



Town Council Meeting

November 4, 2025

Public Comments

**DFT Ordinance 2025-21
Beach Front Overlay Zoning
District**

Revised 11/3/2025

October 14,2025

Attention: Town of Kiawah Island (TOKI), Mayor D. Belt, Council Members E. Luke Farell, Lance Spencer, Madeline Kaye.

Sent by Federal Express

Sent by E-Mail: TokiPlanning@kiawahisland.org

**RE: Proposed TOKI Public Hearing November 4, 2025.
Zoning Map & ZoningText Amendment: #AZO25-000009**

Dear Sirs:

This letter is a petition by Henry and Eva Holland, owners of property located on 37 Eugenia Avenue on Kiawah Island, SC, hereby known as “Owner,” to object to the proposed radical new setback provision proposed by Town of Kiawah Island (TOKI), and specifically along the mid-portion of the island that courses in parallel to Eugenia Avenue. The proposal adversely affects ocean front properties along Eugenia Avenue, including the Owner’s property at 37 Eugenia Avenue. It is requested that the proposed change from the historical setback be denied.

The proposed change is a radical departure of the historical setback line, and is being arbitrarily and capriciously applied.. The proposed Buffer A 50ft and Buffer B 100ft setbacks encroaches onto nearly all of the residential properties along Eugenia Avenue, which are positioned well behind the ecologically protected dune system. This zoning proposal specifically targets the oldest oceanfront neighborhood on Kiawah, whereas the proposed beachfront overlay zoning has no adverse impact on the remaining 80% of oceanfront properties including Surf Song and Fly Away.

The 100 ft buffer extends into our main house and fully encompasses the original second residential structure, arbor and pool located on our property at 37 Eugenia Avenue. This impact occurs on a substantial percentage of the residential properties located on the ocean side of Eugenia Avenue. There is no objective evidence of significant beach erosion along Eugenia Avenue to justify this new proposal, or evidence that the current structures adversely impact on the beach stability.

To the contrary, it is obvious to even the casual observer that the dunes along Eugenia Avenue have remained stable or accredited over the past three decades with an average of 30 to 45 feet since 2001.. This is further supported by DHEC-OCRM publications on the state of the beach along Eugenia Avenue that repeatedly described the section as stable or with accretion since 1991, and Kiawah Island as an overall “stable beach” and dune system. The TOKI commissioned *2020 Local Beach Management Plan* prepared by Dr. Kana similar confirms the stability of beach and dune systems on Kiawah Island other than the dynamic dune systems adjacent to the western and eastern inlets.. The DEHC Monument Marker #2660 located along Eugenia Avenue has remained relatively stable from 2014 through 2024 per the OCRM/DEHC publicly published data. In conclusion, there is no reasonable justification to change the setbacks along Eugenia Avenue.

Enactment of the proposal to radically alter the setback line will bisect our (and other owners) longstanding owned residential lots. This action is an involuntary “taking” of private property that will render it in part or fully “valueless”; thereby, placing at financial risk the Town of Kiawah Island and Charleston County of South Carolina to provide “just compensation” for current and/or future losses to the Owner as guaranteed

under the Fifth and Fourteenth Amendments of the U.S. Constitution, and supported in a recent U.S. Supreme Court decision regarding setbacks on coastal land.¹ The TOKI proposal would be unconstitutional,

illegal, null and void because such an action constitutes a taking of the Owner's property without first paying fair, adequate and just compensation for such rights, in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. South Carolina OCRM/DEHC has previously proposed similar beachfront setbacks and did not proceed forward with implementation due to concerns of constitutional challenges and prohibitive costs.

Because the proposed action by TOKI may affect a large number of residents on Kiawah Island, the potential financial liability to the TOKI and Charleston County may well approach if not exceed several hundred million dollars to provide just compensation. The action will, furthermore, impair property values on the island that may result in substantial property tax revenue loss to the County of Charleston.

A reasonable alternative is to leave the setback at its current location and to continue to monitor the beach. This decision would not adversely impact property owners on Eugenia Avenue and allow a longer vesting period to review future proposals and its overall impact to the community. The draft zoning document has no rationale with the vast majority of oceanfront properties and is essentially a moot proposal..

We request that the setback proposal not extend into the property line of 37 Eugenia Avenue, and similarly for the other homes located on Eugenia Avenue. This will in effect have the same null impact as the homes along Surf Song and Fly Away, which collectively do not have the arbitrary and capricious buffer zone bisecting their properties.

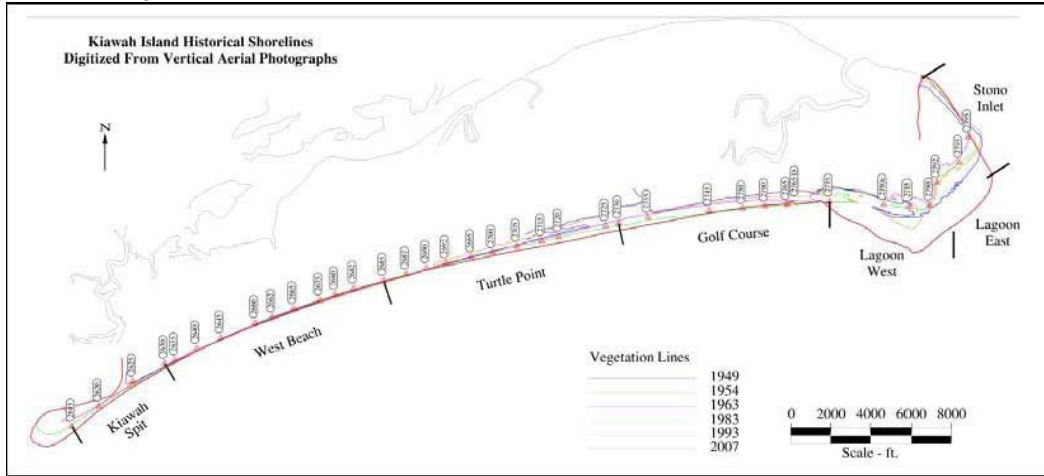
Discussion:

I. Beach and Dunes along Eugenia Avenue Have Shown Accretion During Past Three Decades

The proposed change is arbitrary and is not substantiated by objective evidence published by DHEC and OCRM that clearly documents that the dune profile on the mid-portion of Kiawah Island along Eugenia Avenue has been stable over time.^{2,3,4,5,6} For the past decade the dunes along Eugenia Avenue have not only remained stable, but have grown substantially seaward. The beach in front of 37 Eugenia has accrued new dunes of 40 ft seaward of the 2001 shoreline. The increased width of the beach prompted the TOKI during this interval to notify homeowners to extend their boardwalks to protect the new dunes.

OCRM has stated as recently as in its *2008 Annual State of the Beaches Report* that Kiawah is one of the most stable barrier islands in the state and that the area along Eugenia avenue (mid station #2660) has remained stable.³ In the March 2003 report, it states that the beach along Eugenia Avenue from station 2660 to station 2680 showed that in years 2001-2002 that "*the primary dunes stabilized and the beach seaward of the dune increased in width by 10 to 50 ft.*" Aerial photographs of Kiawah Island have shown that the western mid portion of Kiawah Island (where Eugenia Avenue is now located) has remained stable over the past century. The recent beach renourishment of the far eastern island shoal appears to have resulted in increased sand deposition this winter with the likelihood that the dunes along Eugenia Avenue will expand an additional 10 to 30 feet over the next 12 - 24 months.

