Town may appeal from any decision of the Board of Zoning Appeals to the Circuit Court in and for the County by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Board of Zoning Appeals is rendered.

(Code 1993, § 12A-106; Ord. No. 94-12, § 2(12A-104.3), 9-26-1994; Ord. No. 2005-08, § 12A-106, 10-12-2005; Ord. No. 2006-14, § 2.A.3, 1-9-2007; Ord. No. 2024-05, § 2(Exh. B), 4-2-2024)

Sec. 12-24.1. Landscape and Tree Preservation Board.

- (a) *Creation.* The Town of Kiawah Island Landscape and Tree Preservation Board (TPB) has been created and is authorized to act pursuant to S.C. Code 1976, §§ 6-29-870—6-29-910.
- (b) *Composition and appointment of term of office of members.*
- (1) The Landscape and Tree Preservation Board shall consist of five members. The TPB shall consist of a cross section of design professionals (two minimum) and property owners who have demonstrated knowledge of the diversity of issues concerning trees and an interest the concept of designing with nature, all to be appointed by the Town Council. At least two of these property owners shall be resident members. The term "resident member" means a person who resides permanently ~~on~~ within the Town of Kiawah Island municipal boundaries for not less than eight months of each calendar year. Town Council may consider the appointment of nonresident or property owner design professionals members where appropriate for a compelling reason.
 - (2) The term of office for members shall be for three years from the date of appointment. Any vacancies shall be filled for the unexpired term by the Town Council. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided the Town Council has approved such expenditures in advance.
 - (3) No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of 24 months.
 - (4) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - (5) The TPB shall elect a chair and vice-chair for one year terms.
 - (6) The Planning Director or designee shall serve as Secretary of the Board.
- (c) *Administrative office.* The Office of the TPB shall be located in the Town Municipal Center. All applications or requests and other papers to be filed with the Board are to be filed with the Planning Director of the Kiawah Island Planning Department not less than 30 working days prior to the Board meeting at which the matter will be heard.
- (1) Meetings of the Board shall be at the call of the Chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public.
- (d) *Rules of procedures and records.* The TPB shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such actions, all of which shall immediately be filed in the office of the Board and shall be a public record. The TPB may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
- (e) *Functions and powers.* The Landscape and Tree Preservation Board shall have the following powers:
- (1) The TPB shall be in place to review and approve, approve with conditions or disapprove a proposed Tree Preservation Plan for all proposed commercial or residential developments pursuant to section 12-129, Tree Preservation and Landscaping Standards.
 - (2) The TPB shall be in place to review and approve, approve with conditions or disapprove the removal of any Specimen Tree or Grand Tree pursuant to section 12-129, Tree Preservation and Landscaping Standards.
 - (3) The TPB shall be in place to hear and approve, approve with conditions or disapprove applications of special circumstances regarding tree removal as determined by the Planning Director.

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- (4) The TPB shall be in place to hear or approve, approve with conditions or disapprove variance request from strict interpretation of landscaping and tree preservation standards pursuant to section 12-129, Tree Preservation and Landscape Standards of this article.
 - (5) The TPB may recommend such legislation as may be needed and practicable to pursue the purpose for which the Board was established.
 - (6) The TPB may serve as an advisory board for the Town for matters pertaining to landscape standards and tree preservation.
- (f) *Filing of applications to the Landscape and Tree Preservation Board.*
- (1) All applications and matters brought before the TPB shall be heard in the order of filing at the regular meeting of the TPB; provided, however, that the TPB shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Landscape and Tree Preservation Board.
 - (2) In the event that such a special meeting is called, the Chairperson, at his discretion, shall give notice to interested parties that any or all pending matters before the TPB will be heard and considered at such special meeting.
- (g) *Published notice for hearings of the Landscape and Tree Preservation Board.* Applications considered for a decision of the TPB shall be held pursuant to notice provisions as specified in section 12-156.
- (h) *Decisions of the Landscape and Tree Preservation Board on Variances.* The TPB shall render decisions on variance applications submitted pursuant to this article and section 12-129. The TPB may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is so substantial, serious, and compelling that relaxation of the general restrictions ought to be granted. No approval of such considered application shall be granted approval unless the applicant shall show and the Landscape and Tree Preservation Board shall find that:
- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - (2) These conditions do not generally apply to other property in the vicinity;
 - (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonable restrict the utilization of the property;
 - (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;
 - (5) The TPB shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;
 - (6) The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;
 - (7) Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent, and purpose of this article; and
 - (8) Granting of the variance does not substantially conflict with the comprehensive plan or the purposes of this article.
- (i) *Stipulations, conditions or safeguards.* In granting a variance, the TPB may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

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- (j) *Lapse of approval.* An approved tree preservation plan or variance pursuant to section 12-129 shall lapse and be of no further effect 12 months after the date that the tree preservation plan or variance was approved by the TPB unless a completed application of a zoning permit is submitted in accordance with subsection 12-155(4), or if no zoning permit is required, unless construction or development has commenced and is being diligently pursued.
 - (k) *Minutes of the Tree Preservation Board.* The decisions of the Landscape and Tree Preservation Board shall be in writing and signed by the Chairperson or designee. The minutes of the TPB shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the TPB shall be filed in the offices of the TPB and the Planning Director. True copies thereof shall be sent by registered mail to each of the interested parties, and shall show the date of the filing and of the decision. These decisions shall be a public record.
 - (l) *Appeals from Landscape and Tree Preservation Board decisions.* Any person who may have a substantial interest in any decision of the TPB or any officer, board, or bureau of the Town may appeal from any decision of the TPB to the Circuit Court in and for the County by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Landscape and Tree Preservation Board is rendered.

(Ord. No. 2024-01, § 2(Exh. E), 4-2-2024)