

TOWN COUNCIL
Municipal Center Council Chambers
November 4, 2025, 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*
Madeleine Kaye, *Council Member*
Lance Spencer, *Council Member*

Absent: Luke Farrell, *Council Member*

Also Present: Stephanie Monroe Tillerson, *Town Administrator*
Mac McQuillin, *Town Attorney*
John Taylor, Jr., *Planning Director*

The Mayor noted that, notwithstanding the absence of one Council member, a quorum was present.

IV. Approval of Minutes:

A. Minutes of the Town Council Meeting of October 14, 2025

Mayor Belt stated that the minutes of the Town Council's October 14th meeting had been circulated to Council Members in advance and asked whether there were any edits, corrections, or changes. Council Member Spencer mentioned he had "two administrative things" that he would pass on to Ms. Reynolds. With those changes being made, the minutes were deemed approved.

B. Minutes of the Special Call Town Council Meeting of October 21, 2025

Mayor Belt noted that the minutes of the Special Call Town Council meeting from October 21, 2025, had also been circulated in advance. He asked for any edits or changes to those minutes. With no edits noted, the minutes were deemed approved as well.

V. Citizens' Comments (Agenda Items Only):

No citizen comments were offered on agenda items.

VI. Presentations:

A. Charleston County Transportation Sales Tax (TST) - Alexa Schoubert

Devri Detoma, the Deputy Director of Charleston County Public Works, presented on the proposed extension of the transportation sales tax. She explained that Charleston County has had two half-penny sales taxes since 2004, leading to billions of dollars in infrastructure improvements.

Ms. Detoma shared that accomplishments from the existing sales tax include investing over \$4.56 billion in infrastructure improvements, with \$3.4 billion from the sales tax and an additional \$1.2 billion leveraged from external funding sources. The funds have been allocated roughly 12-13% for greenbelts, 62% for infrastructure, and 25% for public transit. She emphasized that they were seeking input on the percentages allocated to these categories if we were to move forward.

A key fact Ms. Detoma highlighted was that "nearly half of every dollar comes from visitors and other sources outside of Charleston County," including commuters from Dorchester and Berkeley Counties, as well as matching funds. She noted they leveraged the \$3.4 million in sales tax proceeds to secure an additional \$1.2 million in outside funding.

Major milestones include resurfacing 895 miles of roads, constructing nearly 50 miles of new bike/pedestrian paths, improving 69 intersections for safety, and protecting nearly half of Charleston County's land as green space.

For public transit, over 125 vehicles have been purchased, over 146 shelters and benches installed, and the LCRT (Lowcountry Rapid Transit) project is set to begin construction in the next couple of years. Service miles have increased by 226%, and passenger trips by 120%.

Ms. Detoma explained the importance of the sales tax extension, noting that the population has grown by more than 33% since 2004, vehicle registrations are up 41%, and they're projected to grow an additional 42,000 in the next decade. She asked the Town to consider providing "a publicly vetted list of what kind of projects you would like to see that would help you support it."

Mayor Pro Tem Burner asked what the county had in mind for where the majority of funds would be spent. Ms. Detoma responded that they haven't started a list yet and are seeking input from municipalities on priorities.

Mayor Belt clarified that this was not the referendum itself but an effort to build early support and help frame the actual referendum language. He noted that the referendum may specify exact percentages for different categories rather than leaving allocation to the county later.

Council Member Spencer emphasized the importance of bike path safety along Main Road, Bohicket Road, and Betsy Kerrison, noting the Town is undertaking a project to connect the Kiawah bike path from Freshfields to Town Hall. He described the dangerous conditions for cyclists on these narrow roads.

Council Member Kaye asked about tracking responses through the QR code survey and how projects would be prioritized. Ms. Detoma explained they haven't gotten that far yet, saying they will present feedback to Charleston County Council in the spring to determine if people support it and what categories everyone's looking at.

Mayor Belt then raised broader concerns about trust and the county's priorities with current funds. He specifically questioned how the \$75 million from the Mark Clark extension project will be allocated. He expressed frustration about the lack of attention to the infrastructure of Lower Johns Island roads, despite Kiawah and Seabrook disproportionately contributing property and accommodations taxes to the county.

Ms. Detoma stated that the County Council has not yet discussed the allocation of those funds, and Segment C of the Main Road corridor project was dropped due to a lack of public support despite projected congestion.

Ms. Tillerson asked for clarification on whether the consolidated lists from municipalities were needed by the end of this year. Ms. Detoma confirmed they were trying to get something by the end of this year, if possible, so that it could be provided to the County Council at the spring 2026 meeting to discuss feedback and decide whether to move forward with a referendum.

B. Fiscal Year 2024/2025 Audit Presentation – Mauldin & Jenkins

Grant Davis, a partner with Mauldin Jenkins, presented the town's fiscal year audit results. He began by congratulating the Town on its Audit Committee and noting that it is rare for a municipality to have one.