Aerial photographs of Kiawah Island since 1949 have consistently shown that the West Beach (includes Eugenia Avenue) and the adjacent mid-western island Turtle Point has remained stable with no evidence for beach erosion



over the 58-year time span (Figure 1):

Figure 1. Aerial photographs digitalized of Kiawah Island from 1949 through 2007. Overlap of lines document that the West Beach (Eugenia Avenue) has remained stable with no erosion. The red line represents the most recent 2007 analysis and overlaps all prior lines.

The aerial photograph analysis showing that the West Beach (Eugenia Avenue) and Turtle Point portions of the island have remained stable if not expanding is further confirmed by objective beach measurements during the past decade. Analysis of the National Geodetic Vertical Datum (NGVD), a fixed reference adopted by the U. S. Government as a standard geodetic datum for vertical elevations, documents that since 1991 through 1997 there has been a net gain of 950,000 cubic feet of beach acreage along the western portion of the island that includes Turtle Point, West Beach (Eugenia Avenue) and Kiawah Spit. (figure 2):

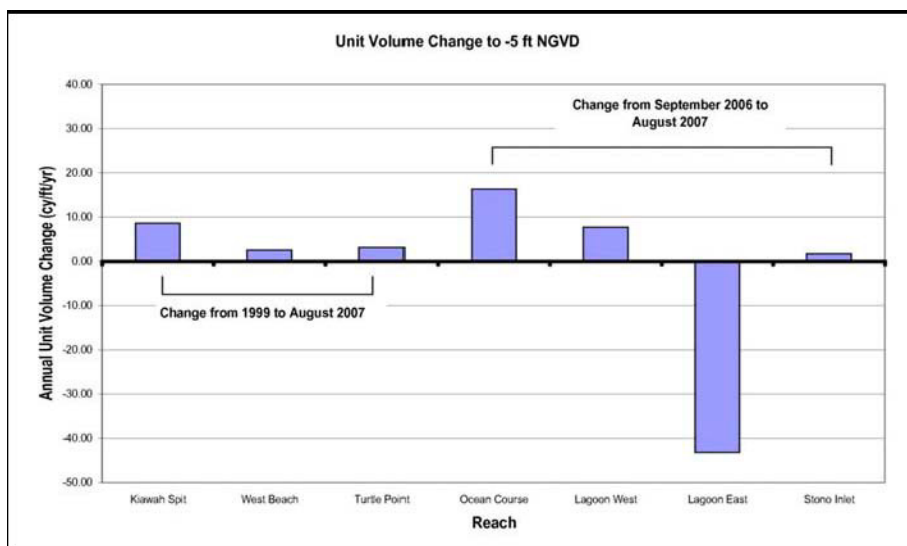


Figure 2. Annual unit volume change of beach/dunes between 1999 to August 2007 is shown on the left-half of the graph for Kiawah Spit, West Beach (Eugenia Ave.) and Turtle Point. There has been a net accretion of beach representing 950,000 cubic ft. during this time span. All three regions have shown beach accretion.

The residential ocean front lots along Eugenia Avenue have the highest elevation on the island approaching 15-20 feet above sea level. The majority of the lots were deeded in the 1970s or earlier, and all structures erected lie well behind the seaward dunes and are required to have elevated boardwalk structures to minimize injury to the dune ecosystem.

In summary, the objective evidence supports the conclusion that the beach/dune area along Eugenia Avenue has not only been stable, but the primary dune has extended significantly seaward during the past decade. DHEC/OCRM published data during the past decade, in fact, supports the conclusion that the beach/dune areas are expanding seaward along this stable portion of the island. There is no objective evidence to support the DHEC/OCRM conclusion that the beach/dune area along Eugenia Avenue will substantially and significantly erode over the next 40 to 100 years, and to support the recommendation to radically extend the setback by several hundred feet.

Recommendation:

A reasonable alternative is to leave the setback at its current location and to continue to monitor the beach. This decision would not adversely impact property owners on Eugenia Avenue and allow a longer vesting period to review future proposals and its overall impact to the community. We request that the setback proposal not extend into the property line of our home at 37 Eugenia Avenue, and similarly for the other homes located on Eugenia Avenue. This compromise position does not inhibit OCRM's ability to revisit future setback provisions.

II. 37 Eugenia Avenue and Adverse "Value" Impact of Proposed 40 Year Setback Line

The proposed 100 ft set back is a taking of residential property and will depreciate the home values along Eugenia Avenue. In regards to our home on 37 Eugenia Avenue, the impact on the value of the property would be severe. The proposed set back bisects our property acreage by nearly one-half.

1. **Taking and Just Compensation:** The enactment of the proposed setback will adversely affect home values on Eugenia Avenue in historical relationship to ocean front properties on Kiawah Island. Whether intended or not by the TOKI's action, this taking adversely impacts the use and value of the property. The U.S. Supreme Court decision of *Lucas v. State of South Carolina* indicated that an imposed setback was in essence a taking that prevented the ability to use the property as intended, thereby, rendering the property valueless. The U.S. Supreme Court held that when a property owner suffered a taking, there were no exceptions from common rule (the Takings Clause and the Just Compensation Clause of the fifth and fourteenth amendments). Furthermore, when the state of South Carolina amended their original statute by including provisions that might permit limited construction, the U.S. Supreme Court held that a property owner must still be compensated. Even when legislation later renders the initial act less restrictive, property owners still suffer from the original effects of a taking, thus, just compensation must be rendered.

Under the current proposal, the new setback taking would render depreciation in the value of the property, and it is reasonable to conclude that TOKI and Charleston County would be required to compensate the property owner for the fair market value loss to the property resulting from the Zoning proposal.

2. **Current Structures:** The proposed set back affects both of our structures.

a. Main House

- i. The Owner's lot acreage is bisected in half by the proposed setback line, which includes the line partially bisecting the Main House. Our home's seaward side already sits back farther than the adjacent homes on Eugenia. Future planned expansion of the home will be prohibited towards the ocean (*see attached photos*).
- ii. Due to the bending of Eugenia Avenue starting at 35 Eugenia and eastward, the lots have significant less depth. This has required that the home be located substantially closer to the street than other ocean front homes. It is, therefore, not amenable to further expansion of the home towards the street.

b. Secondary Structure/Cottage

- i. Our secondary structure/cottage is completely located within the proposed set back zone (*see attached photos*).
- ii. Concerns regarding the proposed setback include the following:
 - If the structure is destroyed, current building codes would likely require the structure to be set higher and larger footprint that would be prohibited under the proposed zoning change. This therefore, is a taking that results in current and future losses.
 - Any improvements to the structure including enlarging the building are prohibited with the new proposal. This again results in a taking and loss of value of the property to present and future owners.

4. Lot and Splitting into Ocean Front and Back Lot The proposed 100 ft set back bisects the property by approximately 50%. This will adversely affect our ability to re-plat the property into an "ocean front" and "back ocean" lot, as is permitted. (e.g. 35 Eugenia Avenue split to front ocean and back ocean lots).

