

MAYOR:
Bradley D. Belt

TOWN ADMINISTRATOR:
Stephanie Tillerson

TOWN ATTORNEY:
Stafford J. McQuillin III



MAYOR PRO TEMPORE:
Russell A. Berner

COUNCIL MEMBERS:
E. Luke Farrell
Madeleine Kaye
Vacant

TOWN COUNCIL
Municipal Center Council Chambers
November 5, 2024, 1:00 pm

AGENDA

- I. **Call to Order:**
- II. **Pledge of Allegiance**
- III. **Roll Call:**
- IV. **Approval of Minutes:**
 - A. Minutes of the Town Council Meeting of October 1, 2024 [Tab 1]
- V. **Citizens Comments (Agenda Items Only):**
- VI. **Presentations:**
 - A. Fiscal Year 2023/2024 Audit Presentation – Mauldin Jenkins [Tab 2]
 - B. Barrier Island Free Medical Clinic
 - C. St. Johns Fire District Strategic Plan
- VII. **Updates:**
 - A. Mayor
 - B. Council Members
 - C. Administrator
 - a. Public Safety Director Updates [Tab 3]
- VIII. **Discussion:**
 - A. Discussion to Consider Options Related to Traffic Buttons on Kiawah Island Parkway.
- IX. **Old Business:**

None
- X. **New Business:**
 - A. To Consider Approval of the Coastal Science and Engineering Proposal for “Preliminary Design and Permitting Services in Connection with Channel Realignment at the East End of Kiawah Island. [Tab 4]
 - B. To Consider Approval for the Purchase of Audio/Visual Improvements for Council Chambers [Tab 5]
 - C. To Consider Approval of the Employee Medical Insurance Premium Structure [Tab 6]
 - D. To Consider Approval to enter into an Engagement Agreement with Maynard Nexsen for legal services pertaining to the Kiawah Island Golf Resort Development Agreement. [Tab 7]
 - E. To Consider Approval of **Ordinance 2024-26** – An Ordinance to Amend Article 15 – General Offences, Chapter 2. – Offenses Against Public Peace, Section 15-216. – Loose Materials -

*Each speaker shall be limited to five minutes. No more than 30 minutes shall be allowed for citizen presentations, comments, and/or questions, and the time shall be divided equally among those requesting to speak.

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

First Reading

[Tab 8]

- F. To Consider Approval of **Ordinance 2024-24** - An Ordinance to Amend Section 12-128. - Access, Parking and Loading Regulations, Section 12-63. Description of Zoning Districts and Regulations, and Section 12-374. Definitions to Modify Driveway and Parking Standards for Pervious Paving Requirements. ***Public Hearing and First Reading***

[Tab 9]

- G. To Consider Approval of **Ordinance 2024-25** - An Ordinance to Amend Section 12-192 - Nonconforming Structures., and Section 12-193. Nonconforming Uses. to Modify Nonconformity Standards. – ***Public Hearing and First Reading***

[Tab 10]

XI. **Citizens Comments:**

XII. **Council Member Comments:**

XIII. **Adjournment:**

*Each speaker shall be limited to five minutes. No more than 30 minutes shall be allowed for citizen presentations, comments, and/or questions, and the time shall be divided equally among those requesting to speak.

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



TAB 1

TOWN COUNCIL

Agenda Item

TOWN COUNCIL
Municipal Center Council Chambers
October 1, 2024, 1:00 pm

MINUTES

- I. **Call to Order: Mayor Belt called the meeting to order at 1:00 pm.**
- II. **Pledge of Allegiance**
- III. **Roll Call:**

Present at the Meeting: Bradley Belt, *Mayor*
Russell Berner, *Mayor Pro Tem*
Luke Farrell, *Council Member*
Madeleine Kaye, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Mac McQuillin, *Town Attorney*
Ross Appel, *Consulting Attorney*
Dorota Szubert, *Finance Director*
Jim Jordan, *Town Biologist*
Erin Pomaranke, *Communications Manager*
Michael Nardelli, *Public Works Assistant*

IV. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of September 10, 2024

Mayor Belt stated that Council Members had been provided with a copy of the minutes of the Town Council Meeting of September 10, 2024, and asked if there were any additional comments or changes to the minutes.

Mayor Pro Tem Berner pointed out that on page six, under subparagraph B, a correction was identified: the phrase "the beach club would need to see their beach operation" required a grammatical correction.

With no other comments, the minutes were accepted.

V. **Citizens Comments (Agenda Items Only):**

Dane Barnes, Co-founder of Shibumi from Raleigh, North Carolina

Mr. Barnes presented the benefits of the Shibumi shade, a wind-driven shading device, highlighting that the Shibumi shade is lightweight, portable, and durable, making it a popular choice on beaches from Maryland to Mexico, with the exception of one location in the Grand Strand, and has near universal public safety support. He emphasized that the Shibumi shade does not negatively impact beach space or visibility compared to traditional umbrellas, supported by drone and side-by-side photos. He cited examples from Sunset Beach and Ocean Isle Beach in North Carolina, where the adoption of Shibumi shades was considered a unanimous success by local officials, enhancing beach safety. Mr. Barnes concluded by noting the popularity of Shibumi shades on Kiawah Island, attributing it to its ease of use and environmental friendliness.

Larry Wolohan – 406 Snowy Egret

Mr. Wolohan distributed handouts expressing concerns regarding a proposal to authorize the Mayor to negotiate Beach Club operations on the beach, which includes the use of emergency beach access vehicles, the sale of food, snacks, and alcohol, and the placement of beach furniture. He highlighted

discrepancies between the August draft agreement and current proposals, such as changes in the length of the beach operations area, buffer zones, and the number of items allowed on the beach during normal and holiday periods.

Mr. Wolohan expressed worries about the potential overcrowding of the beach with items and vehicles, safety passage during high tide, and the breach of current ordinances. He referenced the 2020 Beach Management Plan, emphasizing the importance of dune protection and wildlife preservation, and stated that permitting alcohol sales and blocking the beach was not beach management.

Carol Medendorp - Parkside

Ms. Medendorp also voiced concerns about the Beach Club agreement, focusing on the community's lack of support for adding more items to the beach and the potential impact on wildlife, specifically turtle nesting. She suggested that all business contracts related to the beach should end simultaneously to prevent competitive escalation that could lead to further clutter on the beach. She advocated for a solution that allows businesses to operate without permanently leaving items on the beach, thus preserving the natural environment.

Patrick Gordon, COO of Island Sports, Owner and Operator of Seacoast Sports and Outfitters in Freshfields

As a distributor, Mr. Gordon spoke in favor of Shibumi shades, highlighting their popularity, their ability to move and flow, and, when wind direction changes, the ease with which they can be maneuvered back into position. He also noted the introduction of a new quiet canopy technology that addresses previous noise concerns.

Sherry Gallagher – 119 Spartina Court

Ms. Gallagher expressed dissatisfaction with a beach agreement, noting a reduction in the beach fee and concerns about future implications.

VI. Updates:

A. Mayor

Mayor Belt thanked Town Staff and contractors, the Resort, the Community Association, and the Club for their extraordinarily prompt response to cleaning up the island following Helene. He noted the tragic situations in the upstate, North Carolina, Florida, and Georgia, remarking on the extraordinary outpouring of support reflected in the community.

Mayor Belt addressed concerns about the now removed traffic control devices outside the front gate. To gather information, the community was asked to provide information regarding any incidences of tire or other damage as a result of encountering the devices.

Mayor Belt acknowledged poor advance communication regarding the installation of the devices and that their intended purpose was speed mitigation and collision avoidance around the Mingo Point curve at Little Rabbit Lane. He explained that instances of cars prematurely cutting across to get into the second left-hand lane to enter the island pose a severe collision risk to drivers exiting Little Rabbit was the incentive for a series of conversations with the Public Works and Public Safety Departments, the chair of the Public Safety Committee, our engineering firm, and an external contractor to explore potential options to avoid those risks and to mitigate speed along that area. The decision was made to install these traffic control buttons to address those issues. He emphasized that there was no intention to cause any damage to tires, and there was no known risk of this occurring. In the interim, white stanchions will replace the buttons until a permanent solution is found. The Mayor also mentioned ongoing discussions about potential reimbursements for damages caused by the traffic control devices but clarified that no decision had been made yet.

Mayor Belt indicated that the Resort had approached the Town about a proposed shoal relocation project at the east end of the island, adjacent to the ocean course and driving range, similar to past projects undertaken in partnership between the town and the resort. A report from Coastal Sciences Engineering, the town's consultant, recommends implementing mitigation measures before proceeding with the project. No council action is required at this time, but the community is being informed about the proposal. A detailed memo comparing past projects, outlining responsibilities, costs, timelines, processes, potential environmental impacts, and funding sources is being prepared. The project may be discussed at the November Council meeting, depending on funding and timing. Mr. Jordan is leading the exploration process with federal and state regulatory authorities for the necessary permits, which could take months to obtain and would be valid for five years. The council is not committing to the project yet; it is simply beginning the exploration process.

Mayor Belt stated that Staff and department updates will include information about ongoing projects or initiatives. Today's meeting includes reports from the Treasurer and Wildlife and Environmental Services and a brief update on the findings of the recent community survey.

Mayor Belt reported that the mediation process discussed in September has seen two sessions led by Council Members Berner and Farrell, the Town Attorney, and an outside lawyer, Ross Appel. He noted that he had recused himself and was not involved in the mediation process.

B. Council Members

Council Member Berner provided updates on the following:

- Later in the meeting, after the Executive Session, there may be a vote and, with approval, an open discussion of the mediation.
- The ongoing public safety concern at the intersection of Little Rabbit Lane was addressed by installing the buttons to mitigate accidents.
- The issue of bicycles not stopping at stop signs on Kiawah Island was highlighted, and discussions are ongoing on how to improve safety at the intersection of Kiawah Island Parkway and Cassique.
- Clarification that a police consultation study is underway not to consider establishing a police force but to gather information to address concerns about police response times, highlighted by a recent incident where the first officer arrived 18 minutes after a 911 call.

Council Member Kaye stated that the final draft of the document to transfer responsibility from the Partners in the current ARB structure over to KICA is nearly complete, with a meeting planned to finalize it. The draft will go to the ARB for their assessment and then to a representative of the Partners. Mayor Belt thanked the members of the task force for the extraordinary amount of work that has gone into that effort and provided additional clarification on the transition process; the Town stepping back from the process after the report is released while continuing to monitor the process moving forward, and addressing the continued confusion surrounding the responsibilities with regard to permitting building projects, zoning projects, between KICA, the Town and the ARB.

Council Member Kaye indicated a focus on community education and enforcement as a priority and provided updates on the following :

- The workshop on Stormwater Management, the first in a series of very comprehensive educational efforts, highlighting the presentations from KICA and the Conservancy
- The Pet Restraint Committee, which is reviewing the dog leash ordinance, has been looking at issues with beach signage. It plans to redesign and increase signage to clarify and address beach safety rules, beach regulations, and seasonal nesting patterns. It is not eliminating the area, but it proposes changes to off-leash seasons to protect shorebirds. Community engagement is sought on these issues, with a forum scheduled for October 21st, in addition to the opportunities at committee meetings, council meetings, and the surveys planned to gather input.
 - Increased efforts to:
 - educate beachgoers on the fragility of the red dot population.
 - increase signage to encourage compliance with existing rules and regulations
 - Consider the implementation of cameras to determine exactly who is violating the current rules and regulations.

- Consider additional Town personnel to monitor and help with enforcement activities

Mayor Pro Tem Berner commented that in addition to dogs off leash disturbing the Redbirds, children, and bicyclists commonly ride through the flocks of birds as they eat along the beach. Everybody who uses the beach has to be aware of the fragile nature and ecosystem of these birds.

Council Member Kaye indicated that a good amount of data shows that dogs are perceived as a greater threat to the nesting bird population than kids or bicyclists. In an upcoming meeting with specialists, we will try to collect harder evidence of all that data to take to the community so that everybody is working off of legitimate information.

Council Member Farrell stated that, as a shorebird steward, he had also witnessed more bicyclists and kids running through the birds, agreeing with Council Member Kaye's efforts to inform people with better education and signage.

Council Member Farrell stated that Ms. Szubert has been looking at the Town's investment management to investigate if there are better investment opportunities in addition to those currently made with the state. In July, the Finance Department sent out a Requests for Proposals (RFP) and received ten responses. After reviewing the responses, the scope of the project had been narrowed down, and Ms. Szubert would report further details.

Council Member Farrell stated the ongoing mediation was still under a gag order, expressing satisfaction with the engagement from Partners and their associates. Discussion in Executive Session could result in potential actions or further delays. As part of the agreement, a decision deadline has been set for October 15th, and the aim is to update the community on the progress of the negotiation, goals, and agreements by then. He emphasized the productive nature of these interactions and the goal of benefiting not just a specific group but all residents of Kiawah, expressing optimism about the near conclusion of their efforts.

Mayor Belt stated that the council was focused on enhancing transparency and communication with the community, addressing concerns about the town's transparency, and emphasizing the importance of a robust public process for discussing issues of interest or impact on the broad community. He also tackled misconceptions about decisions being made prematurely based on committee discussions, clarifying that such discussions are part of a process that includes ample opportunity for public input.

C. Administrator

a. Finance Director - Monthly Budget Report

Ms. Szubert reported that for the first two months, ending September 30th, the Town's consolidated revenues totaled \$2.1M, representing \$1.3M, a 60% increase compared to YTD totals for the last fiscal year, FY2024. This amount accounts for 14% of the total budgeted revenues for the current year. All the revenues are as expected at the beginning of the fiscal year. Since this report is prepared on a cash basis, the majority of tourism-generated revenues reflect only one month of collection. The primary contributors to this positive variance include building permits, business licenses, and environmental services. When comparing the same period last year, building permit revenues show an increase of \$183K, or 185%. We issued 217 permits this year, compared to 440 through August 31, 2023; however, the significant rise in construction cost has also led to increased permit fees. Additionally, we have issued approximately 160 more business licenses, resulting in an increase of \$322k, or 311% over last year. Environmental fees have risen by \$278K, or 51%, reflecting an increase in annual garbage collection fees.

At the end of August 2024, the expenditures amounted to \$1.9M, representing \$328K, or a 21% increase compared to fiscal year FY2024. This accounts for 13% of the current year's budget. While expenditures are generally in line with the budget, several line items have seen notable increases from last year:

- Employee Cost: Increased \$165K, or 33%, from last year due to an increase in FTEs and annual salary increases.