Mr. Davis said they had issued "an unmodified or a clean opinion on the financial statements. He also discussed their Yellow Book Report on internal controls and compliance, stating they "did not identify any internal control deficiencies material to the financials or non-compliance."

Mayor Belt clarified: "That's not actually a testing of internal controls; that's not an assessment of internal controls." Mr. Davis confirmed, "That's accurate."

Mr. Davis outlined new accounting standards, GASB (Governmental Accounting Standards Board) 101 and 102, that were implemented, noting that neither had a significant impact on the Town's financial statements. He discussed significant estimates in the financial statements, including pension liability and other post-employment benefits.

Mr. Davis presented financial highlights showing total assets of \$65.5 million versus liabilities of nearly \$6 million, resulting in a net position of nearly \$60 million. He noted an increase in net position of about \$6.5 million from fiscal year 24 to 25. For the General Fund specifically, he highlighted that, with \$31 million in total assets and \$3.2 million in liabilities, the Town had a fund balance of \$28.2 million, of which \$28 million was unassigned. He emphasized the Town's exceptional liquidity: "If you didn't take in another dollar, you could operate at the level you did in fiscal year 25 in terms of spending nearly three more years, which is extremely, extremely healthy.

Mayor Belt thanked Mr. Davis and commended Ms. Szubert and her staff for their extraordinary work, as well as Ways and Means Committee Chairman Farrell for his leadership. He noted the Town's strong Audit Committee and mentioned the separate operational and performance assessments of internal controls, which found no material findings but identified areas for improvement.

Mayor Belt concluded by noting it's somewhat unique that the town is sitting on \$49 million in reserve funds (up from \$46 million at year's end), with the significant majority unrestricted, calling it both a good thing and not so good thing, which we can talk about a little bit further in the context of our next Comprehensive Plan.

C. Lowcountry Land Trust - Matt Williams, President & CEO

Matt Williams shared his conservation origin story of growing up on the Santee Delta, where his father was a biologist specializing in waterfowl management. He emphasized that the delta looks the same today as it did 30 years ago due to conservation efforts.

The Lowcountry Land Trust has been operating for nearly 40 years, working in 17 counties and holding over 540 easements that protect 163,000 acres. They primarily draft conservation easements with willing landowners and conduct fee-simple acquisitions.

Mr. Williams highlighted several recent projects, including Grayson Oaks on Johns Island - 94 acres purchased for \$500,000 below market value using funds from the South Carolina Conservation Bank and Charleston County Greenbelt Fund, now leased to a farmer.

In the Kiawah area, the Land Trust has protected over 620 acres of salt marsh. It is working on several active projects, including Oscar's Place (49 acres) and conservation easements on Ravenswood (700 acres) and Acorn Hill (785 acres). Only 8.4% of Johns Island has been protected compared to 32% of Wadmalaw Island.

Mr. Williams discussed the Angel Oak Preserve project, in which the Land Trust owns 35 acres surrounding the city's 9-acre tree property. They are planning a comprehensive visitor experience with ecological, cultural, historical, and spiritual components, including a raised boardwalk and welcome center to accommodate the 450,000 annual visitors.

Mr. Williams concluded optimistically: "I believe that this is the most exciting time to be involved in conservation in South Carolina. We have federal, state, and county funds flowing. We're doing big things... what we do now and what we'll do in the next 10 to 20 years says a lot about who we are as citizens of the Lowcountry."

Mayor Belt noted the Town allocated through SATAX approximately \$50,000 to support the Angel Oak Preserve in the past year and emphasized how conservation efforts tie into reducing development pressure and traffic needs.

VII. Updates:

A. Mayor

Mayor Belt addressed recent concerns about dogs off-leash, stating that dogs being off-leash is a privilege. It's not a right; some obligations come with that privilege. He stressed that if you want to be off-leash, you must manage your pet and rejected any suggestion that it's somehow the responsibility of a leashed pet and owner to manage the behavior of off-leash dogs. The Mayor warned that failure to follow rules could result in the elimination of off-leash privileges entirely. This will be an enforcement priority for code enforcement, beach patrol, and CSOs (Community Service Officers).

Mayor Belt also highlighted recent work around the roundabout, describing it as a heavy-maintenance project to remove trees, particularly palm trees growing into the canopy of some live oaks, to open sight lines. This is the first phase of a project working with stakeholders, including ARB, to determine which plants can be planted in and around those islands that are both aesthetically pleasing and low-maintenance, and consistent with our grow native initiative.

Mayor Belt noted the Town is being a lot more intentional about maintaining and enhancing the entirety of our right of way and our public roads and right of way, including leisure trails, with more work planned on Kiawah Island Parkway over the coming months, following what was done on Beachwalker Drive earlier in the year.

B. Council Members

Mayor Pro Tem Burner mentioned the ongoing contract negotiations with the Civic & Cultural Center project architect and reported on CERT's preparations for the marathon, including unattended bag training. He also reported on hurricane preparations that thankfully weren't needed, and CERT team readiness.