While the state may provide provisions to allow restrictive and severe limitations on new construction on the restricted lot area, the property owner would still suffer from the original effects of the taking and would be due just compensation. This will result in adverse impact upon the land value.

Thank you for reviewing our objections to the proposed Zoning setback proposal.

Sincerely,

Henry Kent Holland, MD, BSE
Eva M. Holland, Esq.
37 Eugenia Avenue Kiawah Island, SC 29455

*Send Correspondence to Mailing Address: 924 Springdale RD NE, Atlanta GA 30306.

kholland@bmtga.com

CC: Hamlin O'Kelley, Esq, Buist & Byers

References

¹ *Lucas v. South Carolina Coastal Council* United States Supreme Court Decision, June 29, 1992. (The Court ruled that the South Carolina Coastal Council change of "critical area" set back line onto private ocean front property resulted in the petitioner suffering a "taking" of his property by the State Of South Carolina and the property was rendered "valueless" by the state statute and Lucas was entitled to "just compensation."

Although the South Carolina Supreme Court decided that state regulations "were designed to prevent serious public harm," the U.S. Supreme Court held that when a property owner suffered a "taking," there were no exceptions from common rule (the Takings Clause and the Just Compensation Clause). Furthermore, when the state of South Carolina amended their original statute by including provisions that might permit limited construction, the U.S. Supreme Court held that a property owner must still be compensated. Even when legislation later renders the initial act less restrictive, property owners still suffer from the original effects of a taking, thus, just compensation must be rendered.

² South Carolina's Annual State of The Beaches Report March 2003

³ South Carolina's Annual State of The Beaches Report March 2006

⁴ South Carolina's Annual State of The Beaches Report March 2008

⁵ Measurement of new dunes in March 2009 in comparison to 2001 along the mid-section of Eugenia Avenue including 37 Eugenia demonstrates accrual of new dunes 35 to 50 feet seaward of the 2001 shoreline. In addition, the dry bern measures an additional 45 to 60 feet. Based upon recent shoal beach renourishment project at the eastern end of Kiawah Island, it appears that an additional 15 to 20 feet will be added in the upcoming 18 to 24 months.

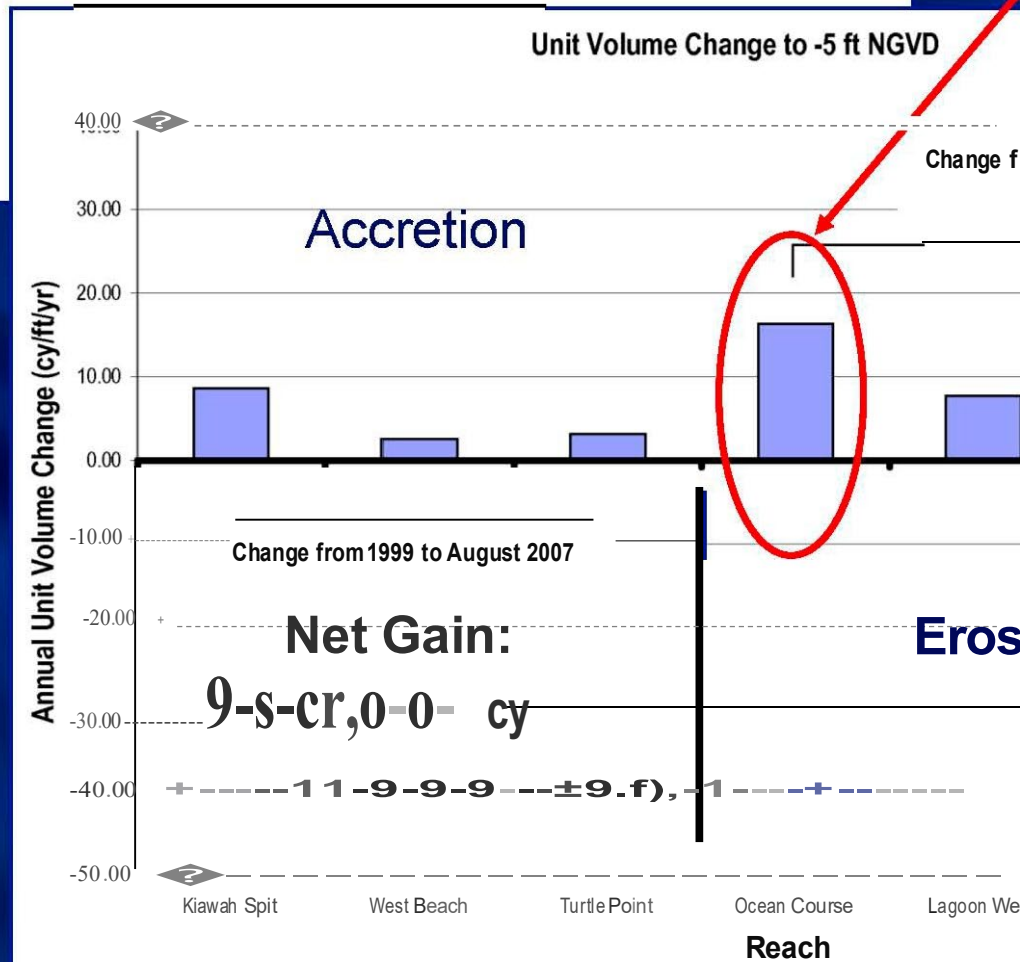
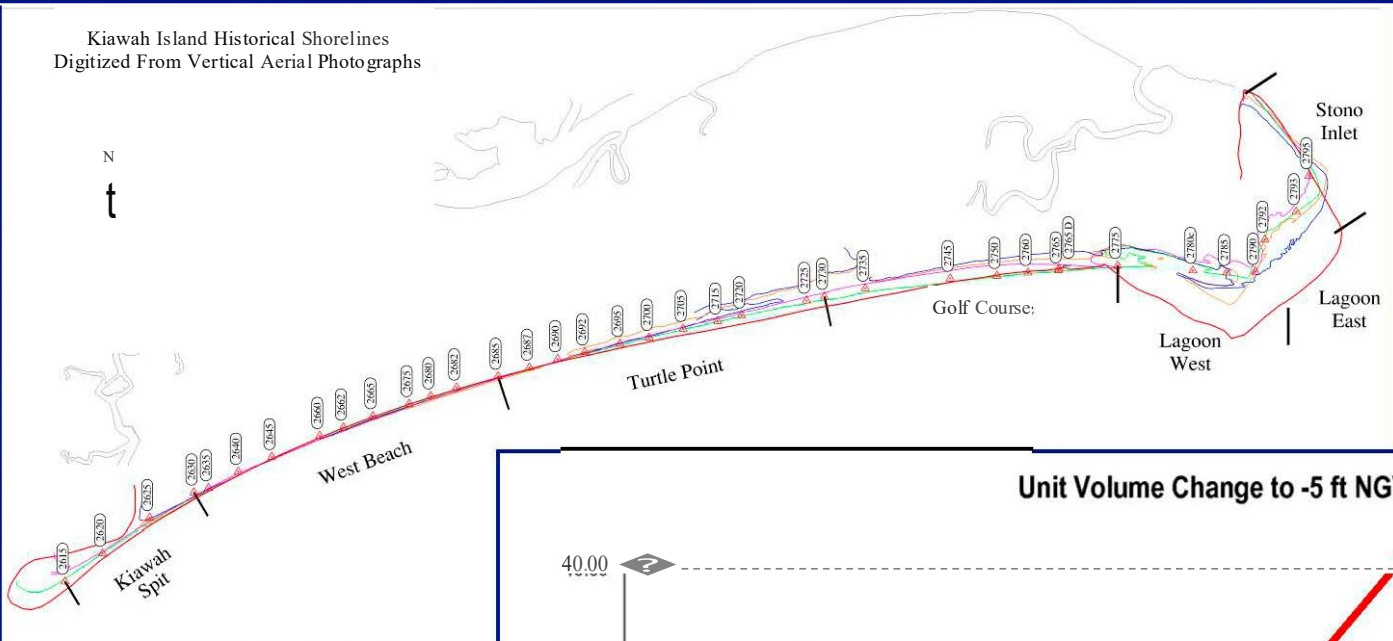
⁶ Photos (see attachments)