- Public Safety/Off Duty Deputies: Increased by \$66k, or 138%, primarily due to a 38% increase in hourly rate to \$55, approved in February 2024.
- Waste Management: Increased by \$244K, or 234%, driven by increased contract cost for garbage collection by Trident Waste.
- Professional Services: Increased by \$61K, or 158%, reflecting a higher number of legal service engagements.

Mayor Pro Tem Berner addressed community concerns regarding the increase in garbage collection fees, explaining it resulted from increased pricing in the new contract established through a competitive bidding process after the previous contract expired.

Mayor Belt added that many residents professed to be unaware of the reason for the change in the amount charged, noting that the Town had communicated extensively about the change. He encouraged residents to sign up for the Town's e-blasts for timely updates on such issues.

Ms. Szubert stated that the recommendation from the Investment Management Services Group will be provided at the next Council meeting in November.

b. Conservation Director – Wildlife and Environmental Update

Mr. Jordan discussed various environmental and wildlife management efforts.

- Closure of the nuisance alligator program. Weekly checks of 18 different ponds that have had issues with nuisance alligators in the past resulted in successfully removing 14 alligators and significantly reduced public complaints.
- Turtle patrol's season is ending with 363 nests, a decrease from last year but still above the long-term average, despite challenges from sand buildup and Hurricane Debbie.
- The Kiawah River bridge access is in a data collection phase, with new signage to be installed to protect critical habitats. Monitoring of the two camera logs will shift to being viewed weekly.
- The Town has addressed the issue of Second-Generation Anticoagulants (SGAs) affecting bobcats by sending a letter to the Clemson Department of Pesticide Regulation (DPR) along with letters of support from local representatives. Discussions with DPR are ongoing, with hopes for a formal response from DPR in the next couple of weeks.
- The fall migration monitoring program conducted on Kiawah since 2009 marked a milestone by banding its 100,000th bird.
- The second Bobcats and Bluegrass event was announced, taking place on November 15th at 2:00 pm.
- For the last three years, the town has conducted deer harvesting due to increased populations following a decline in bobcats. A decision for this year will be based on the density data collected from the upcoming spotlight surveys.

Mayor Belt stated that he was cautiously optimistic that DPR would be willing to work with the Town more extensively than it has in the past on some potential regulatory measures to address the use of SGAs on the island. He encouraged participation in the Bobcat Guardian Program. The fact that the Town has a robust voluntary program helps strengthen the case with the department, but that needs to be supplemented or augmented with additional regulation as well.

Ms. Pomranke highlighted the results of a community survey sent out to gather feedback on Town services and interactions with Town Staff. Participation from 773 community members, primarily part-time and full-time residents or property owners, revealed 70% satisfaction levels with the Town's overall services and over 74% of respondents expressing satisfaction with interactions with Town Staff.

Emergency preparedness, communications, Beach Patrol, and environmental and wildlife support were highly rated. Areas identified for improvement included planning and development projects, permitting processes, and code enforcement.

Concerns raised involved solid waste management, public safety, and traffic management, with specific mentions of the main gate lanes and pedestrian and bike safety. The Bobcat Guardian and wildlife volunteer programs received high praise. Suggestions for new services included additional

transportation options, local emergency and medical access, and an art center. Future focus areas highlighted were planning and development management, flooding, beach management, traffic congestion, and environmental and wildlife concerns. Full survey results will be released in an upcoming e-newsletter and on the Town's website.

Mayor Belt expressed dissatisfaction with a 70% satisfaction rate regarding town issues, emphasizing the need for improvement. A significant portion of the narrative responses focused on traffic management and gate access problems. It was clarified that gate access issues fall under the Community Association's responsibility, not the Town's. However, it can work cooperatively with KICA to address traffic flow issues around the gate.

Ms. Tillerson provided updates on two projects:

- The Town has issued the MUSC project conditional approval. Still awaiting some documentation, they are free to proceed with prep work.
- Progress on the Seafields project is moving smoothly. Interior walls are being constructed, and a site visit is planned.
- Town Staff is addressing complaints about poor cell service, particularly behind the second gate, by working with major cell tower companies to improve coverage, including the potential placement of a temporary tower.

Mayor Belt addressed periodic inquiries he received on the topic of Andall West's development process, noting that it falls under Charleston County's responsibility, not the Town's, and no recent updates are available.

Following up on collaboration with major cell providers to enhance service on the island, Major Pro Tem Berner provided a photograph of a unique cell tower design observed in Egypt, which resembles a palm tree, which could be more aesthetically pleasing.

VII. Discussion:

A. Discussion of Beach Safety Issues and the Enforcement of Town Ordinances on the Beach

Mayor Belt stated that a number of different concerns were raised about various beach-related safety matters, such as Shibumi Shades, e-bikes, sail carts (blow carts), vehicles on the beach, and dogs off-leash, with a particular incident of a dog bite reported.

Mayor Pro Tem Berner indicated that the Public Safety Committee (PSC) discussed the issues presented with Shibumi Shade. A significant debate on the visibility obstruction caused by Shibumi Shades led to a majority vote in favor of banning them for safety reasons. However, after further observation, Councilmember Berner expressed that umbrellas could pose a similar visibility issue as Shibumi Shade, indicating no improvement in sightlines without them.

Mr. Rob Edgerton from Beach Patrol discussed the challenges posed by shade devices, specifically Shibumis, on beach surveillance and ordinance enforcement. The devices obstruct the view of beach patrol units, making it difficult to spot people in distress or enforce beach rules. Mr. Trevor Cyrulik with Barrier Island Beach Services discussed the safety aspect, stating that rules on the placement of umbrellas require them to be set up in a certain area in a certain format, creating an emergency lane behind the umbrellas. He noted that there didn't seem to be any requirements for the placement of the Shibumis.

Mayor Pro Tem Berner stated the PSC considered options to regulate Shibumis, such as designating specific zones for their placement, but ultimately voted against allowing them. However, no ordinance draft has been created yet.

The discussion highlighted the need for a balance between ensuring public safety and allowing beachgoers to use shade devices. Suggestions included exploring alternative beach patrol methods and improving ways to identify and assist people in distress. The debate also touched on the broader issue

of beach safety, including the risks associated with traditional umbrellas. The discussion concluded with a decision to explore other solutions before imposing restrictions on Shibumis.

Mayor Pro Tem Berner raised concerns about the safety of beachgoers due to the presence of silent, fast-moving vehicles on the beach. These vehicles, described as having a sailboat-like operation but with a go-kart frame, can reach very high speeds and pose a danger, especially to children, due to their speed and silence. The council discussed the enforcement of existing ordinances that restrict vehicle speeds to 20 miles per hour on the beach, considering whether to allow these vehicles on the beach under certain conditions or to implement stricter controls. The discussion concluded with sending the issue to the PSC, continuing to explore the issue with a request to figure out a way to manage it rather than restrict or prohibit it.

The Council engaged in an in-depth discussion of the enforcement of other beach-related ordinances, including those pertaining to leash laws and the prohibition of motorized vehicles or electric bikes. Mr. Edgerton stated that the focus was on education and explained compliance through verbal warnings, written warnings, and citations.

B. Discussion and Potential Action on EV Charging Station Operations and Fees

Mr. Nardelli discussed the electric vehicle (EV) charging stations installed at the back of the Municipal Center. Since their installation, the stations have been used for 740 hours, saving over 17,000 pounds of CO₂ emissions. The stations were free to use for the 90-day trial period, so he reviewed in detail the options for future charging policies.

The Council considered various fee options to cover the costs of electricity, warranty, network fees, and maintenance. The options included charging the rate from Berkeley Electric, a market rate to cover all costs, a flat rate of 25 cents per kWh to break even, and differentiated rates for residents and visitors with additional idle fees, also reviewing charging rates from nearby locations for comparison. The discussion also touched on the charging stations' usage trends, the potential need for a marketing campaign to increase awareness, and the question of whether the town should subsidize EV charging.

Following an in-depth discussion, the Council recommended adopting option three, charging 25 cents per kWh, to cover variable costs while remaining competitive with nearby charging rates. It also agreed to revisit the fee structure as necessary.

Mayor Belt made a motion to approve the staff's recommendation to charge 25 cents per kilowatt-hour. Mayor Pro Tem seconded the motion, and it was unanimously approved.

VIII. Old Business:

A. To Consider Approval of Ordinance 2024-23 - An Ordinance to Amend Article 9. – Buildings and Building Codes, Chapter 4. – Permits, Licenses and Fees, Division 3. – Fees, Section 9-215. – Schedule of Permit Fees - Second and Final Reading

Council Member Kaye made a motion to approve the second reading of Ordinance 2024-23. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

IX. New Business:

A. To Approve and Authorize the Mayor to Enter into the East Beach Club Operations Agreement

Mayor Belt explained that the agreement aims to bring the Beach Club's operations into compliance with the Town's ordinances regarding beach activities, which include restrictions on vehicles, overnight storage, and commercial activities on the beach. Previously, there has not been any formal approval of the Beach Club's operations. The agreement's duration is aligned with two other existing agreements, with all set to expire in March 2026. The decision to limit the term of the agreement is to synchronize its expiration with the other agreements, allowing future councils to review commercial operations on the

beach comprehensively. The agreement also includes adjustments to the Beach Club's boundaries to align with property lines.

The Council discussion revolved around the specifics of an agreement regarding the operation of vehicles by the Beach Club on the beach to provide services to its members. Concerns were raised about the need for greater specificity in the agreement, particularly regarding the types of vehicles allowed, to prevent potential issues and ensure clarity. The discussion also touched on the storage of equipment on the beach, the impact of vehicular traffic moving equipment, and the decrease in the buffer zone.

Mayor Pro Tem Berner made a motion to approve the East Beach Club Operations Agreement with a condition to verify the consistency of a 25-yard buffer zone with other agreements. Council Member Ferrall seconded the motion, and it was approved by a 3 to 1 vote, with Council Member Kaye abstaining from the vote.

A. To Consider Approval of Resolution 2024-04 - to Adopt a Gift Policy for Municipal Officers and Employees

Mayor Belt stated that the revised gift policy for municipal office employees addressed comments from the previous meeting. A definition of municipal officer and employee was added, along with a reporting and compliance process.

Council Member Ferrall made a motion to approve Resolution 2024-04 to adopt a Gift Policy for Municipal Officers and Employees. Council Member Kaye seconded the motion, and it was unanimously approved.

Council Member Ferrall made a motion to move into Executive Session to receive legal advice protected by the Attorney-Client Privilege (S.C. Code Ann. 34-4-70-(a)(2)) concerning mediation with Kiawah Resort Associates. Mayor Pro Tem seconded the motion, and it was unanimously approved.

X. Executive Session:

A. Executive Session to receive legal advice protected by the Attorney-Client Privilege (S.C. Code Ann. 34-4-70-(a)(2)) concerning mediation with Kiawah Resort Associates - Upper Beachwalker, Lower Beachwalker, Cape Point Road, CASE NO. 2024-CP-10-03809, CASE NO. 2024-CP-10-00491, and CASE NO. 2024-CP-10-03812.

The Council may take action after the Executive Session.

Mayor Belt made a motion to exit the Executive Session and return to the regular session. Council Member Kaye seconded the motion, and it was unanimously approved.

Council Member Kaye made a motion to approve the mediation settlement agreement. Council Member Ferrall seconded the motion. The motion was approved by a 3 to 1 roll call vote.

Mayor Pro Tem Berner voted "Yes"

Council Member Farrell voted "Yes"

Council Member Kaye voted "Yes"

Mayor Belt abstained from voting due to prior recusal.

Council Member Farrell explained that the goals of the mediation included maintaining or enhancing buffering around developed properties, preventing further reduction of the maritime forest, providing adequate parking for club members, maximizing traffic safety for the contiguous neighborhoods: The Cape, Ocean Pines, and to Upper Beachwalker, and to allow the Club to open and operate safely and efficiently within the context of Kiawah ensuring minimal future complaints about illegal parking, and to maintain whatever access the Partners had to Captain Sam Spit, but not allow any additional potential accesses that would be a concern.

Council Member Farrell stated that in order to reach a long-term solution, issues related to the related developments, plus any other issues, were included in the negotiation's discussion. Also, an important

part of the thought process was that the community wanted all the lawsuits settled, minimizing any future legal costs. Ultimately, what needed to be done was to provide a fair and just outcome for all parties involved, making sure that everyone was as comfortable as possible.

Mayor Pro Tem Berner reviewed the agreement reached, which includes abandoning the extension of Cape Point Road, enhancing vegetation, creating a new traffic turnaround, and specifying parking arrangements. It reduces the number of dwelling units in certain areas and outlines plans for future development discussions, emphasizing increased buffering and the potential for new facilities. The agreement also ensures no access to Captain Sam Spit from the parcel and includes the dismissal of all related lawsuits with prejudice.

Mayor Belt reviewed his summary of the pending site plan proposals, indicating that now that the Town Council has approved the execution of the agreement, the Partners will file with the Charleston County Clerk of Court a consent order approving the settlement, which would also dismiss all the outstanding litigation with prejudice.

Council Member Farrell indicated that he and Council Member Berner planned a meeting with the Partners team to discuss the site plans in more detail and ensure that everyone agrees that the drawing reflects the verbiage.

Mayor Belt stated that one issue not specifically addressed in the mediation settlement agreement concerns the operational aspects of the Cape Club facility, including issuing a temporary certificate of occupancy contingent on a temporary parking plan.

XI. Citizens Comments:

Larry Wolohan – 406 Snowy Egret

Mr. Wolohan raised concerns about the beach's future appearance and the safety and regulation of a \$14 million investment not backed by the state, highlighting the lack of guarantees and regulatory oversight. He also expressed worries about financial management and the absence of recent Ways and Means Committee meetings. In response, Council Member Farrell clarified that all investments carry risk. Still, the fund in question primarily invests in secure assets like U.S. treasuries and has a short maturity limit, minimizing risk.

Mark Permar – representing Kiawah Partners

Mr. Permar expressed appreciation on behalf of the Partners and the professional team for the effort to collaborate to achieve a better outcome for the greater community. He wanted to communicate to the Council that the Partners looked forward to continuing the collaboration, looking toward refining the exactness and the precision of the plats, as well as the conversation on refining plans for Upper Beachwalker in the same vein as what was represented in the past couple of months.

Council Member Farrell reiterated this to Mr. Permar, the Partners, and their team. We felt you guys negotiated in good faith, and the outcome was great for the community.

Lance Spencer – 40 Sunlet Bend

Mr. Spencer reiterated Mr. Permar's comments. Knowing this had probably been extremely time-consuming and was not easy for Mayor Pro Tem Berner and Council Member Farrell; he thanked them for trying to consider the whole community perspective and represent all the different stakeholders and interests. He hoped this would be a turning point in how we can continue to collaborate across organizations at Kiawah. He also asked if there was going to be some kind of communication that would summarize the agreement.