⁷ Aerial photographs digitalized of Kiawah Island from 1949 through 2007. Provided courtesy of Dr. Kana, presentation of the State of the Beach at Kiawah Island 2008.

⁸ **National Geodetic Vertical Datum (NGVD)** - means a fixed reference adopted by the U. S. Government as a standard geodetic datum for vertical elevations. Graph provided courtesy of Dr. Kana, presentation of the State of the Beach at Kiawah Island 2008. Data provided by state. Data shows beach along West Beach (Eugenia Avenue) has a net accretion between 1999 – 2007 at a rate of approximately 2.5 – 3 cy/ft/yr.

Island-wide Beach Volume Changes 1999/2007

Kiawah Island Historical Shorelines
Digitized From Vertical Aerial Photographs





2001 Primary Dune
Line

New Dunes Since
2001: 35 - 45 ft.
37 Eugenia Ave

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40 Ft. New Constructed Boardwalk
3/2009 to span across new dunes since
2001
11 Eugenia Avenue





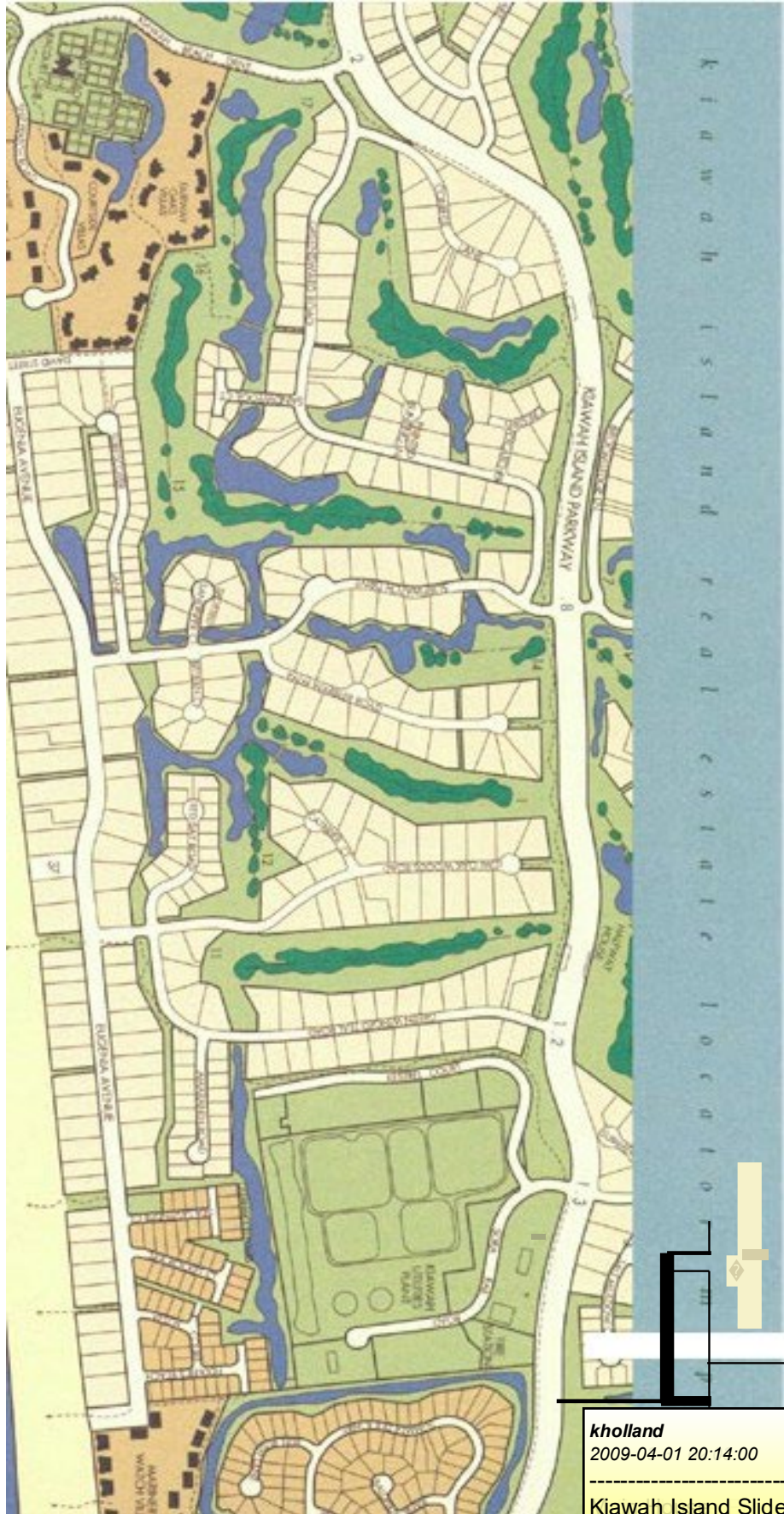
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Kiawah Island Slide from Dr. Kana's presentation 2008.

John Taylor

From: Nicole Rubin <rubinsf@aol.com>
Sent: Thursday, October 30, 2025 8:03 PM
To: TOKI Planning
Subject: Comments re: Case ##AZO25-000009

I am writing to indicate on the record that we are not in favor of the proposed beachfront overlay zoning district. We believe this has too large of a footprint on our property located at 57 Eugenia and will diminish the value of our home substantially. Our area, West Beach, is impacted most heavily if this ordinance is passed. We believe it will make our property much more difficult to sell in the future with such zoning restrictions. Thank you for the opportunity to comment.

Nicole and Amir Dan Rubin
57 Eugenia Avenue
Kiawah Island, SC 29455
rubinsf@aol.com

John Taylor

From: Gee Aldridge <galdridge@aldridgepite.com>
Sent: Sunday, November 2, 2025 5:59 PM
To: TOKI Planning
Cc: Leah Aldridge_Forward; Gee Aldridge; Hamlin Okelley
Subject: 75 Eugenia TOKI Zoning Objection
Attachments: 75 Eugenia TOKI Zoning Objection.pdf

Importance: High

Mr. Belt:

Attached please find the Objection to TOLI's Zoning Proposal (attached) filed by the owner of 75 Eugenia Avenue.

Please be advised we strenuously object and will take every action necessary to stop TOKI from pursuing this meritless and over reaching zoning proposal, including suit against the Town and its administrators. I trust you will act accordingly.

Best, Gee

John G. Aldridge, Jr.*
Aldridge | Pite, LLP
3525 Piedmont Road, N.E.
Building Six
Suite 700
Atlanta, Georgia 30305
Direct: 404-994-7401
Mobile: 404-561-8079
Fax: 888-755-2507

Email: galdridge@aldridgepite.com

Alabama | Alaska | Arizona | California | Florida | Georgia | Hawaii | Idaho | Nevada | New Mexico | New York | Oregon | Tennessee | Texas | Utah | Washington

*Licensed in Georgia



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November 2,2025

Attention: Town of Kiawah Island (TOKI), Mayor D. Belt, Council Members E. Luke Farrell, Lance Spencer, Madeline Kaye; Zoning Planning Committee

Sent by Federal Express

Sent by E-Mail: Tokiplanning@kiawahisland.org

**RE: Proposed TOKI Public Hearing November 4, 2025.
Zoning Map & Zoning Text Amendment: #AZO25-000009
Beach Overlay Zoning District**

Dear Sirs:

This letter is a petition by the JGA Irrevocable Trust (including Gee and Leah Aldridge), owners of property located on 75 Eugenia Avenue on Kiawah Island, SC, hereby known as "Owner," to object to the proposed radical new setback provision proposed by Town of Kiawah Island (TOKI), and specifically along the mid- portion of the island that courses in parallel to Eugenia Avenue. The proposal adversely affects ocean front properties along Eugenia Avenue, including the Owner's property at 75 Eugenia Avenue. It is requested that the proposed change from the historical setback be denied.

The proposed change is a radical departure of the historical setback line and is being arbitrarily and capriciously applied. The proposed Buffer A 50ft and Buffer B 100ft setbacks encroaches onto nearly all of the residential properties along Eugenia Avenue, which are positioned well behind the ecologically protected dune system. This zoning proposal specifically targets the oldest oceanfront neighborhood on Kiawah, whereas the proposed beachfront overlay zoning has no adverse impact on the remaining 80% of oceanfront properties including Surf Song and Fly Away.

The 100ft buffer extends into our main house and partially encompasses the arbor and pool located on our property at 75 Eugenia Avenue. This impact occurs on a substantial percentage of the residential properties located on the ocean side of Eugenia Avenue. There is no objective evidence of significant beach erosion along Eugenia Avenue to justify this new proposal, or evidence that the current structures adversely impact the beach stability in any manner whatsoever.

To the contrary, it is obvious to even the casual observer that the dunes along Eugenia Avenue have remained stable or accreted over the past three decades with an average of 30 to 45 feet since 2001. This is further supported by DHEC-OCRM publications on the state of the beach along Eugenia Avenue that repeatedly described the section as stable or with accretion since 1991, and Kiawah Island as an overall “stable beach” and dune system. The TOKI commissioned 2020 *Local Beach Management Plan* prepared by Dr. Kana similar confirms the stability of beach and dune systems on Kiawah Island other than the dynamic dune systems adjacent to the western and eastern inlets. The DHEC Monument Marker #2660 located along Eugenia Avenue has remained stable from 2014 through 2024 per the OCRM/DHEC publicly published data. In conclusion, there is no reasonable justification to change the setbacks along Eugenia Avenue.

Enactment of the proposal to radically alter the setback line will bisect our (and other owners) longstanding owned residential lots. This action is an involuntary “taking” of private property that will render it in part or fully “valueless”; thereby, placing at financial risk the Town of Kiawah Island and Charleston County of South Carolina to provide “just compensation” for current and/or future losses to the Owner as guaranteed under the Fifth and Fourteenth Amendments of the U.S. Constitution, and supported in a recent U.S. Supreme Court decision regarding setbacks on coastal land.¹ The TOKI proposal would be unconstitutional, illegal and null and void because such an action constitutes a taking of the Owner’s property without first paying fair, adequate and just compensation for such rights, in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. South Carolina OCRM/DHEC has previously proposed similar

¹ Whether intended or not by TOKI’s action, this taking adversely impacts the use and value of properties along Eugenia Avenue. The U.S. Supreme Court decision of *Lucas v. State of South Carolina* indicated that an imposed setback was in essence a taking that prevented the ability to use the property as intended, thereby, rendering the property valueless. The U.S. Supreme Court held that when a property owner suffered a taking, there were no exceptions from common rule (the Takings Clause and the Just Compensation Clause of the fifth and fourteenth amendments). Furthermore, when the state of South Carolina amended their original statute by including provisions that might permit limited construction, the U.S. Supreme Court held that a property owner must still be compensated. Even when legislation later renders the initial act less restrictive, property owners still suffer from the original effects of a taking, thus, just compensation must be rendered.

beachfront setbacks and did not proceed forward with implementation due to concerns of constitutional challenges and prohibitive costs.

Because the proposed action by TOKI may affect a large number of residents on Kiawah Island, the potential financial liability to the TOKI and Charleston County may well approach if not exceed several hundred million dollars to provide just compensation. The action will, furthermore, impair property values on the island that may result in substantial property tax revenue loss to the County of Charleston.

A reasonable alternative is to leave the setback at its current location and to continue to monitor the beach. This decision would not adversely impact property owners on Eugenia Avenue and allow a longer vesting period to review future proposals and their overall impact to the community. The draft zoning document has no rationale with respect to most oceanfront properties and is essentially a moot proposal.

We request that the setback proposal not extend into the property line of 75 Eugenia Avenue, and similarly for the other homes located on Eugenia Avenue. This will in effect have the same null impact as the homes along Surf Song and Fly Away, which collectively do not have the arbitrary and capricious buffer zone bisecting their properties.

Discussion:

I. Beach and Dunes along Eugenia Avenue Have Shown Accretion During Past Three Decades

The proposed change is arbitrary and is not substantiated by objective evidence published by DHEC and OCRM that clearly documents that the dune profile on the mid-portion of Kiawah Island along Eugenia Avenue has been stable over time.^{2,3,4,5} For the past decade the dunes along Eugenia Avenue have not only remained stable, but have grown substantially seaward. The beach in front of 75 Eugenia has accrued new dunes of 40 ft seaward of the 2001 shoreline. The increased width of the beach prompted the TOKI during this interval to notify homeowners to extend their boardwalks to protect the new dunes.

OCRM has stated as recently as in its *2008 Annual State of the Beaches Report*³ that Kiawah is one of the most stable barrier islands in the state and that the area along Eugenia Avenue (Station Monument #2660) has remained stable. In the March 2003 report, it states that the beach along Eugenia Avenue from station 2660 to station 2680 showed that in years 2001-2002 that “*the primary dunes stabilized and the beach seaward of the dune increased in width by 10 to 50 ft.*” Aerial photographs of Kiawah Island have shown that the western mid portion of Kiawah Island (where Eugenia Avenue is now located) has remained stable over the past century. The recent beach renourishment of the far eastern island shoal appears to have resulted in increased sand deposition this winter with the likelihood that the dunes along Eugenia Avenue will expand an additional 10 to 30 feet over the next 12 - 24 months.