Council Members, along with Mr. McQuillin, discussed that the settlement agreement was a public document but would probably wait on the formal drawings. They also expressed the intention of making settlement agreements publicly available without the need for formal requests, ensuring transparency and public access to information.

XII. Council Member Comments:

Council Member Kaye expressed gratitude towards the two council members involved in mediation, who were under a gag order and thus unable to share details of their proceedings. She acknowledged learning a great deal from the situation and commended the council members for their exceptional work,

Council Member Farrell expressed gratitude to citizens for their patience regarding undisclosed facts due to restrictions, emphasizing the benefits achieved for the community.

Mayor Belt also commended the efforts of Councilmembers Berner and Farrell, along with attorneys McQuillin and Appel, for their work on behalf of the Town and community and appreciated the fact that the Partners and their team approached this in good faith. The importance of trusting the process to resolve issues was highlighted, with the outcome deemed beneficial for the community.

XIII. Adjournment:

Mayor Belt adjourned the meeting at 4:13 pm.

Submitted by,

Petra S. Reynolds, Town Clerk

Date



TAB 2

TOWN COUNCIL

Agenda Item

TOWN OF
Kiawah Island[®]
South Carolina

ANNUAL
COMPREHENSIVE
FINANCIAL REPORT

FY ENDED JUNE 30, 2024



Mayor:
Bradley Belt

Mayor Pro Tem:
Russell Berner

Town Council:
Luke Farrell
Madeleine Kaye
Michael Heidingsfelder

Town Administrator:
Stephanie Tillerson

Finance Director:
Dorota Szubert



TAB 3

TOWN COUNCIL

Agenda Item



Town of Kiawah Island Code Enforcement Summary Report

October 2024 Data Report

Category	October Data			Total Violations- Jan-Oct 2024
	Verbal Warning 2024	Written Warning 2024	Citation 2024	
Alcohol 15-208	0	0	0	13
Alligator 15-501	0	0	2	2
Beached Boat 16-803	2	0	0	6
Beach Fire 15-105	0	0	0	1
Build Permit	2	1	2	5
Business License	2	0	1	3
Critical Habitat 16-604	156	13	15	184
Disorderly 15-204	8	0	2	10
Drone 7-302	5	1	2	23
Dumpster Coverings	0	0	112	112
Dune 16-304	4	7	3	257
Fireworks 15-209	0	0	0	7
Glass 16-818	2	2	0	108
Harass Animal 16-810	18	0	0	18
Leash 7-201	25	47	32	463
Lights 16-107	15	2	0	225
Littering 15-212	9	54	3	66
Narcotics 15-213	2	0	9	11
No Permits/working without correct permits	1	0	3	4
Noise 15-306	5	3	0	29
Nudity 16-806	3	0	2	5
Other	36	40	7	83
Parking 13 -103	10	2	19	36
Personal Article Storage 8-119	1	168	4	173
Plastic 14-402	6	0	0	6
Shovel 16-409	2	0	0	65
Storage 16-805	2	21	0	23
STR Bikes Beach Gear 14-506f	3	563	17	583
STR Parking 14-506d	3	40	6	49
STR Parking 14-506d(1)	0	28	0	28
STR Parking 14-506d(5)	1	17	2	20
STR Trash 14-506e(1)	0	16	1	17
Swim Wade 15-314	27	2	0	71

Trespass 15-119	0	0	3	3
Vehicle 16-302b	53	6	1	60
Total:	403	1033	246	2769

Updates

Upcoming Election:

Director Harris, KICA Security Director Mark Ruppel, and KIGR Director of Security Yvonne Johnstone prepared for the 2024 general election. We had several virtual and in-person training sessions with local, state, and federal authorities regarding rules and regulations. Charleston County Emergency Management and the Director of Security for the Charleston Election Commission are currently assisting with monitoring the event.

Code Enforcement:

Code Enforcement Officers cited 112 Dumpster Covering Citations since the beginning of September 2024.

On October 28th, St. John's Fire responded to an active fire on Sora Rail within a storage unit. Fire personnel contained the fire and had no reported injuries.

Director's Update

The Public Safety Department is in the development stages of conducting a tabletop training exercise for active shooter and critical incident protocol with all emergency personnel (TOKI, KICA, KIGR, CERT, STJFD, CCSO, CCEMS, CCEMD, KIU).

The Feasibility Study Subcommittee met with the CPSM (Center for Public Safety Management), the consulting firm, to review data. They are also in the process of reviewing KICA and KIGR data.

The Town is actively discussing 24/7 EMS services on Kiawah Island with Charleston County Public Safety Directorate Eric Watson.



TAB 4

TOWN COUNCIL

Agenda Item

MEMORANDUM

TO: Mayor Bradley Belt
CC: Stephanie Tillerson, Town Administrator
FROM: Jim Jordan, Town Conservation Director
RE: Channel Realignment Project on the Eastern End of Kiawah Island
DATE: October 24, 2024

Overview

The Kiawah Island Golf Resort (KIGR) has expressed concerns regarding potential future erosion near the Ocean Course Clubhouse and driving range. The Resort received an opinion and recommendation letter from Coastal Science and Engineering on this issue on July 19, 2024 that was shared with the Town (attached). Mayor Belt, Stephanie Tillerson and Jim Jordan met with Steven Traynum (CSE) on July 29 to discuss this issue. An additional meeting was held with Roger Warren, Stephanie Tillerson, Mayor Belt, and Jim Jordan on September 10 to discuss potential next steps. Town staff recommends that the Town enter into an agreement with CSE to obtain the required permits for this project.

Rationale for the project

1. Protect the Ocean Course Clubhouse and Golf Course from potential future erosion.
2. Address potential significant erosion preemptively to lessen project size, cost, and environmental impacts.
3. Restore the natural sand accretion processes in the area by relocating the existing flushing channel.
4. Create shorebird nesting habitat in fill areas that will help offset the recent loss of shorebird nesting habitat on the eastern end of Kiawah's beach due to erosion.

Background

A tidal channel on the eastern end of Kiawah Island has been slowly moving landward and beginning to cause erosion near the Ocean Course Clubhouse. The current problem is similar to the situation in 2014-2015 when a channel encroached on the driving range and practice green area of the Ocean Course. That condition led to a 2015 project that relocated the inlet channel and moved ~100,000 cubic yards (cy) of sand to construct a closure dike and restore dune areas (P/N 2014-00537-1W). The 2015 project followed a more significant erosion issue in 2006 that led to the East End Beach Restoration Project (OCRM Permit P/N 2005-1W-310-P) whereby ~550,000 cy were excavated across and along the new outer beach and used to close the encroaching channel. The project produced a new flushing channel to the east and a wide berm along the critically eroded sections fronting the Ocean Course.

Periodically, sand bypasses Stono Inlet in the form of discrete shoals (sand bars) that are released from the ebb-tidal delta to migrate onshore. “Shoal bypass” events in the 1990s and early 2000s added upward of 5 million cubic yards to the east end of Kiawah Island. Additional smaller events have occurred since 2006. As bars migrate toward shore, they alter wave patterns and sand transport along the beach. Some areas in the lee of the shoals accrete rapidly, while adjacent sections of beach lose sand. A recent shoal attachment event provided a sand body that extended to the south, trapping a channel between the new sand and prior beach ridge. This channel migrated south significantly over the past year and could quickly shift landward and erode the golf course. Erosion accelerated quickly in late 2014, leading to emergency sandbag placement along the driving range.

The purpose of this project is to manage the present cycle of shoal bypassing. Based on the experience of the 2006 and 2015 projects, it appears that the appropriate design approach for the present problem should be similar—a new channel should be created across the outer beach and the encroaching channel close by way of sand excavations and transfers by off-road trucks. Such projects are cost effective and environmentally neutral while maintaining or even improving existing habitats. The objective is to implement a plan that will accelerate the natural cycle of shoal bypassing, stem the erosion along the Ocean Course, and restore a normal flow of sand downcoast (east of the Ocean Course). Implementing a project before the erosion impacts upland areas allows for smaller projects to manage the sand supply.

Details on Prior Projects

2006 East End Beach Restoration Project

The Town and its beach consultant, Coastal Science and Engineering (CSE) applied for a permit to conduct the East End Beach Restoration Project on September 15, 2005. This project was conducted to mediate severe erosion along the Ocean Course driving range and 18th green caused by a migrating tidal channel. Based on feedback received during several meetings with the U.S. Fish and Wildlife Service (USFWS) during late 2005 and early 2006, the original construction plan was substantially modified and reduced in scale. The predominant concern of the USFWS was that the project might have negative impacts on the state and federally threatened piping plovers that utilize the eastern end of Kiawah Island (the area is designated as Federal Critical Habitat). Piping plovers are small shorebirds that winter and feed on sand and mud flats in this area. The final project plan (Figure 13) and mitigation package was agreed to in March 2006. The Town reduced the fill volume from 1.2 million cubic yards to 550,000 cubic yards, reduced the constructed dune heights from 7 to 5.5 feet (to promote overwash), eliminated direct impacts to piping plover feeding areas, and agreed to a 6-year piping plover monitoring plan.

On May 4, 2006, the South Carolina Wildlife Federation and the National Audubon Society (petitioners) filed a request for a contested case hearing before the Administrative Law Court in Columbia to effectively stop the Town’s beach project. The Town of Kiawah Island, Kiawah Island Golf Resort (KIGR), and the SC Office of Coastal Resource Management

(OCRM) were listed as respondents in the lawsuit. The petitioners argued that the Town's project would cause irreparable harm to the piping plover. The Town retained Mr. Ellison Smith, of Smith, Bundy, Bybee, and Barnett, to represent its interests in this matter.

The Town received all necessary state and federal permits to conduct the project on June 6, 2006. Work began on June 8, 2006. In response, the petitioners requested an emergency hearing and an injunction to stop the project. On June 28, 2006 the case was heard before Judge John Geathers in Columbia, SC. After a full day of motions and testimony, Judge Geathers ruled that the petitioners had not proven that there would be "harm" to the piping plover and that the project could continue as planned.

L. Dean Weaver Construction Company, Inc. of Pamplico, SC conducted the beach project for the Town. The primary objective of the project was to close an existing beachfront creek and open a new channel to the east in order to reestablish the natural flow of sand to the beach in this area. In addition, 550,000 cubic yards of sand was placed along heavily eroded beachfront areas from the Ocean Course Clubhouse down to the 16th fairway.

Several different types of equipment were utilized to excavate the new channel and move sand to the west. This equipment included 4-5 track hoes, 16-18 off road trucks, 3-4 bulldozers, and 2 pan scrapers. The primary mode of sand transport was with off road trucks loaded by track hoes (see picture above). Work was completed on July 28, 2006. The Town funded the majority of this \$3.6 million project with the balance being covered by financial contributions from Kiawah Island Community Association (\$500,000), KIGR (\$300,000), and Kiawah Development Partners (\$100,000).

2015 East End Channel Realignment Project

The 2006 beach restoration project proved effective in restoring a dry sand beach along the Ocean Course. The new flushing channel relocated naturally in 2007 to a point in the middle of the open lagoon area. Between 2007 and 2013, the channel meandered across the intertidal beach; however, the throat of the channel remained east of the 2006 closure dike. In early 2014, the channel began to encroach on the closure dike, and the Town began planning for another channel relocation in the event the channel continued to migrate west. The plan called for periodic relocation of the flushing channel, using the minimal amount of sand necessary, if the channel migrated west beyond its position in February 2014. A permit application was submitted in May 2014 with the intended construction window of September–October; however, by the fall of 2014, the migration of the channel expedited and quickly eroded much of the dune area fronting the Ocean Course driving range. The Town applied for a one-time modification to the construction window to allow for construction during the spring-summer time frame, which was granted by regulatory agencies.

The 2015 project was constructed between May and June 2015 by Lake Moultrie Construction Company Inc (DBA Ashridge Inc.) of St. Stephen, SC, at a cost of \$538,000. Permit design and project management costs were \$122,500 and mitigation and monitoring

costs were \$297,936, for a total project cost of \$958,436. The Town of Kiawah Island funded the entire project. A total of 100,000 cy of sand was transferred, and the new inlet was opened ~3,000 ft to the east. A closure dike was built across the original channel, connecting to the remaining portion of the 2006 closure dike. Excess sand was placed along the seaward edge of the driving range to facilitate recovery of the eroded areas and protect the range. The completed project accomplished the goal of eliminating the cause of erosion along the Ocean Course while minimizing the construction impacts through lower volumes and limited manipulation of the beach area.

Best Case Potential Project Timing (additional details in attached CSE Proposal)

November-December 2024 - Project Planning and Management, Field Data Collection
January-August 2025 – Permit submittal and coordination
May 2025 – Begin Phase 2, final project design, construction documents
August 2025 – Project Bid
September-October 2025 – Project Construction

Estimated Project Costs

Permitting cost - \$77,000
Design and construction - \$300,000-\$600,000
Monitoring and Mitigation (may include shorebird surveys, aerial photography, habitat monitoring, benthic monitoring) - \$100,000-\$200,000

The Kiawah Island Golf Resort has stated that they are willing to share the expenses for this project.

Potential Funding Sources

The Town's Capital Fund currently has a balance of \$6,700,000 and expenditures for this project would be an appropriate use for this line item. In addition, State Accommodations Tax Funding could be requested as well.

Environmental impact

A Biological Assessment and Essential Fish Habitat Assessment will be prepared during the permitting process and is included in the Permitting proposal (\$77,000). These assessments will assist the US Fish and Wildlife Service and the National Marine Fisheries Service in preparing the required Section 7 Biological Opinions.

This project will cause environmental impacts but we believe they should be very minor. Due to the dynamic nature of this area, directly impacted areas will recover very quickly. The project has the potential to create new shorebird nesting habitat within the fill area.

Interested stakeholders

Town of Kiawah Island

Kiawah Island Golf Resort

Kiawah Island Community Association

Coastal Conservation League

Audubon South Carolina

— MEMORANDUM —

DATE: July 19, 2024
TO: Roger Warren
President
Kiawah Island Golf Resort
FROM: Steven B Traynum, President
RE: East End Channel Condition

At the request of Kiawah Island Golf Resort, CSE conducted a site visit and visual assessment of the beach adjacent to the Ocean Course. The visit occurred on July 2, 2024, and included a collection of drone photography. The evaluation follows a dynamic recent history dating to the early 2000s, when the attachment of large shoals to the beach created lagoons and channels that eventually led to erosion of the eastern end of the driving range. The erosion led to a ~500,000 cubic yard (cy) channel relocation and nourishment project in 2006 and another smaller-scale effort of 100,000 cy in 2015.