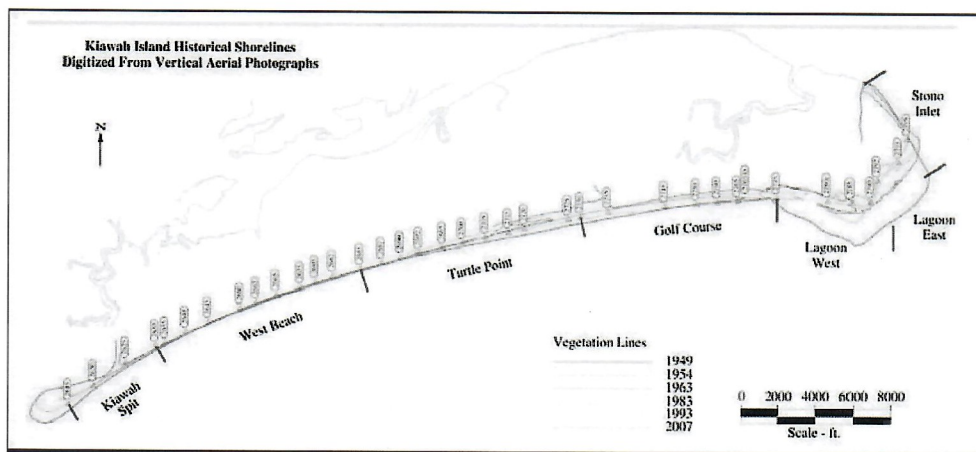


Figure 1. Aerial photographs digitalized of Kiawah Island from 1949 through 2007. Overlap of lines document that the West Beach (Eugenia Avenue) has remained stable with no erosion. The red line represents the most recent 2007 analysis and overlaps all prior lines. Aerial photographs of Kiawah Island since 1949 have consistently shown that the West Beach (includes Eugenia Avenue) and the adjacent mid-western island Turtle Point has remained stable with no evidence for beach erosion over 58 years.⁶

The aerial photograph analysis shows that the West Beach (Eugenia Avenue) and Turtle Point portions of the island have remained stable if not expanding is further confirmed by objective beach measurements during the past decade. Analysis of the National Geodetic Vertical Datum (NGVD), a fixed reference adopted by the U. S. Government as a standard geodetic datum for vertical elevations, documents that since 1991 through 1997 there has been a net gain of 950,000 cubic feet of beach acreage along the western portion of the island that includes Turtle Point, West Beach (Eugenia Avenue) and Kiawah Spit. (figure 2):

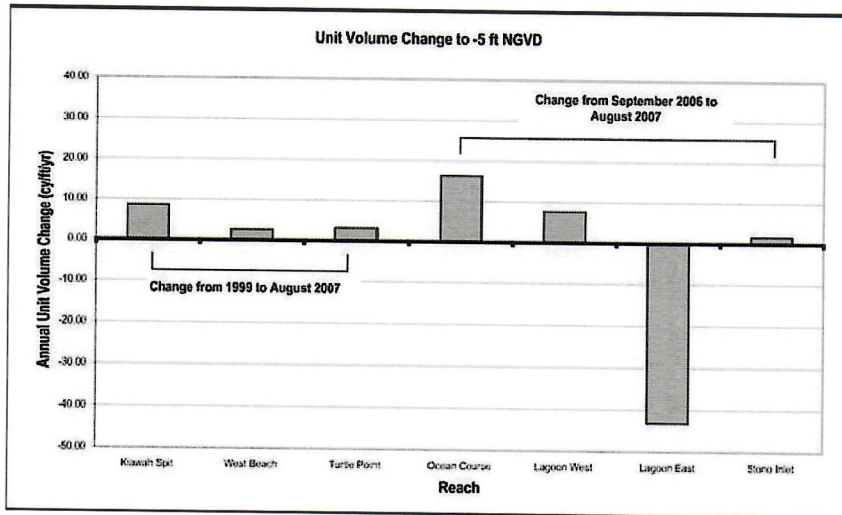


Figure 2. Annual unit volume change of beach/dunes between 1999 to August 2007 is shown on the left-half of the graph for Kiawah Spit, West Beach (Eugenia Ave.) and Turtle Point. There has been a net accretion of beach representing 950,000 cubic ft. during this time span. All three regions have shown beach accretion.⁷

The residential ocean front lots along Eugenia Avenue have the highest elevation on the Kiawah Island approaching 15-20 feet above sea level. Most of the lots were deeded in the 1970s or earlier, and all structures erected lie well behind the ecologically seaward foredunes and are required to have elevated boardwalk structures to minimize injury to the dune ecosystem.

In Dr. Kana's 2020 Beach Management Plan sanctioned by the TOKI, the report on pages 38-39 concludes that "Kiawah Island is one of the most stable barrier islands in the state" other than the eastern and western ends, which are more dynamic due to proximity to their inlets (Figure A below):

Despite the string of storm impacts, the island has generally been in a state of beach recovery since 2016 (Figure A).

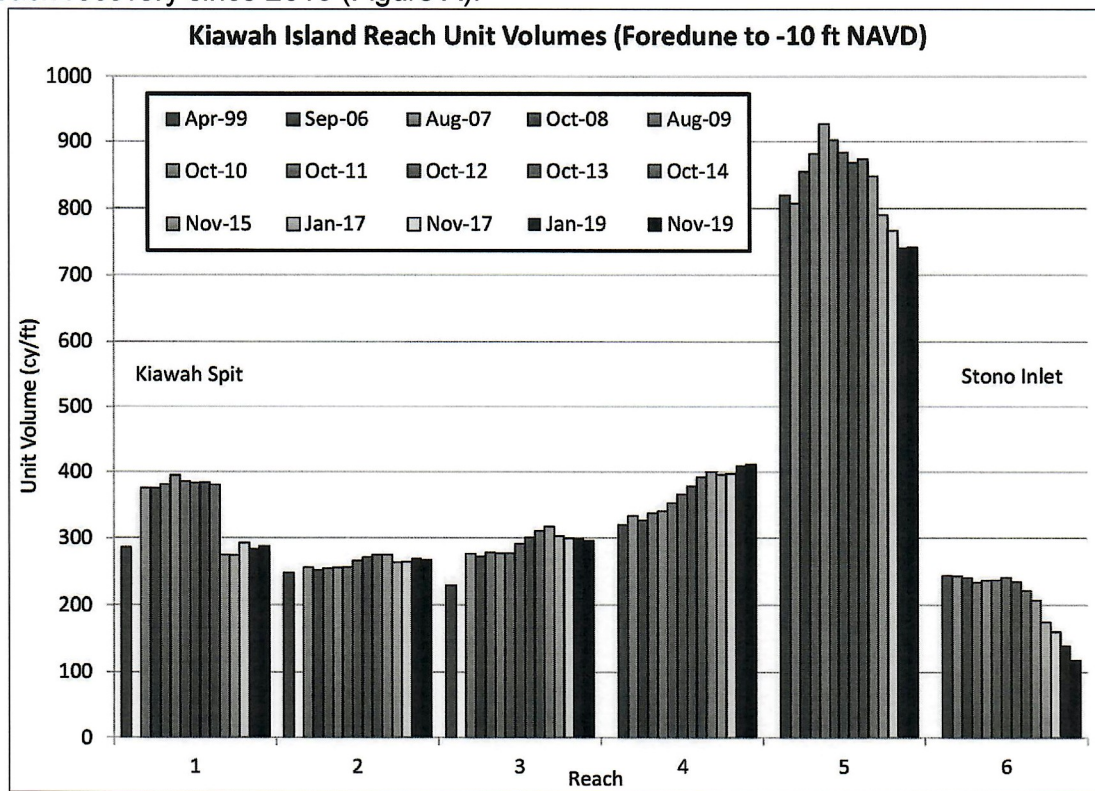


FIGURE A. Unit volumes as measured by reach since April 1999 (September 2006 along the Ocean Course and East End). Overall, the beach had less sand in November 2019 than October 2008 as a result of ~7 years of accretion followed by ~5 years of erosion (on average). However, as this figure illustrates, more than half of the island had more sand on the beach above -10 ft NAVD as of November 2019 than in September 2006 (April 1999 for the three westernmost reaches – Turtle Point, West Beach, and Kiawah Spit). (Dr. Kana's *Beach Management Plan* report from year 2020).⁸