The original project relocated the flushing channel and redistributed sufficient sand to restore eroded areas and reorient the beach strand to a more stable configuration. The beach was left to evolve naturally, and no serious erosion concerns were present until 2014. Beginning in late 2014, rapid erosion of the dune area seaward of the Ocean Course driving range occurred, causing damage to golf course infrastructure. From November 2014 to February 2015, ~240 feet (ft) of dunes were lost seaward of the driving range, eventually leading to the installation of emergency sandbags to prevent additional damage (Figure 1). Additional erosion was likely to continue, which would require a larger-scale project to provide adequate mitigation. In May 2014, on behalf of the Town of Kiawah Island, CSE submitted a permit application for another channel realignment. This was done in anticipation of future erosion; however, the rapid acceleration beginning in late 2014 was not anticipated. The proposed project attempted to limit the volume of sand transfer to minimize impacts to endangered species and reduce cost.

The east end of Kiawah Island has been evolving since the attachment of a large shoal off the eastern end of the island in 2021. Much like the large shoals that attached to the beach in the late 1990s and eventually resulted in the 2006 beach restoration project, the eastern flank of the shoal attached to the beach and the western flank has migrated west and inland, trapping an ephemeral impoundment between the shoal sand and the original beach line (Figure 2).

As the western edge of the shoal extends, the channel flushing the impounded water is pushed landward, and is now encroaching on the closure dike from the 2015 project. Note that this event is more like the conditions in the early 2000s compared to the situation that led to the 2015 project. That project resulted from the main flushing channel of the marsh system slowing migrating west, and not a direct result of a recent shoal attachment. Sand from the current shoal attachment continues to infill the impounded water area; however, it has created a river-like channel seaward of the marsh system,

paralleling the driving range (Figure 3). While the channel was created by a slightly different process than the 2014 condition, the effects on beach erosion will likely be similar.

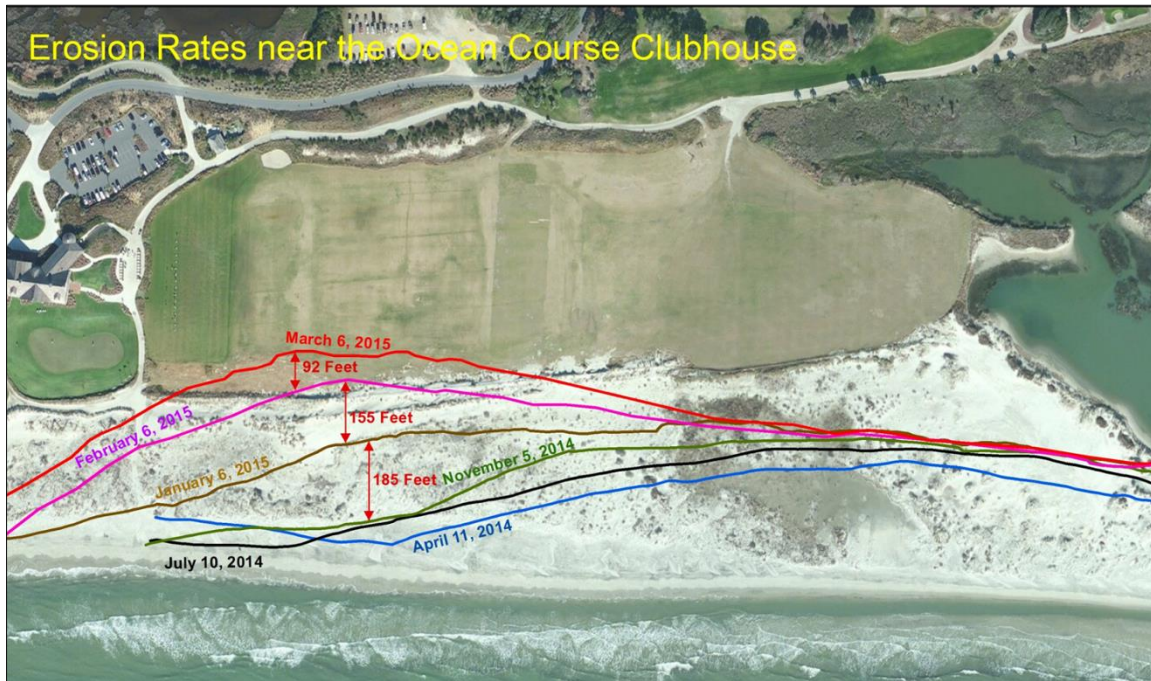


FIGURE 1. Shoreline data for 2014–2015 showing rapid erosion seaward of the driving range in late 2014 to early 2015.

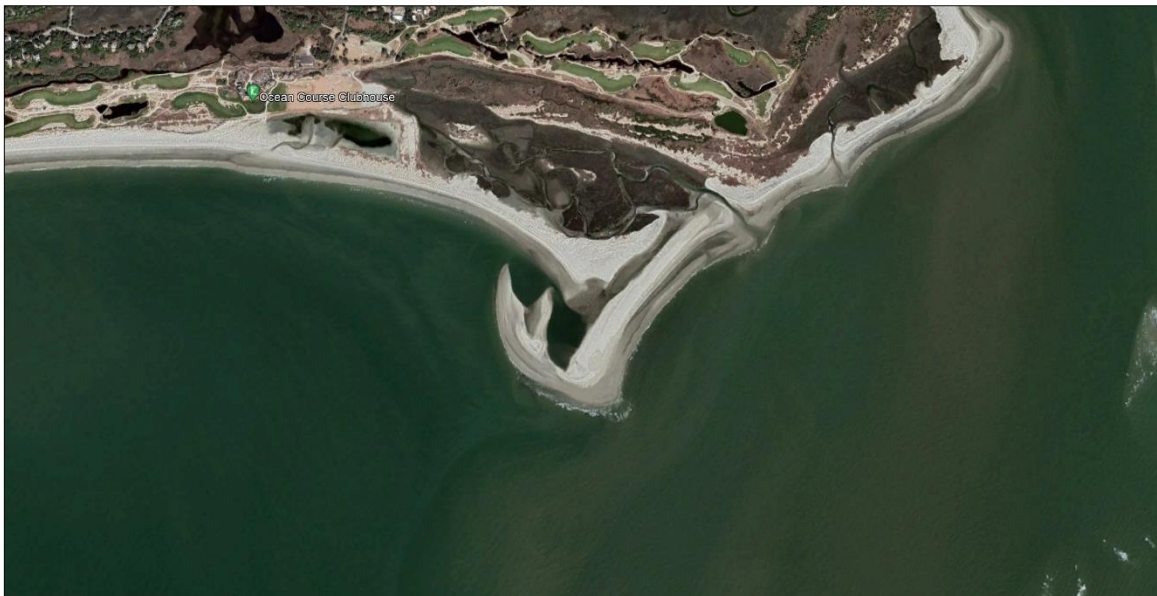


FIGURE 2. Aerial image taken in 2022 showing the attachment of a shoal and impounded water flushed from the western edge of the shoal.

The channel has extended west from December 2023 to July 2024, as shown in Figure 3. Figure 4 compares the 2014 condition to the July 2024 condition and shows that the overall configuration is very similar. The current channel already extends further west than the 2014 condition, though the beach width near the closure dikes is still greater in 2024 than in 2014. The two major concerns for additional erosion are the loss of the 2007/2015 closure dikes, which could quickly erode the seaward end of the driving range, and landward encroachment of the channel (similar to the 2015 condition) that impacts the driving range tee area, the practice green, and/or the 18th hole.



FIGURE 3. December 2023 (top) and July 2024 (bottom) images of the east end of Kiawah Island. The channel has migrated much further west over the past year.



FIGURE 4. Aerial photos from 2014 (left) and 2024 (right) of the east end of Kiawah Island. Note the similar configuration of the flushing channel and sand seaward of the channel.

It is impossible to accurately forecast how far landward the channel may move and over what time period; however, additional movement is inevitable. CSE anticipates that additional landward movement of the channel is likely due to the high volume of sand seaward of the channel. Rapid changes in the rate of movement are possible, as shown in the late 2014 conditions.

In CSE's opinion, stakeholders should initiate permitting for another channel realignment project in anticipation of future erosion damaging golf course infrastructure. There is a significant advantage of proactively managing the channel by reducing the required volume of sand to complete a successful project. If erosion is allowed to continue, some level of beach restoration will be necessary to restore the dune line and damaged areas of the golf course, in addition to the volume required to effectuate the channel relocation. A larger project increases cost and construction duration and can make it more difficult to obtain a permit.

Having a permit in hand will allow for proactive management of the system. A permit is valid for a five-year period, enabling the permittee to implement a project when the conditions warrant and within acceptable windows for environmental agencies. As with the 2015 permit, it is possible to allow for multiple events over those five years, provided certain triggers are met to ensure a project is completed only when necessary. The permittee should anticipate a minimum of nine months to obtain a permit after the application has been submitted to state and federal agencies; therefore, it is important to begin permit work well before the need for construction. A permit would likely restrict construction to several weeks in spring and/or fall to minimize potential impacts to sea turtles and shorebirds.



In summary, the east end of Kiawah is one of the most dynamic shorelines in South Carolina. It has benefited from natural accretion via shoal bypassing; however, these events create episodic erosion issues as channels drain evolving marsh systems. The positive sand budget allows for cost-effective management without the need to import sand from outside systems via offshore nourishment. The current condition is similar to that of 2014, prior to the accelerated erosion that impacted the Ocean Course. CSE believes proactive management via infrequent channel relocation is the best alternative to minimize cost and environmental impacts. Stakeholders should consider applying for a permit to manage the channel before it damages infrastructure and increases the scope of mitigation. Permitting will require a preliminary design, drawings and narrative, alternatives analysis, biological assessment, and liaison with agencies. Costs to obtain a permit are expected to be \$50–100k, provided that work can build on prior projects and monitoring efforts. Construction costs are likely in the \$300–600k range, depending on the material required to complete the work.

Please let me know if you have any questions or need additional information. CSE will be happy to meet with interested stakeholders to discuss the recommendations herein or the path forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Traynum', written in a cursive style.

Steven Traynum



EXHIBIT A — THE PROPOSAL

[P2626]

Preliminary Design and Permitting Services in Connection with Channel Realignment at the East End of Kiawah Island (SC)

INTRODUCTION

This proposal is submitted at the request of the Town of Kiawah Island in connection with erosion and channel encroachment in the vicinity of the Ocean Course at the eastern end of Kiawah Island. The problem is similar to the situation in 2014-2015 when a similar channel encroached on the driving range and practice green area of the Ocean Course. That condition led to a 2015 project that relocated the inlet channel and moved ~100,000 cy of sand to construct a closure dike and restore dune areas (P/N 2014-00537-1W). These projects follow a more significant erosion issue circa 2006 that led to the East End Restoration Project (OCRM Permit P/N 2005-1W-310-P) whereby ~550,000 cubic yards (cy) were excavated across and along the new outer beach and used to close the encroaching channel. The project produced a new flushing channel to the east and a wide berm along the critically eroded sections fronting the Ocean Course.

Periodically, sand bypasses Stono Inlet in the form of discrete shoals (sand bars) that are released from the ebb-tidal delta to migrate onshore. “Shoal bypass” events in the 1990s and early 2000s added upward of 5 million cubic yards to the east end of Kiawah Island. Additional smaller events have occurred since 2006. As bars migrate toward shore, they alter wave patterns and sand transport along the beach. Some areas in the lee of the shoals accrete rapidly, while adjacent sections of beach lose sand. A recent shoal attachment event provided a sand body that extended to the south, trapping a channel between the new sand and prior beach ridge. This channel migrated south significantly over the past year and could quickly shift landward and erode the golf course. Erosion accelerated quickly in late 2014, leading to emergency sandbag placement along the driving range.



The purpose of this proposal is to assist the Town of Kiawah Island (Town) in managing the present cycle of shoal bypassing. Based on the experience of the 2006 and 2015 projects, it appears that the appropriate design approach for the present problem should be similar—a new channel should be created across the outer beach and the encroaching channel close by way of sand excavations and transfers by off-road trucks. Such projects are cost effective and environmentally neutral while maintaining or even improving existing habitats. The objective is to implement a plan that will accelerate the natural cycle of shoal bypassing, stem the erosion along the Ocean Course, and restore a normal flow of sand downcoast (east of the Ocean Course). Implementing a project before the erosion impacts upland areas allows for smaller projects to manage the sand supply.

This proposal outlines preliminary design and permitting services required to prepare a specific plan and to prepare and submit a permit application to regulatory agencies. We assume the permit application would encompass multiple channel relocations due to the dynamic nature of the channel. The permit application will establish thresholds for implementing a project (ie – distance of channel from an established line).

CSE has prepared the following work plan covering initial design and permitting (in four tasks):

- 1) Planning, coordination, and project management
- 2) Field Data Collection
- 3) Preliminary Design, Permit Application, & Coordination

The present proposal includes services required to prepare the design and submit the permit application. It includes necessary services related to permitting liaison including responses to comments or additional meetings with third parties (such as conservation groups). Prior to or upon receipt of permits, final design services would be required to update the condition surveys, prepare the final design and an opinion of probable construction cost, prepare plans and construction documents, solicit bids, monitor construction and document pay quantities, and prepare a final survey and report. These tasks are not included in this proposal and budget, but will be provided at the request of the Town.

WORK PLAN

Task 1) Project Management, Liaison, and Planning

Task 1 covers professional time to meet with the Town, discuss the goals and objectives of the project, and establish project schedules. CSE also proposes to meet with regulatory and resource agencies before preparing the permit application and supporting documents to identify issues and concerns that should be addressed in the application. We anticipate the environmental concerns regarding the proposed project will be similar to those expressed by regulatory and resource agencies for similar projects recently pursued by other communities in South Carolina and for past projects at Kiawah Island. Time for extra coordination with Kiawah Island Community Association and/or Kiawah Resort is included in CSE's proposed budget. Specific work items under Task 1 will consist of the following:

- Meetings with Town officials (assume two)
- Interagency meeting with regulatory and resource agencies (assume one)
- Prepare correspondence, timetables, and project narratives for the community as needed and directed by the Town.

Task 2) Survey and Field Data Collection

CSE proposes to conduct a detailed beach condition survey and orthophotography via drone equipped with RTK-GPS. The survey will encompass portions of the Ocean Course oceanfront (from approximately the Ocean Course clubhouse) and extend east to encompass the area where a new channel may be cut. The survey will provide a high-resolution georeferenced image of the area as well as an 3D elevation point cloud providing survey-grade accuracy and point spacing greater than 1 point per sq ft.

Surveys of the area will be sufficient to estimate volumes available for scraping or excavation by hydraulic hoe and volumes needed to close the encroaching channel. Particular attention will be given to mapping areas above reference datums for purposes of construction planning. No new data will be collected seaward of low-tide wading depth. The rectified aerial photography will be used to delineate habitat areas, vegetation lines, and any features which may need to be protected during construction as well as for a pre-project baseline for environmental monitoring. Various morphologic features will be noted during CSE's survey to assist in developing an

efficient preliminary design. The goal is to determine minimum excavation and fill volumes necessary to effect a relocation of the flushing channel.

Task 2 includes time and expenses to mobilize field personnel, equipment, and a 4-by-4 field vehicle to Kiawah Island and conduct the survey. During the time of our survey, CSE will meet with project officials for purposes of coordination.

Task 3) Prepare Plan and Permit Application

Task 3 will cover sufficient engineering analyses for developing a preliminary plan and permit application. It will include analysis of survey data, volume calculations, mapping of shoal areas, and delineation and calculation of channel excavation volumes, and fill placement volumes to effect a channel relocation and preservation of a beach buffer area along the Ocean Course. Survey data from Task 2 will also be compared with conditions in 2015 around the time of the prior project. Channel sections will be analyzed to determine excavation and fill requirements for alternative channel alignments such that the total volume of excavations can be minimized. The condition survey of Task 2 will be used to delineate probable habitat impact areas and likely transformations associated with channel relocation, particularly changes in habitats of particular concern (areas favored by the piping plover and/or red knots).

CSE will prepare a permit application that delineates a construction plan and impact areas for channel relocation with potential modifications to the specific borrow and fill areas as conditions evolve prior to construction. The application will establish a corridor for the channel to meander over. Once the channel reaches the boundary of the corridor (threshold), a project would be implemented. The principal elements to be addressed in the permit application will be flushing channel realignment, construction sequence, project duration, post construction monitoring, and environmental protection. CSE anticipates submission of the permit application 2-3 months after notice to proceed.

Task 1 will provide minimal time for pre-application coordination and liaison with regulatory agencies. CSE will discuss the proposed plan with representatives of the agencies upon approval by the Town. Permitting liaison and environmental documents will be performed under Task 3.



CSE will draw on previous experience with the projects at Kiawah Island and other beach-scraping projects in South Carolina and reference such work in the application to assist the agencies in their reviews.

Task 3 will cover professional time to prepare a Biological Assessment (BA) and Essential Fish Habitat Assessment (EFH) to assist the USFWS and NMFS in evaluating the permit application and preparing Section 7 Biological Opinions (BO). CSE proposes to prepare these documents to be submitted at the same time as the permit application. We will draw on recently prepared documents for past Kiawah Projects and recent work in other communities to minimize cost and preparation time for these reports.

Subsequent Tasks) Not Detailed or Budgeted Herein

This proposal includes all time and expenses necessary to design a project, prepare a complete permit package, and provide permit liaison until a permit is issued by the state and USACE. Additional services will be required to implement the project. CSE will provide a detailed proposal for subsequent tasks at the appropriate time upon invitation by Town of Kiawah Island officials.

Tasks that are likely to be required for project implementation include the following (not included in the present proposal).

- Permit coordination beyond normal services typically required for these projects
- Assistance with permit appeals
- Engineering analysis not included herein (modeling, habitat monitoring)
- Final Design
- Bidding/Negotiation/Contracting
- Construction Administration
- Pre- or Post-Construction physical or environmental monitoring



SCHEDULE

CSE assumes the overall project schedule will be dictated by the time required to secure permits. Construction is likely to be restricted to the months of September and October per request by USFWS, however, other windows may be suggested by resource agencies. CSE anticipates performing the within-listed services (Tasks 1–3) over a period of approximately three months. CSE anticipates the first available construction window would be September 2025. A suggested schedule is as follows:

- Nov-Dec 2024 Task 1 Project Planning and Management
- Nov 2024 Task 2 Field Data Collection
- Jan-Aug 2025 Task 3 Permit Application and Liaison
- May 2025 Initiate Phase 2 services
- September 2025` Project Construction

PROPOSED BUDGET

Table A provides an itemized budget estimate for CSE’s services for Tasks 1–3 as outlined herein. CSE agrees to perform the services on a time-and-expense basis according to the enclosed fee schedule. Should Town of Kiawah Island officials desire additional services, CSE will provide a quote prior to performing the work. Reimbursables will be billed at cost.

TABLE A. Proposed fees and reimbursable expenses for services under Tasks 1–3.

Task #	Task Description	Task Fee
1	Project Management, Liaison, and Coordination	\$8,000
2	Field Data Collection	\$9,860
3	Preliminary Design and Permitting	\$50,480
1-3	Labor Subtotal	\$68,340
	Direct Expenses	\$8,660
	Total Project	\$77,000



FEE SCHEDULE

[Effective through 31 December 2025]

The fee for our services will be based on the charges listed below. All fee quotations are estimates, and actual fees are based on actual time and expenses incurred by Coastal Science & Engineering unless otherwise stated in the proposal. All rates are listed in U.S. dollars.

<u>Personnel</u>	Staff Category	Hourly Rate
	Senior Principal/Professional	195.00
	Sr Coastal Engineer	175.00
	Project Scientist/Engineer	165.00
	Sr Technical Associate	165.00
	Technical Staff (CAD)	150.00
	Support Staff (Admin/Field/Tech Asst)	130.00

Expert witness services are available at 1.5 times the base billing rates. Such services include trial preparation, depositions, and court appearances (travel excluded).

Expenses — Direct expenses incurred on the client's behalf are charged at our cost. Such items include, but are not limited to, equipment rental, subsistence, printing and reproduction, transportation and travel charges, and any special equipment or fees unique to the project. Vehicle mileage will be charged at current IRS rates.

Type of Contract Desired: Time and expense (not to exceed) for the services described herein at a total not to exceed seventy-seven thousand dollars (\$77,000) for Tasks 1–3.

Billing Schedule — CSE will invoice monthly for services performed the prior month with itemization of direct expenses. Invoices will be pro-rated according to fees and expenses inside and outside the project limits. CSE reserves the right to transfer funds between tasks so as to accomplish the work in an expeditious manner, provided total cost of services does not exceed the indicated budget.



TAB 5

TOWN COUNCIL

Agenda Item



REQUEST FOR TOWN COUNCIL ACTION

TO: Mayor and Town Council Members
SUBJECT: Audio/Visual System for Council Chambers
DATE: November 5, 2024

PROJECT OVERVIEW:

There is a \$60,000 approved budget for audio/visual upgrades to the Town's Council Chambers. The objective of these updates is to modernize and expand the video production capabilities of the Town's Council Chambers space. These upgrades will enhance video recording quality, live streaming capability, and overall system functionality.

Town staff requested estimates from three Creston certified vendors to replace the current two cameras with more high-quality cameras, add a centralized switcher and camera control to the space, and add one additional portable camera to use for an additional camera angle for live streams and that could serve as another camera for podcasts and videos.

Key Features and Benefits:

- **Enhanced Council Meetings:** High-quality video recording and live streaming of council meetings with precise audio and video control.
- **Optimized Web Conferencing:** Seamless integration with video conferencing platforms like Teams or Zoom, utilizing the Aux 1 Output for a superior video feed.
- **Versatility:** A portable camera setup will enable video recording and shooting outside Council Chambers, expanding the system's applications.

Additional details on the current audio/visual issues that Town staff are facing in Council Chambers and how these upgrades would provide solutions are detailed in the "Council Chambers A/V Issues and Suggested Solutions" attachment.

ESTIMATES:

The below estimates are for the two higher quality, mounted/fixed cameras; centralized switcher and camera control; and related equipment for Council Chambers.

- JSC - \$46,226.58

- Stage Front - \$34,314.72
- Young Office - No longer offers these services.

The below approximate estimate is for a third portable, studio-grade camera and its necessary accessories:

- Amazon - \$11,352.28 (as of this date)

ACTION REQUESTED:

Based on the cost estimates, review of service from our current provider/tech support, and the level of service and equipment options detailed, Town staff recommends contracting JSC Systems to update the current system with two updated cameras and a centralized switcher and camera control. This vendor is the higher of the bids but was more impressive with its response time, suggested solutions and overall understanding of the town's needs. The cost to upgrade the current two cameras and add a centralized switcher and camera control through JSC Systems is \$46,226.58.

When Town staff requested the estimates, it was recognized that it would be more cost effective to purchase the third portable, studio-grade camera and its accessories separately from an online retailer. This cost is approximately \$11,352.28, which could slightly fluctuate depending on purchase date.

It is requested that Town Council approves the purchase of the audio/visual equipment listed above, totaling \$57,578.86.

Council Chambers A/V Issues and Suggested Solutions

Issue: Ceiling mic's sensitivity and feedback

Solution: Creating pattern adjustments, using wireless lavalier microphones, and requiring any public/audience comments be provided at the podium or a microphone placed near attendees.

Issue: Crestron System has been *overbuilt*. There are too many features visible, requiring you to scroll through many pages and devices to find the item you need to adjust. There's no program preview, which makes it difficult to see the camera view you are about to switch to in a live situation.

Solution: Reconfigure Crestron to a hybrid system; add a production switcher with monitor to allow for previewing your actions before making them, like in a TV studio; and add an app that allows more efficient control of the Crestron system and remote access to the system.

Issue: The current livestream set up requires one person to be in as many as three places at once for it to run smoothly. The livestream and Zoom link are set up in the IT closet along with any slides that need to be displayed during the start of the meeting, Executive Session, or breaks during meetings. This causes a slight delay in setting up an Executive Session Zoom and starting the meeting in the Council Conference Room promptly. During these transitions, all mics must be muted while the next slide needs to be switched on the IT closet computer, and the Zoom meeting started.

Solution: Creating a central control station where all of this can be accomplished in one location; and placing a permanent desk either in Chambers (preferred) or the IT Closet (not recommended due to ongoing lack of storage) consisting of the computer that is currently in the IT closet, Crestron control (Pad/Computer), and a Video Production switcher to be able to monitor each input before streaming it.

Issue: Lack of necessary camera control. Adding the needed camera control options requires an upgrade of the cameras as they are not compatible with the new technology.

Solution: Upgrade cameras to be compatible with controller; an added benefit is that a newer chip/sensor will increase output quality.

Issue: Limited camera angles for the various meeting settings.

Solution: Add a third remote camera that can be set up in a multitude of locations. This camera can serve a dual purpose and be used for videos/podcasts produced by the Communications Department, as well as livestreaming remote, Town-sponsored events such as Disaster Awareness Day.



TAB 6

TOWN COUNCIL

Agenda Item



Memorandum

FROM: Dorota Szubert, Finance Director

SUBJECT: Medical Insurance Premiums

DATE: 11/01/2022

Overview:

Regular full-time and part-time employees who work more than thirty (30) hours per week on a twelve (12) month basis are eligible for comprehensive group medical insurance for themselves and dependents in the Town's group medical, dental and vision insurance plan. This is a self-funded plan offered by SC Public Employee Benefits Authority (PEBA)

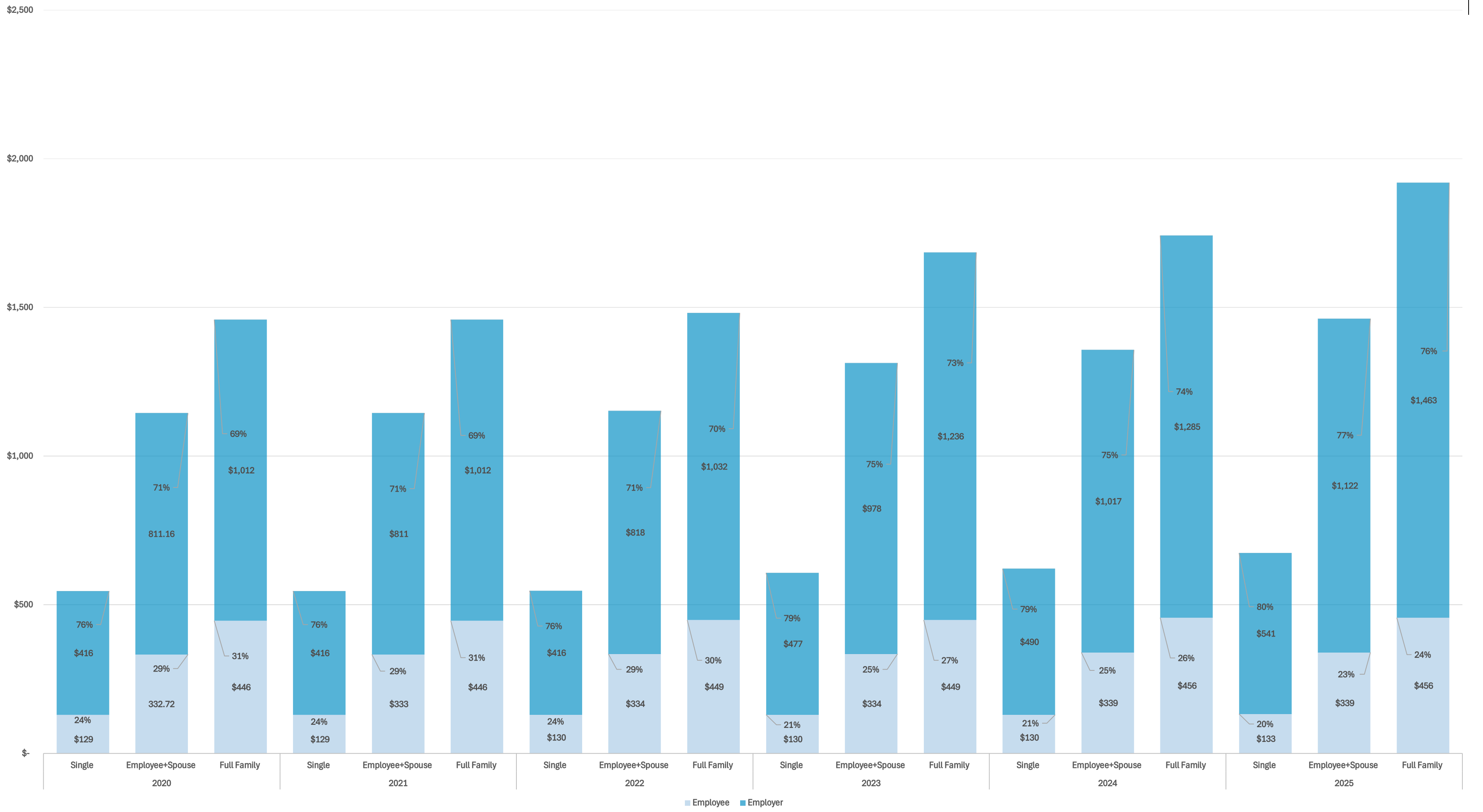
Historically, the Town subsidize a portion of the employee insurance contribution as to the coverage for a single employee was offered at no cost to the employee, and the same amount of the subsidy was applied to other types of coverage that includes employee and spouse/dependents and full family. Four years ago, the Town Council eliminated the subsidy and implemented 20/80 payment structure that allows the employee pay 20% of the total premium and 80% is paid by the Town. That structure applies to all coverage types.