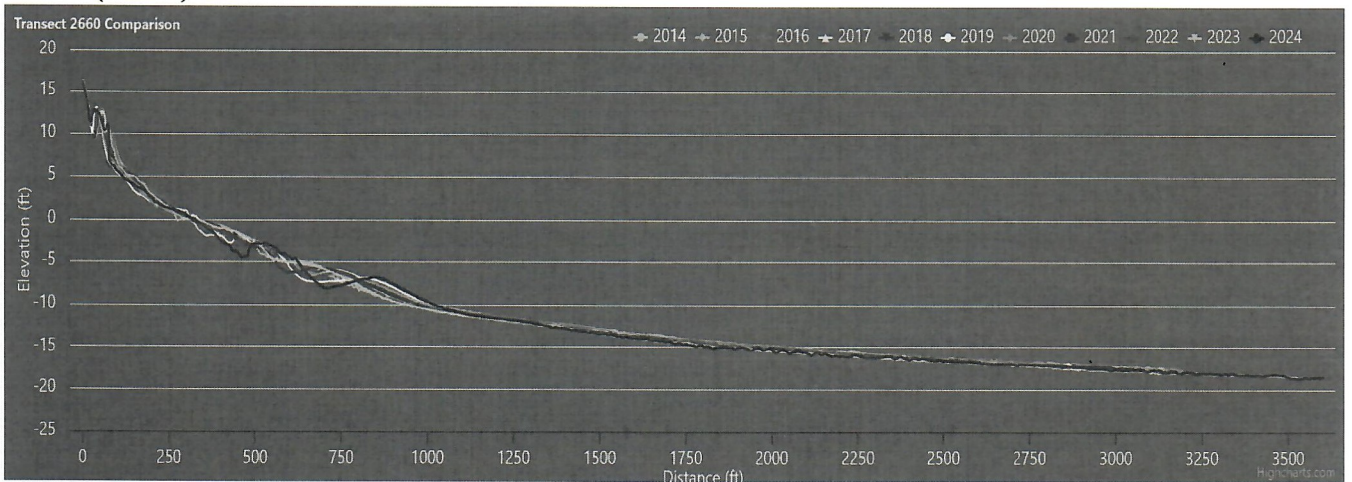
State of South Carolina OCRM/DEHC for past decade post Kiawah Island beach NGVD elevation measurements annually from the Monument Stations including Station Monument #2660 along Eugenia Avenue (Figure 3 and Figure 4). This data is accessible using the B.E.R.M. Explorer (<https://gis.des.sc.gov/bermexplorer/>). For the past decade (2014 – 2024) the beach elevations extending along Eugenia Avenue has remained stable.



Figure 3. South Carolina OCRM/DEHC BERM Map Explorer⁹ (<https://gis.des.sc.gov/bermexplorer/>). This screen shot shows Monument Marker #2660 along Eugenia Avenue documenting elevation changes for each year between 2014 through 2024. There dune/beach region shows no significant change in elevation and beach sand volume during the 10-year interval.

Using the BERM Explorer calculator, the Reach Sand Volume at Monument Station #2660 (Foredune to -10 ft NAVD) was 262.41 yds³ in 2014, 253.76 yds³ in 2019 and 261.59 yds³ in 2024. Over this past decade there has been no significant change.

Figure 4: Station Monument #2660 Elevation from Foredune seaward. Years 2014 through 2024. (BERM).⁹



In summary, the objective evidence supports the conclusion that the beach/dune area along Eugenia Avenue has been stable over time, with the primary dune accreting seaward during the past 75 years. DHEC/OCRM published data during the past three decades supports the conclusion that the beach/dune areas along Eugenia Avenue have been consistently stable portion of Kiawah Island.

Recommendation:

A reasonable alternative is to leave the setback at its current location and to continue to monitor the beach. This decision would not adversely impact property owners on Eugenia Avenue and allow a longer vesting period to review future proposals and its overall impact to the community. We request that the setback proposal not extend into the property line of our home at 75 Eugenia Avenue, and similarly for the other homes located on Eugenia Avenue.

II. 75 Eugenia Avenue and Adverse “Value” Impact of Proposed Setback Line

The proposed 100 ft set back is a taking of residential property and will depreciate the home values along Eugenia Avenue. In regard to our home on 75 Eugenia Avenue, the impact on the value of the property would be severe. The proposed setback bisects our property acreage by nearly one-half.

Taking and Just Compensation: The enactment of the proposed setback will adversely affect home values on Eugenia Avenue in historical relationship to ocean front properties on Kiawah Island.

Whether intended or not by TOKI’s action, this taking adversely impacts the use and value of the property. The U.S. Supreme Court decision of *Lucas v. State of South Carolina* indicated that an imposed setback was in essence a taking that prevented the ability to use the property as intended, thereby, rendering the property valueless. The U.S. Supreme Court held that when a property owner suffered a taking, there were no exceptions from common rule (the Takings Clause and the Just Compensation Clause of the fifth and fourteenth amendments). Furthermore, when the state of South Carolina amended their original statute by including provisions that might permit limited construction, the U.S. Supreme Court held that a property owner must still be compensated. Even when legislation later renders the initial act less restrictive, property owners still suffer from the original effects of a taking, thus, just compensation must be rendered.

Under the current proposal, the new setback taking would render depreciation in the value of the property, and it is reasonable to conclude that TOKI and Charleston County would be required to compensate the property owner for the fair market value loss to the property resulting from the Zoning proposal.

III. Current Structures: The proposed set back affects both of our structures (see attached photo from TOKI Interactive Map)

- Main House
The Owner’s lot acreage is bisected in half by the proposed setback line, which includes the line partially bisecting the Main House. Our home’s seaward

side already sits back farther than the adjacent homes on Eugenia. Future planned expansion of the home will be prohibited towards the ocean (*see attached photos*).


- Due to the bending of Eugenia Avenue starting at 75 Eugenia and eastward, the lots have significantly less depth. This has required that the home be located substantially closer to the street than other ocean front homes. It is, therefore, not amenable to further expansion of the home towards the street.