For many years PEBA has not increased employee portion of the medical insurance, however the employer portion has been increased substantially, therefore the total cost of the premiums has increased. With the higher total premiums, the current structure of 20/80 will cause employees with the single coverage pay higher contributions than a maximum required by PEBA.

The Town Staff is asking Town Council to consider approving the same structure; 20% of the full premium paid by employee and 80% of the full premium paid by the Town with the exception when employee portion of 20% will be reduced to the maximum rate required by PEBA. The 2023 PEBA rates are enclosed for your reference.

EXHIBIT A

	2020			2021			2022			2023			2024			2025		
	Single	Employee/ Spouse	Full Family	Single	Employee/ Spouse	Full Family	Single	Employee/ Spouse	Full Family	Single	Employee/ Spouse	Full Family	Single	Employee/ Spouse	Full Family	Single	Employee/ Spouse	Full Family
Employee	\$ 129	332.72	\$ 446	\$ 129	333	\$ 446	\$ 130	334	\$ 449	\$ 130	334	\$ 449	\$ 130	339	\$ 456	\$ 133	339	\$ 456
%	24%	29%	31%	24%	29%	31%	24%	29%	30%	21%	25%	27%	21%	25%	26%	20%	23%	24%
Employer	\$ 416	811.16	\$ 1,012	\$ 416	811	\$ 1,012	\$ 416	818	\$ 1,032	\$ 477	978	\$ 1,236	\$ 490	1,017	\$ 1,285	\$ 541	1,122	\$ 1,463
%	76%	71%	69%	76%	71%	69%	76%	71%	70%	79%	75%	73%	79%	75%	74%	80%	77%	76%
Total	\$ 546	\$ 1,144	\$ 1,458	\$ 546	\$ 1,144	\$ 1,458	\$ 546	\$ 1,152	\$ 1,481	\$ 607	\$ 1,313	\$ 1,684	\$ 620	\$ 1,356	\$ 1,741	\$ 673	\$ 1,462	\$ 1,919





Monthly insurance premiums for active employees

If you work for an optional employer, verify your rates with your benefits office.

	Standard Plan	Savings Plan	TRICARE Supplement
Employee	\$97.68	\$9.70	\$62.50
Employee/spouse	\$253.36	\$77.40	\$121.50
Employee/children	\$143.86	\$20.48	\$121.50
Full family	\$306.56	\$113.00	\$162.50

	Dental Plus	Basic Dental	State Vision Plan
Employee	\$28.80	\$0.00	\$6.30
Employee/spouse	\$65.88	\$7.64	\$12.60
Employee/children	\$80.92	\$13.72	\$13.54
Full family	\$108.64	\$21.34	\$19.84

Employer contributions

	Health	Dental	Life insurance	Long term disability
Employee	\$527.10	\$13.48	\$0.38	\$3.22
Employee/spouse	\$1,108.84	\$13.48	\$0.38	\$3.22
Employee/children	\$905.94	\$13.48	\$0.38	\$3.22
Full family	\$1,449.32	\$13.48	\$0.38	\$3.22

Tobacco-use premium

If you are a State Health Plan subscriber with single coverage and you use tobacco or e-cigarettes, you will pay an additional \$40 monthly premium. If you have employee/spouse, employee/children or full family coverage, and you or anyone you cover uses tobacco or e-cigarettes, the additional monthly premium will be \$60. The premium is automatic for all State Health Plan subscribers unless the subscriber certifies no one they cover uses tobacco or e-cigarettes, or covered individuals who use tobacco or e-cigarettes have completed the Plan's tobacco cessation program. The tobacco-use premium does not apply to TRICARE Supplement Plan subscribers.



TAB 7

TOWN COUNCIL

Agenda Item



George J. Bullwinkel, III
Member
Admitted in SC

October 24, 2024

Mayor Bradley D. Belt
Town of Kiawah Island, SC
4475 Betsy Kerrison Pkwy
Kiawah Island, SC 29455

Re: Development Agreement Preparation

Dear Mayor Belt:

We are pleased you have chosen Maynard Nexsen PC to represent Town of Kiawah Island, SC (the “Client”) in connection with the above-referenced matter. We always want our clients to be fully informed and comfortable with our services and charges. Therefore, when asked to represent a new client, we find it helpful to explain our policies and practices with regard to our services and billings. This letter describes the basis on which we will represent the Client and bill for our services.

1. Professional Undertaking. I will have primary responsibility for the files and our initial tasks will include assisting the Client in providing advice on operations. Other attorneys and legal assistants in the office may be used in these matters in the best exercise of our professional judgment. We will endeavor to assist you in a professional manner and to the best of our abilities, but we cannot guarantee the outcome of any given matter.

2. Fees. We take into account many factors in charging for services rendered. The principal factor is usually our schedule of hourly rates in effect at the time the services are rendered. Our hourly rates for attorneys and other staff members are based on years of experience, and level of professional attainment. Currently our rates for attorneys range from \$200 to \$600 per hour. Our rates for legal assistants range from \$150 to \$225 per hour. My hourly billing rate is \$595.00. Nicole Scott, a partner of mine who will work on this matter with me, has an hourly

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Charleston, SC 29402
www.maynardnexsen.com

T 843.720.1716
F 843.414.8200
E GBullwinkel@maynardnexsen.com
Maynard Nexsen PC

Attorneys and Counselors at Law

billing rate of \$500.00 and our associate, Jacob L. Allen, has an hourly billing rate of \$355.00. The attorney with primary responsibility for your representation will review all monthly statements before they are rendered to ensure the charges are appropriate.

3. Expenses. Often it is necessary for us to incur expenses for items such as travel, lodging, meals, telephone calls, and deposition transcripts. Similarly, some matters require substantial amounts of costly ancillary services such as photocopying, word processing, computerized legal research, and staff overtime. In order to allocate these expenses fairly and keep billing rates as low as possible for those matters which do not involve such expenditures, these items are separately itemized on our statements as “expense advances.” Some “expense advances” represent out-of-pocket costs, some represent an allocation of overhead costs associated with the items described above, and others represent a combination of both factors.

4. Retainer. The Firm has agreed to undertake this representation without the payment of a retainer.

5. Billings. Our statements generally will be prepared and mailed a few days after the end of any month in which services are rendered and disbursements are made. We expect prompt payment, and in no event later than thirty (30) days from the date of the statement.

6. Late Payments. We are confident that the Client will make every effort to pay us promptly. Occasionally, however, a client has difficulty in making timely payments. To avoid burdening those clients who pay their statements promptly with higher fees reflecting the added costs we incur as a result of clients who are delinquent, a monthly service charge of 1.5% is added for late payments. This charge is assessed on amounts that remain unpaid for more than thirty (30) days from the date the bill was rendered. In no event will the service charge be greater than permitted by applicable law. In the unlikely event that we are required to institute legal proceedings to collect fees and costs, the prevailing party will be entitled to a reasonable attorneys’ fee and other costs of collection. Naturally, we do not expect any such problems will arise and we look forward to a wholly amicable relationship.

7. Termination. The Client will have the right to terminate our representation at any time. We will have the same right, subject to our obligation to give the Client reasonable notice to arrange alternative representation and, where required, to obtain permission of the judge before whom a litigation matter is pending. The Client shall remain responsible for all fees and expenses incurred through the date of any such termination, as well as those incurred in connection with our assisting with alternative arrangements or court approval after the date of termination.

Town of Kiawah Island, SC
October 24, 2024
Page 3

Please review the foregoing and, if approved, have it signed and the original returned to me. If at any time you have questions, concerns, criticisms, or suggestions, please feel free to contact me. We look forward to working with you and the Client.

MAYNARD NEXSEN PC

By: _____

George J. Bullwinkel, III

The undersigned consents to your firm's legal representation on the terms and conditions set forth in this letter.

Town of Kiawah Island, SC

By: _____

Its: _____

Date: _____



TAB 8

TOWN COUNCIL

Agenda Item

TOWN OF KIAWAH ISLAND

ORDINANCE 2024-26

AN ORDINANCE TO AMEND ARTICLE 15 – GENERAL OFFENSES, CHAPTER 2. – OFFENSES AGAINST PUBLIC PEACE, SECTION 15-216. - LOOSE MATERIALS

WHEREAS, the Town of Kiawah Island Municipal Code currently contains Article 15 – *General Offenses, Chapter 2 - Offenses Against Public Peace*; and

WHEREAS, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to amend Section 15-216 – *Loose Materials* to address and manage loose materials and debris to ensure public safety and environmental cleanliness; and

WHEREAS, the Town of Kiawah Island desires to enforce stricter control over the disposal and handling of loose materials and construction dumpsters to prevent public nuisances and enhance community welfare.

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 Article 15 – *General Offenses, Chapter 2, – Offenses Against Public Peace, Section 15-216. – Loose Materials* to enhance public safety and prevent hazards on roadways by regulating the securing of loads on vehicles and the containment of loose materials in dumpsters within the Town of Kiawah Island.

Section 2 **Ordinance**

The Town hereby amends Section 15-216. - *Loose Materials* in its entirety as shown in the attached “**Exhibit A.**”

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 the ____ day of _____ 2024.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS ____ DAY OF _____ 2024.

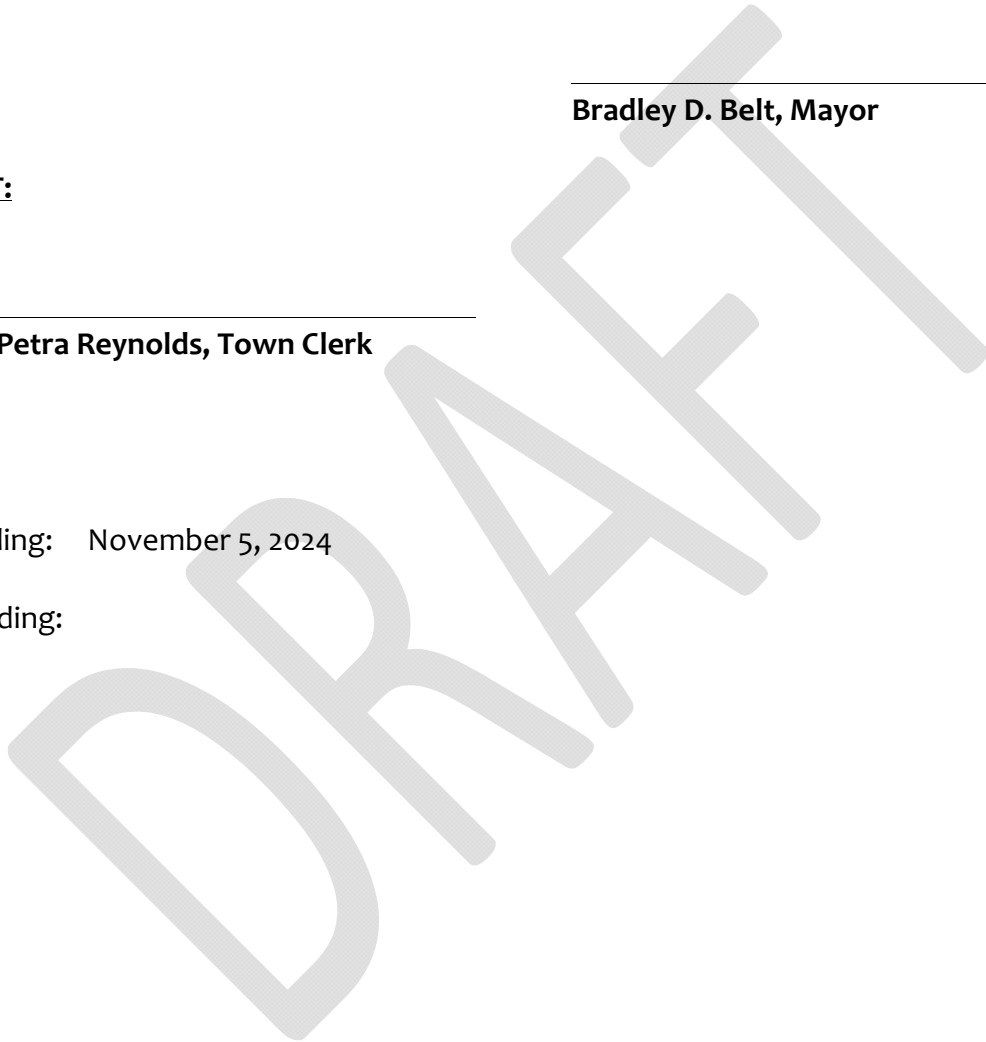
Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: November 5, 2024

2nd Reading:



Proposed EXHIBIT A for Ordinance 2024-26

Section 15-216. – Loose Materials

(a) Definitions:

Commercial Vehicle: Motor vehicles used in the ordinary course of business specifically for: (1) hauling materials, debris, or waste or (2) transporting landscaping equipment and supplies. This includes but is not limited to dump trucks, material haulers, and commercial landscape vehicles.

Construction Dumpster: Any large container intended to temporarily store and collect construction materials, commercial garbage, or other waste and debris.

Loose Materials: Includes any material or substance that could spill, fall off, or blow away from a commercial vehicle's open bed when the vehicle is operated.

(b) Requirements:

1. It shall be unlawful to scatter, spill, or otherwise deposit Loose Materials and Debris.
2. Any person responsible for scattering, spilling, or otherwise depositing Loose Materials on a roadway shall promptly take all necessary and reasonable measures to clean and remove the materials to prevent hazards to motorists, pedestrians, and the environment.
3. Should the responsible person fail to promptly clean the roadway in accordance with section (a), the Town of Kiawah Island Department of Public Works or Public Safety is authorized to remove the materials. The responsible person shall bear all costs of removal, including administrative and operational fees.
4. Commercial Vehicles transporting Loose Materials shall have loads fastened and covered using appropriate methods and equipment to reasonably prevent spillage, dislodgment, or any movement during transport.
5. Construction Dumpsters shall be covered by end of each workday using a lid, tarp or other means to reasonably designed to prevent waste material escape and deter animal access. Covers shall be maintained in good working condition.

(c) Enforcement:

1. Violations shall be subject to penalties as determined by the Town of Kiawah Island Municipal Court pursuant to Town of Kiawah Island Municipal Code article 6, chapter 1, section 6-106, including fines and restitution for damages or cleanup costs incurred by the Town.
2. The Town of Kiawah Island, its officials, employees, or agents shall not be liable for damages resulting from material removal under this section, except in cases of negligence or willful misconduct.

EXHIBIT A - Ordinance 2024-19

Section 15-216. – Loose materials.

- (a) For the purpose of this section, the following definitions shall apply:
1. Commercial Vehicle: Any motor vehicle used for the transportation of goods or passengers in the course of business.
 2. Covered Dumpster: A dumpster that is equipped with a lid or covering mechanism to prevent the escape of waste materials and to deter access by animals.
 3. Dumpster: A large waste container designed for the temporary storage and collection of garbage and other waste materials.
 4. Load: Any material transported on or within a commercial vehicle, including but not limited to debris, equipment, goods, or other objects.
 5. Personnel: All persons, employees, contractors, or agents that own, operate, manage, supervise, maintain, or accompany a commercial vehicle.
- (b) All personnel shall properly fasten and cover a load on a commercial vehicle using appropriate methods and equipment to prevent spillage, dislodgment, or any movement during transport.
- (c) No personnel shall scatter, spill, or otherwise deposit any materials or substances on any roadway within the Town of Kiawah Island in a manner that obstructs or endangers travel, causes damage to persons or vehicles, or poses a threat to public safety. This prohibition applies to all materials and substances, irrespective of their nature and quantity, including but not limited to gravel, rocks, sand, chemicals, liquids, garbage, waste, construction debris, and any other items that may create a hazard or obstruction on roadways.
- (d) Any such personnel responsible for scattering, spilling or otherwise depositing materials on a roadway shall promptly take all necessary and reasonable measures to clean and remove the materials from the roadway to prevent hazards to motorists, pedestrians, and the environment.
- (e) Should the person responsible for scattering, spilling or otherwise depositing materials on a roadway fail to clean or cause to be cleaned the roadway promptly and in accordance with the standards outlined in Section (d) above, the Town of Kiawah Island Department of Public Works or any law enforcement officer is authorized to remove the materials. Such responsible person shall bear the full cost of such removal, including all related administrative and operational fees.
- (f) All dumpsters used for the storage or disposal of waste materials within the Town of Kiawah Island shall be covered at all times except during the actual loading or unloading of garbage and other waste materials. Covered dumpsters shall be maintained in good and commercially reasonable condition to ensure that any cover or covers effectively prevent the escape of waste materials and deters access by animals.
- (g) Any personnel or person found guilty of violating this section shall be subject to penalties as determined by the Town of Kiawah Island Municipal Court pursuant to Town of Kiawah Island Municipal Code article 6, chapter 1, section 6-106, including fines and restitution for any

damages or cleanup costs incurred by the Town. The Town of Kiawah Island, its officials, employees, or agents shall not be held liable for any damages resulting from the removal of materials under this section, except in cases of negligence or willful misconduct.

- (h) The Town of Kiawah Island Department of Public Works and law enforcement agencies are authorized to enforce this section and issue citations for violations. Violations of this section may also be reported by members of the public to the appropriate authorities for investigation and enforcement.



TAB 9

TOWN COUNCIL

Agenda Item

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO24-000008

Planning Commission Meeting: July 3, 2024
Public Hearing and First Reading: November 5, 2024
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-128. Access, Parking and Loading Regulations, Sec. 12-63 Description of Zoning Districts and Regulations, and Sec.12-374. Definitions to modify driveway and parking standards for pervious paving requirements.

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-128 Access, Parking and Loading Regulations and Sec 12-63 Description of Zoning Districts and Regulations will require pervious paving for new and replacement driveways and parking lots and modifies the allowable increase of maximum lot coverage for utilizing pervious material. Introduces revised definition of pervious surface.

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

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

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

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

PLANNING STAFF REVIEW

The proposed amendments require all new and replacement driveways and parking facilities to be pervious paving material and modifies the incentive that allowed increase to the maximum lot coverage for residential districts for utilizing pervious material for driveways. With the recommendation to require all driveways be of a pervious paving material, the allowable increase incentive for areas not defined by driveways in *Section 12-63. Description of zoning districts and regulations* was eliminated. Reduced incentives remain for use of pervious walks, patios and raised courtyards and planters created by walls three feet or less above adjacent grade.

The minimization of total impervious area directly relates to a reduction in stormwater runoff volume and the associated pollutants from a development site. It is for this reason that; this proposed amendment is recommended by the Comprehensive Marsh Management Plan Pervious Impervious Subcommittee and is responsive to specific recommendations of both the Comprehensive Marsh Management Plan (2023) and the Flood Mitigation and Sea Level Rise Adaption Report for Kiawah Island (2018) to reduce the amount of impervious surfaces on the island.

In addition to the reduction in runoff and associated pollutants this could also count towards the Town's Community Rating System (CRS) credits to improve the community's FEMA score which could help lower flood insurance rates. *"The Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the National Flood Insurance Program (NFIP)."*

The Pervious/Impervious Subcommittee of the Comprehensive Marsh Management Plan has been studying for the past six months various strategies to reduce the amount of impervious surface on Kiawah, per the plan's recommendation. This has included looking at possible incentive programs and how other coastal communities are addressing this issue as well as studying regulatory approaches.

City of Folly Beach – All new driveways and parking area outside the structure footprint are required to be pervious.

City New Orleans – All new and renovated surface parking lots are required to use pervious pavement.

Tybee Island – All new residential driveways and replacements of more than 50% of existing driveways be permeable materials designed to allow retention of at least the first one inch of stormwater.

Town of Seabrook Island – Parking spaces more than 10% of the minimum required parking spaces for a development are required to be permeable. No permeable parking requirements however permeable parking can be administratively approved for parking areas beyond the minimum parking development standards, for outdoor storage areas, and for open air recreation parking uses for the Camp St. Christopher District.

Staff introduced an approach of providing incentives along with regulatory changes to achieve the

recommended reduction of pervious paving on the island at the Town Council Retreat May 9-10, 2024. Based on the discussion it was understood that the Town of Kiawah has minimum incentives that can be offered at this time, as permitting costs are low and other resources are not available. It was recommended that the regulatory approach would be needed to achieve the desired reduction in impervious surface.

The review process for this recommendation began with an introduction for discussion purposes to the Planning Commission at the June 8, 2024 meeting. Subsequent to the introduction in June of 2024, the Planning Commission made a recommendation on the proposed amendment in July 2024. In coordination with additional resiliency and stormwater management regulatory change recommendations, further consideration of any action was paused to engage and inform the community including the Planning Commission and Town Council with greater understanding of Kiawah's existing condition.

On September 30, 2024, the Planning Department hosted a joint Town Council Planning Commission Stormwater / Resiliency Workshop to provide engagement with engineering professionals to better understand general stormwater best management practices and Kiawah Island's existing conditions. Representatives from Charleston County Public Works Department, Kiawah Island Community Association and Kiawah Conservancy were present.

The importance of education and awareness will be a continued priority to communicate the benefits of pervious paving and impacts of water quality are continued efforts of not only the planning department but the many other stakeholders.

- The Planning Commission has now a liaison role to area regimes and neighborhood to liaise between neighborhoods inquiring about the process of pervious paving materials. This provides direct opportunity to expound upon previous case studies and successes. This also provides an opportunity to educate and inform the community on the pervious paving options that are available with a range of durability and associated costs.
- Planning staff has presented to the Kiawah Island Community Association to share information gathered through Comprehensive Marsh Management Workgroup on pervious paving benefits.
- Communications department in coordination with subcommittee of the Comprehensive Marsh Management Workgroup is currently working on a pervious material podcast series.
- Standard communications on these subject matters are on the website and pushed out to the community from the Town along with the other entities as the Kiawah Conservancy and Kiawah Island Community Association to increase range of audiences.
- The Kiawah Conservancy has provided an analysis which provides impervious surface coverage across Kiawah estimating ~18% total impervious area. According to SCDNR and NOAA thresholds references included within materials:
 - o Greater than 10-20% impervious coverage leads to adverse changes to the physical and chemical environment.
 - o Greater than 20-30% impervious coverage leads to significant changes in environmental conditions

The proposed amendment would not require any existing driveways or parking areas to be demolished and replaced. Any proposed new driveway or parking area, or in the event a property owner is replacing their driveway, or a major renovation for parking or driveway it would now be required implement a permeable surface.

With the continued dialogue and engagement planning staff finds the proposed amendment is

consistent with greater goal of Kiawah community becoming more resilient.

PLANNING COMMISSION MEETING JULY 3, 2024

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

On July 3, 2024 The Planning Commission approved the proposed text amendment with a vote of 5 to 1.

TOWN COUNCIL MEETING PUBLIC HEARING NOVEMBER 5, 2024

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

Stormwater Ordinance Workshop - Reference Handout

September 30, 2024

M. Lee Bundrick, MS, MPA, Sr. Ecological & Conservation Coordinator, Kiawah Conservancy

Impervious Surfaces

Prevent stormwater infiltration into underlying soils. Examples include buildings, driveways, roads, parking lots, and pathways. Negative impacts include:



Increases

Stormwater runoff volume
Pollutant & suspended solids transport
Downstream geomorphic changes
Saltwater Intrusion



Decreases

Groundwater infiltration/recharge
Water quality conditions
Ecosystem integrity & resilience

SCDNR / NOAA Thresholds*

- >10-20% impervious coverage leads to adverse changes to physical and chemical environment
- >20-30% impervious coverage leads to significant changes in environmental conditions
- Measurable increases in PAHs, trace metals, PBDEs.

USEPA Specific Impact Thresholds

- High algal biomass (> 5%)
- Benthic invertebrates (8-15%)
- Macroinvertebrate diversity & richness (8-12%)
- Fish Biological Integrity (6-11%)
- Geomorphic response patterns (13-24%)
- Channel instability (> 10%)

* Holland et al., 2005; Sanger et al., 2015; Parker et al., 2023

Kiawah Conservancy Analysis

Region	Impervious Surface Coverage
Wadmalaw Island	1.91%
Deweese Island	2.64%
Johns Island – South	3.30%
Johns Island - North	5.46%
Johns Island - Central	11.52%
Daniel Island	13.96%
Kiawah Island (unadjusted)	15.31%
Seabrook Island	15.83%
Mount Pleasant East	18.87%
Pawleys Island	19.66%
Folly Beach	19.86%
Hilton Head Island	20.92%
James Island	23.30%
Sullivans Island	28.40%
West Ashley	28.84%
Edisto Beach	30.63%
Isle of Palms	32.04%
Mount Pleasant West	33.91%
North Charleston	36.73%
Downtown Charleston	56.45%

Table 1. Regional comparisons of upland impervious surface coverage. Numbers originate from NOAA CCAP high resolution land cover from 2021-2022. Percentages are generally underestimated due to canopy coverage.

Kiawah Island (actual)

3725 Total uplands acres*

669 Acres of impervious cover

18% Total impervious area*

354 Acres transportation related

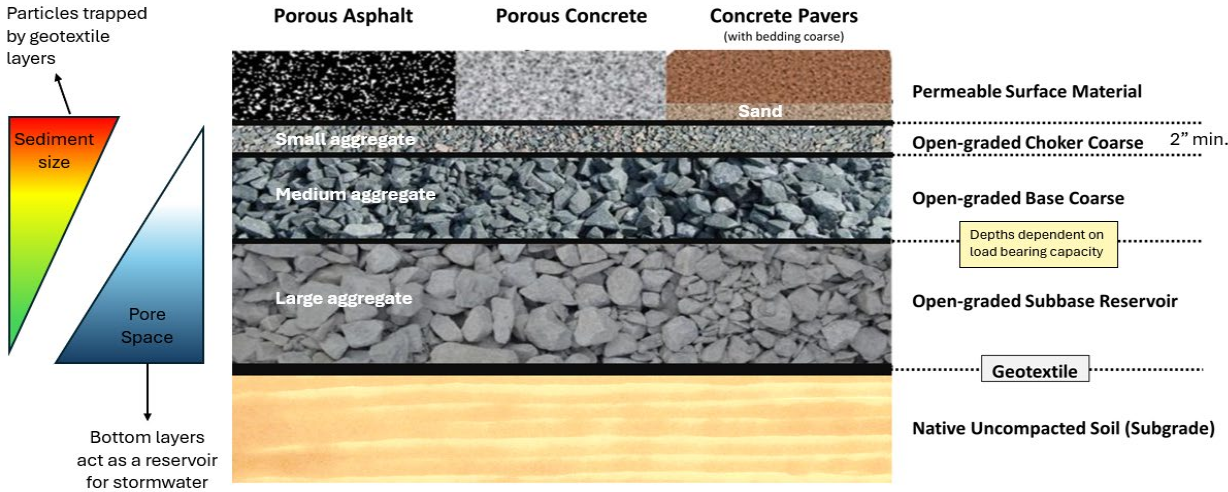
Numbers based on impervious surface geospatial database hand-generated by the Kiawah Conservancy in 2024 to address gaps due to canopy cover.