IV. Lot and Splitting into Ocean Front and Back Lot

- The proposed 100 ft setback bisects the property by approximately 50%. This will adversely affect our ability to re-plat the property into an “ocean front” and “back ocean” lot, as is permitted. (e.g. 75 Eugenia Avenue split to front ocean and back ocean lots).
-

Thank you for reviewing our objections to the proposed Zoning setback proposal.

Sincerely,

 Leah S. Aldridge, Trustee

The JGA Irrevocable Trust

John G. Aldridge, Jr., Esq.
Leah S. Aldridge, Esq.

75 Eugenia Avenue Kiawah Island, SC 29455
gee@thealdriged.net

CC: Hamlin O'Kelley, Esq, Buist & Byers

References

¹*Lucas v. South Carolina Coastal Council* United States Supreme Court Decision, June 29, 1992. (The Court ruled that the South Carolina Coastal Council change of “critical area” set back line onto private ocean front property resulted in the petitioner suffering a “taking” of his property by the State Of South Carolina and the property was rendered “valueless” by the state statute and Lucas was entitled to “just compensation.”

Although the South Carolina Supreme Court decided that state regulations “were designed to prevent serious public harm,” the

U.S. Supreme Court held that when a property owner suffered a “taking,” there were no exceptions from common rule (the Takings Clause and the Just Compensation Clause). Furthermore, when the state of South Carolina amended their original statute by including provisions that might permit limited construction, the U.S. Supreme Court held that a property owner must still be compensated. Even when legislation later renders the initial act less restrictive, property owners still suffer from the original effects of a taking, thus, just compensation must be rendered.

²South Carolina’s Annual State of The Beaches Report March 2003

⁴South Carolina’s Annual State of The Beaches Report March 2006 South ⁵

⁵South Carolina’s Annual State of The Beaches Report March 2008

Measurement of new dunes in March 2009 in comparison to 2001 along the mid-section of Eugenia Avenue including 37 Eugenia demonstrates accrual of new dunes 35 to 50 feet seaward of the 2001 shoreline. In addition, the dry bern measures an additional 45 to 60 feet. Based upon recent shoal beach renourishment project at the eastern end of Kiawah Island, it appears that an additional 15 to 20 feet will be added in the upcoming 18 to 24 months.

⁶Aerial photographs digitalized of Kiawah Island from 1949 through 2007. Provided courtesy of Dr. Kana, presentation of the State of the Beach at Kiawah Island 2008.

⁷Provided courtesy of Dr. Kana, presentation of the State of the Beach at Kiawah Island 2008.

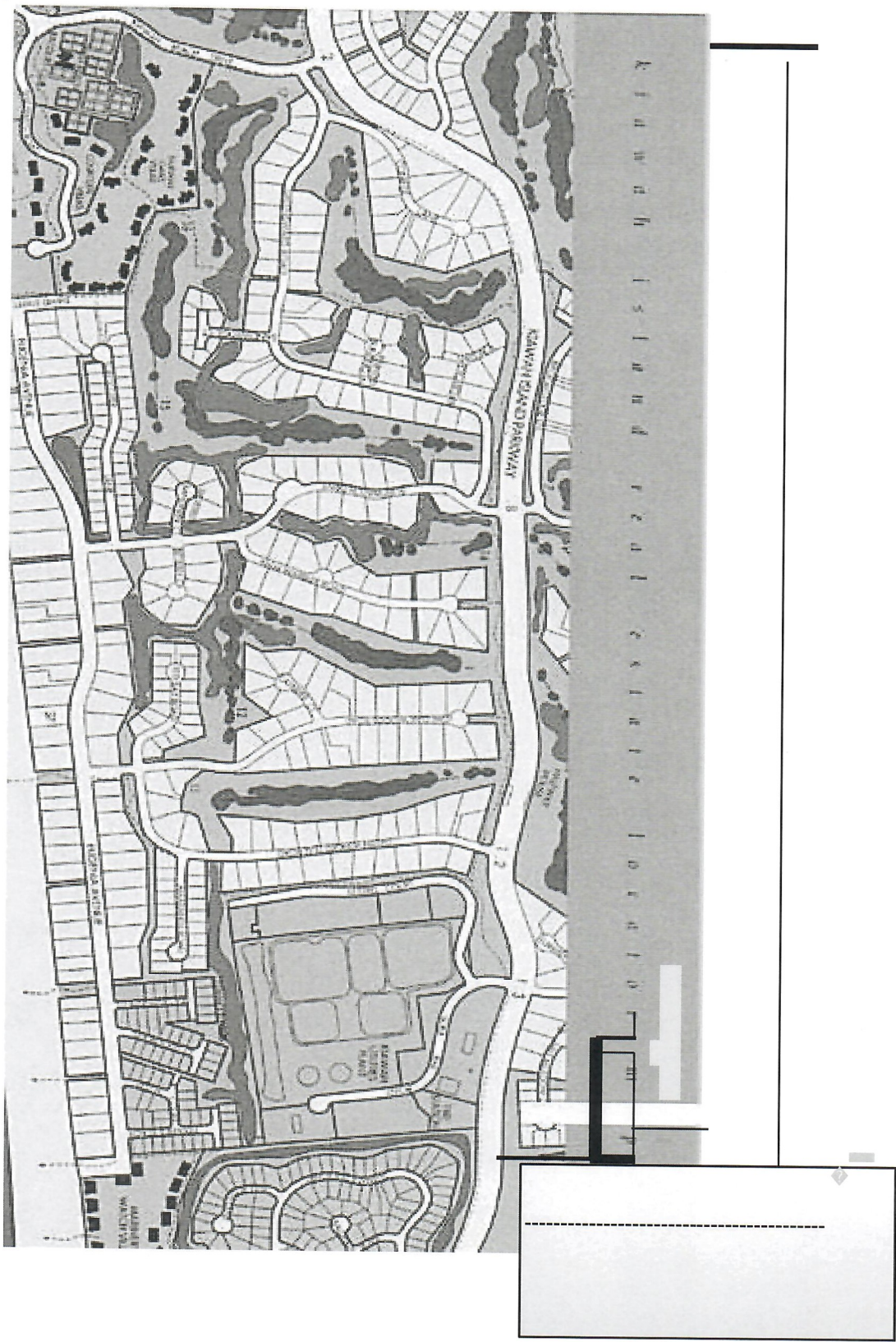
⁸Dr.Kana’s 2020 Beach Management Plan for Kiawah Island.

⁹BERM Map Explorer (2014 – 2024), [g e e @ t h e a l d r i d g e s . n e t https://gis.des.sc.gov/bermexplorer/](https://gis.des.sc.gov/bermexplorer/)

¹⁰ **National Geodetic Vertical Datum (NGVD)** - means a fixed reference adopted by the U. S. Government as a standard geodetic datum for vertical elevations. Graph provided courtesy of Dr. Kana, presentation of the State of the Beach at Kiawah Island 2008. Data provided by state. Data shows beach along West Beach (Eugenia Avenue) has a net accretion between 1999 – 2007 at a rate of approximately 2.5 – 3 cy/ft/yr.

¹¹Town of Kiawah Island Interactive Map for Proposed Beachfront Overlay Zoning (Screenshot for 37 Eugenia Avenue. In Appendix Secction)

Eugenia Avenue



Beach Overlay Zone Eugenia Avenue TOKI Interactive Map