* = excludes ponds and marshlands

Table 2. Kiawah Island Impervious Surface Coverage by Type

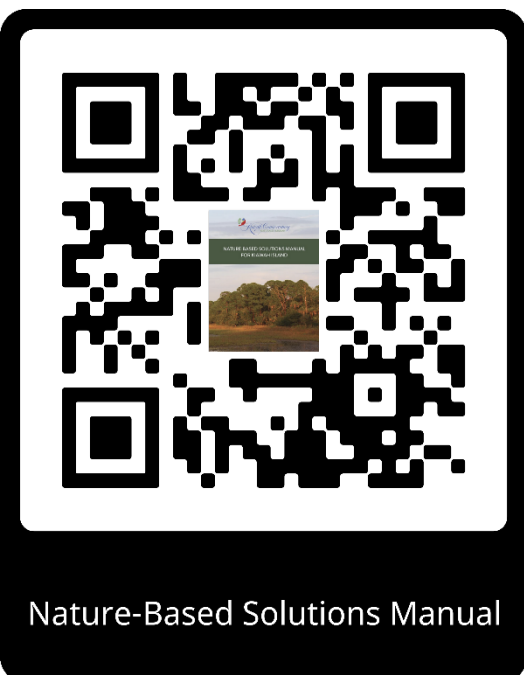
Surface Type	Number	Acreage	Impervious Cover (%)
Buildings	3545	262.32	39.2%
Driveways	2696	112.13	16.8%
Roads & Parking	-	241.94	36.2%
Multi-use pathways	-	43.08	6.4%
Other	58	9.77	1.4%

Pervious Surface Design



Tester	Site	Type	First Pour (in/hr)	Second Pour (in/hr)	Average (in/hr)
Kiawah Conservancy	Oceanwoods	Pavers (with fines)	6.6	-	6.6
Kiawah Conservancy	Indigo Park	Pervious Concrete	47.6	39.9	41.3
Kiawah Conservancy	Cassique	Pervious Concrete	59	75.5	70.4
Kiawah Conservancy	The Sandcastle	Pavers (without fines)	127	149.3	138.8
Kiawah Conservancy	Saltmeadow	Pea Gravel	1189.7	1092.1	1106.5
Bean et al (2007)	NC, MD, VA, DE	Grid Pavers (=15)	Pre-maintenance		2.7
Bean et al (2007)	" "	Grid Pavers (=15)	Post-maintenance		5.1
Bean et al (2007)	" "	Pavers (=9)	With Fines		20.9
Bean et al (2007)	" "	Pavers (=5)	Without Fines		787.4
Bean et al (2007)	" "	Pervious Concrete(=7)	With Fines		6.3
Bean et al (2007)	" "	Pervious Concrete (=4)	Without Fines		1574.8

Table 3. ASTM C1701 Infiltrometer testing by the Kiawah Conservancy (2024) with reference to previous study in mid-Atlantic states by Bean et al. (2007) using similar methods. The data provided is related to surface infiltration, not subsurface design.



Group	Minimum Infiltration Rate (in/hr)	Hydrologic Soil Group
A	0.3 – 0.45	High infiltration rates. Deep, well drained sands and gravels
B	0.15 – 0.30	Moderate infiltration rates. Moderately deep, moderately well drained soils with moderately coarse textures (silt, silt loam)
C	0.05 – 0.15	Slow infiltration rates. Soils with layers, or soils with moderately fine textures (clay loams)
D	0.00 – 0.05	Very slow infiltration rates. Clayey soils, high water table, or shallow impervious layer

Treatment Train – utilizing a chain of several green-infrastructure practices for stormwater mitigation. See QR code to the left.

Example:

Rain Barrels → Pervious Surfaces → Rain Gardens → etc.

TOWN OF KIAWAH ISLAND

ORDINANCE 2024-24

**AN ORDINANCE TO AMEND CHAPTER 12 – LAND USE PLANNING AND ZONING
ORDINANCE ARTICLE II. - ZONING, DIVISION 2. - ZONING MAPS/DISTRICTS, SEC. 12-63. -
DESCRIPTION OF ZONING DISTRICTS AND REGULATIONS; DIVISION 4. -
SUPPLEMENTAL REGULATIONS, SEC. 12-128. - ACCESS, PARKING AND LOADING
REGULATIONS; AND ARTICLE IV. - DEFINITIONS, SEC. 12-374. - DEFINITIONS. TO MODIFY
DRIVEWAY AND PARKING STANDARDS FOR PVIOUS PAVING REQUIREMENTS**

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 enhance resiliency efforts by modifying driveway and parking standards for pervious paving requirements; 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 July 3, 2024, 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 the Town Council that the proposed amendment be approved; and

WHEREAS, the Town Council held a Public Hearing on November 5, 2024, 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 to modify driveway and parking standards for pervious paving requirements.

The proposed amendments require all new and replacement driveways and parking facilities to be pervious paving material and modify the incentive that allows an increase to the maximum lot coverage for residential districts for utilizing pervious material for driveways.

Section 2 Ordinance

- (1) The Town hereby amends Section 12-128. - *Access, Parking, and Loading Regulations* as shown in the attached “**Exhibit A.**”

- (2) The Town hereby amends Section 12-63. - *Description of Zoning Districts and Regulations* as shown in the attached **“Exhibit B.”**

- (3) The Town hereby amends Section 12-374. - *Definitions* as shown in the attached **“Exhibit C.”**

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 the Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS _____ DAY OF _____ 2024.

Bradley Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: November 5, 2024

2nd Reading:

Sec. 12-63. Description of zoning districts and regulations.

The purpose and intent of this section is to specify zoning categories and standards for all classes of use, e.g., residential, resort, commercial, etc. Standards include permitted density, lot size and coverage, and supplemental regulations.

- (1) Any property previously zoned special development shall fall under the PD zoning.
- (2) In determining the maximum number of dwelling units or hotel rooms per acre, all water bodies and all land below mean high-water level on the original or "grassroots" site are to be excluded. This requirement serves to reduce overcrowding and over-development of residential, resort, commercial and other sites. Maximum density/intensity is a limit on development rights, and not a grant of vested rights.
- (3) Lot coverage is defined in article IV, definitions, of this ordinance. Maximum percentage lot coverage is specified for each zoning district: however, the following items shall be excluded from lot coverage as determined by the Planning Director:
 - a. At grade boardwalks and landscape retaining walls below three feet in height; or
 - b. The access drive located on the "pole" of a flag lot as defined by this ordinance.

Allowable increase for residential districts. The maximum lot coverage for the R1, R2, and R3 districts may be increased for specific pervious elements as follows:

Maximum Lot Coverage as Shown in the Residential District	Allowable increase as percentage of the Maximum Lot Coverage
50 percent	10-2.5 percent
40 percent	15-5 percent
33 percent	20-10 percent

The only items that qualify for allowable increase in maximum lot coverage as determined by the Planning Director are:

- ~~a. Driveways not defined by this ordinance that utilize pervious materials.~~
- b. Pervious walks and patios.
- c. Raised courtyards and planters created by walls three feet or less above the adjacent grade.

Where an OCRM critical line is located on the property, the setback and buffer requirements of the waterfront development standards, section 12-76, shall apply.

- (4) The following apply to the residential zoning districts:
 - a. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
 - b. The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course, lagoon, marsh, and/or open area.
 - c. Height of single-family detached homes is measured from the Federal Emergency Management Agency's base flood elevation determined for the individual home site.
- (5) The following apply to the nonresidential zoning districts:

- a. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line.
- b. Nonresidential structures may have the height in stories shown in the corresponding zoning district lot standards table, provided that the highest roof ridge of the building does not exceed the height shown from the Federal Emergency Management Agency's base flood elevation determined for that individual structure.
- c. Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.

(Code 1993, § 12A-203; Ord. No. 2005-08, § 12A-203, 10-12-2005; Ord. No. 2015-04 , § 2, 4-14-2015)

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.

- (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 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.
 - e-f. All new driveways and driveway replacements permitted after XX, XX, 2024 shall be constructed of pervious materials.
- (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:

Table 4D. Driveway Separation Regulations	
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	1.5 spaces per efficiency or 1 bedroom per dwelling unit
Hotels	
Guestrooms	1 space per 4 persons allowed under maximum occupancy
Conference area (part of hotel structure)	1 space per 75 square feet of indoor seating area, plus 1 per 200 square feet of outdoor seating area
	50 percent of parking required for other uses
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 4 persons allowed under maximum posted occupancy, plus 1 per employee in 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⁾ 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. *All required surface parking facilities shall be constructed of a pervious surface.*

12-13. 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.

13-14. 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
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g. *Parking, loading and vehicular use area landscaping.*

1. *Parking, loading and vehicular area perimeters.* Unless otherwise expressly stated, perimeter landscaping shall be required around the outer perimeter of all off street, surface parking, loading and vehicular use areas. Parking areas for the exclusive use of single-family dwellings shall be exempt from these requirements. Any off-street parking, loading or vehicular use area that will be entirely screened from view by an intervening building or structure or by a buffer provided to satisfy requirements contained elsewhere in this article shall also be exempt from these (parking, loading and vehicular use area) perimeter landscaping requirements.
2. *Perimeter landscape requirements.*
 - (i) A curbed perimeter landscape area at least ten feet in depth shall be provided at the perimeter of all off-street parking, loading and vehicular use areas, except where permitted driveway openings are to be provided. Where drainage or other utility easements exist along property lines, the perimeter landscape area shall be located adjacent to the easement.
 - (ii) Required perimeter landscape areas shall be planted in accordance with the following minimum standards:
 - A. One canopy tree shall be provided for each 50 linear feet of parking, loading or vehicular use area perimeter. These trees may be used to satisfy the interior parking lot landscaping requirements;
 - B. A hedge or other landscape material of at least three feet in height (at maturity) shall be planted within the perimeter landscape area to provide a continuous landscape element, or a combination of trees, hedge, other durable landscape material or approved wall, fence or earth berm may be used to form the continuous landscape element;
 - C. All portions of the perimeter landscape area not planted with shrubs or trees or covered by a wall or fence barrier shall be planted in grass or ground cover; and
 - D. Parked vehicles may overhang a landscaped area if curbing is installed to prevent any damage to plants within the required perimeter landscape area. Landscaping, walls, fences and earth berms will be located to prevent their damage and/or destruction by overhanging vehicles.
3. *Interior areas landscape requirements.* The following interior parking lot landscaping requirements shall apply to all parking lots except those exclusively serving single-family residential uses.
 - (i) A minimum of one landscape island shall be provided for each ten parking spaces within an off-street parking area. Required landscape islands shall have a minimum of 325 square feet, variably dependent upon the species of the canopy tree proposed by the designer. Each parking lot bay must terminate with a tree island.
 - (ii) Each required landscaping island shall contain at least one canopy tree and there shall be at least one canopy tree per ten parking spaces within the off-

street parking area. Double-loaded interior parking landscape islands are to be no less than ten feet wide and canopy trees planted in these islands are to be planted in line with parking stripes (between vehicles).

- (iii) Curbs, wheel stops or other approved protective barriers shall be installed around all required landscape islands, as approved by the Planning Director.
- (iv) Landscaping provided to meet the right-of-way buffer standards of this article may not be used to satisfy interior parking lot landscaping requirements. Canopy trees provided to meet perimeter landscaping requirements may be counted to satisfy interior parking lot landscaping requirements.

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.~~ Parking areas underneath the footprint of existing and proposed structures shall be exempt from this requirement. (Pervious surfaces permit infiltration or percolation of stormwater into the ground a rate greater than 0.1 inch/hour.)
- 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. These facilities may include Low Impact Development solutions such as Bioretention Areas.

(Code 1993, § 12A-405; Ord. No. 94-12, § 2(12A-404), 9-26-1994; Ord. No. 2005-08, § 12A-405, 10-12-2005)

Sec. 12-374. Definitions.

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

Relevant Definitions

Driveway means a minimum ten-foot wide vehicular travel way of any surface treatment (pervious or impervious) from the property line to the garage. This includes guest parking and required back-up and turn-around areas required for safe vehicular movement as determined by the Planning Director.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including buildings, asphalt, concrete, gravel and other surfaces as determined by the Planning Director.

Lot coverage means the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, ~~front~~-walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director.

Parking lot means an open area providing off-street parking for the motor vehicles of residents, tourists, customers, or employees on a temporary, daily, or overnight basis.

Bioretention areas (rain gardens) means shallow depressed areas that are filled with a sandy soil and/or gravel media and are planted with vegetation used to reduce stormwater runoff rates, volumes and pollutant loads.

Pervious surface means an unimproved portion of land maintained in its natural condition or an improved portion of land covered by a material that permits infiltration or percolation of stormwater into the ground ~~as determined by the Planning Director~~ at a rate greater than 0.1 inch/hour.



TAB 10

TOWN COUNCIL

Agenda Item

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

Planning Commission Meeting: October 2, 2024
Public Hearing and First Reading: November 5, 2024
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

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

Key Factors of the Proposed Ordinance:

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

Relevant Defined Terms:

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

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

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

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

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

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

PLANNING STAFF REVIEW OCTOBER 2, 2024

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

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

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

PLANNING COMMISSION MEETING OCTOBER 2, 2024

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

On October 2, 2024, the Planning Commission recommended approval by a vote of 7 to 0.

TOWN COUNCIL MEETING PUBLIC HEARING NOVEMBER 5, 2024

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

Town of Kiawah Island

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

November 5, 2024



PROPOSED ZONING TEXT AMENDMENTS

#AZO24-000009

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

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

Key Factors of the Proposed Ordinance:

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

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

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

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

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

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

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Zoning Ordinance Text & Map Amendment Applications: Approval Criteria

(6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

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

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

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

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

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

Case# AZO24-000009

Planning Commission Meeting: October 2, 2024

Planning Commission Recommended Approval by a vote of 7 to 0

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

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TOWN OF KIAWAH ISLAND

ORDINANCE 2024-25

**AN ORDINANCE TO AMEND CHAPTER 12 – LAND USE PLANNING AND ZONING
ORDINANCE ARTICLE II. ZONING, DIVISION 6. - NONCONFORMITIES AND VESTED
RIGHTS, SECTION 12-192. - NONCONFORMING STRUCTURES. AND SECTION 12-193. -
NONCONFORMING USES. TO MODIFY NONCONFORMITY STANDARDS.**

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 standards relative to nonconforming structures and nonconforming uses; 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 October 2, 2024, 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 the Town Council that the proposed amendment be approved; and

WHEREAS, the Town Council held a Public Hearing on November 5, 2024, 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 to modify standards of nonconforming structures and nonconforming uses.

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

Nonconforming uses are uses that were lawfully established and maintained but do not comply with the use regulations applicable to new uses in the zoning district in which it is located. This amendment clarifies the requirements for the extension and/or enlargement, the conditions whereby a change in an existing nonconforming use may be permitted, and the loss of legal nonconforming use status.

Section 2 **Ordinance**

(1) The Town hereby amends Section 12-192. - *Nonconforming Structures* and Section 12-193. - *Nonconforming Uses* as shown in the attached **“Exhibit A.”**

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 the Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS
_____ DAY OF _____ 2024.

Bradley Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: November 5, 2024

2nd Reading:

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

DIVISION 6. NONCONFORMITIES AND VESTED RIGHTS

Sec. 12-190. Purpose and intent.

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

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

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

Sec. 12-191. Nonconforming lots.

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

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

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

Sec. 12-192. Nonconforming structures.

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

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

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

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

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

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

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

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

Sec. 12-193. Nonconforming uses.

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

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

(1) *Extension or enlargement.*

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

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

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

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

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

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

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

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

Sec. 12-194. Vested rights.

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

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

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

Secs. 12-195—12-211. Reserved.