Council Member Kaye announced the Go Green Committee, which is part of the Resiliency Committee, will participate in the Resort's composting activities during the marathon for the first time. She anticipated a significant amount of food would be composted and appreciated the Resort's partnership.

Council Member Kaye reported that the Bobcats and Bluegrass event this Friday has reached capacity with 220 registrations. She highlighted attractions such as Rodney Scott and Jim Jordan, plus those cute little things (toy bobcats) being given away if you come. She also noted that their preservation efforts through various avenues appear to be having an impact.

Council Member Kaye mentioned the Resiliency Committee unanimously voted to recommend sustainability features for the construction of the new Civic & Cultural Event Center addition, which she would discuss in more detail later in the meeting.

Council Member Spencer announced an Infrastructure and Public Works Committee (I&PWC) meeting on Thursday, with a key topic being the Kiawah Island Utility (KIU) rate increases. A special meeting on November 17th, in which KIU will help the members better understand what's driving those rate increases. The Committee is also examining island transit options, both to and within Kiawah, in partnership with various stakeholders, to better understand what is available and potential needs.

Council Member Spencer raised a new concern about short-term rentals. He had seen that property management companies were less than helpful in resolving issues and believes the Town may want to consider accountability measures for property management companies regarding short-term rental issues.

Council Member Spencer announced a Town Veterans Recognition event for Monday, November 10, at 11:00 am in the Council Chambers, noting there are quite a few veterans on Kiawah.

When Mayor Belt asked about updates on cell tower progress, Council Member Spencer reported that Crown Castle is working on a site for a temporary tower at Ocean Course, and that he and Mr. Taylor would meet with Crown Castle on November 18th to assess the other three sites for potential

upgrades. He confirmed there is sufficient interest in justifying a business case to expand and increase coverage at those towers as well.

C. Administrator

Ms. Tillerson deferred most updates but reminded everyone about the Municipal Election. She noted that she received a couple of emails from people who did not realize that today was a municipal election. She urged those who hadn't voted to head over to Sandcastle before 7:00 PM tonight to cast their ballots for the Mayor and two Town Council seats.

Council Member Spencer added that there is no such thing as an uncontested election. So, vote for the candidate on the ballot if you want.

Mayor Belt also reminded everyone about the evening's Kiawah Arts Council program featuring Andrew Armstrong and Genevieve Lewis, world-class pianist and violinist, performing Mozart, Ravel, Gershwin's preludes, and selections from Porgy and Bess at the Seabrook Island Club.

VIII. Public Hearings:

A. To Consider Approval of Ordinance 2025-18 - An Ordinance for the Town of Kiawah Island to Amend the Town of Kiawah Island's Comprehensive Plan – Public Hearing

Mayor Pro Tem Berner made a motion to enter into the Public Hearing. Council Member Kaye seconded the motion, and it was unanimously approved.

No citizen comments were received.

Mayor Pro Tem Berner made a motion to close the Public Hearing and return to regular session. Council member Kaye seconded the motion, and it was unanimously approved.

B. To Consider Approval of Ordinance 2025-21 - An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 2. Zoning Map/Districts Establishing Section 12-81. Beachfront Overlay Zoning District. To Create A Consistent Visual, Spatial, and Ecological Transition Buffer Zone Between the Built Environment and the Beach and Dune System – Public Hearing

Mayor Pro Tem Berner made a motion to enter into the Public Hearing. Council Member Kaye seconded the motion, and it was unanimously approved.

Mayor Belt clarified that the Public Hearing is intended to gather public input to help the Council's decision-making process on a go-forward basis; no action is being taken regarding the Beach Overlay District at this meeting.

Mr. Taylor introduced the proposed Beachfront Overlay Zoning District, explaining that it was based on a Planning Commission recommendation, with first reading held on October 14th. The purpose includes establishing consistent visual and spatial transitions between the built environment and natural systems, protecting Kiawah's beachfront profile, promoting coastal resiliency, and maintaining ocean views. He emphasized that Kiawah Beach has been one of the most pristine natural resources, so protecting it is a key component of this proposed overlay zoning district.

Mr. Taylor detailed factors the Planning Commission considered: majority of beachfront properties are single-family residential, most undeveloped parcels are on the Ocean Course, recent West Beach developments have created "larger massing in structures" with "a more prominent visual presence on the beach front, which has been concerning to members of the community," and Kiawah's unique protection layer of land dedicated to the community association that provides natural setback from the ocean.

Mr. Taylor explained that the ordinance establishes two buffer zones: *Buffer Zone A* (50 feet from the 2018 beachfront setback baseline), which is the most restrictive. It restricts the types and amounts of structures that can be built and prohibits the use of erosion control devices. *Buffer Zone*

B (another 50 feet inland), allowing structures with a 10-foot maximum height limit and only 20% improved area coverage.

Mr. Taylor clarified that beach walkovers are exempt and that anything legally permitted to date would remain a non-conforming structure: The ordinance does not require anyone to rip up existing walkovers or pools or anything that may fall into one of these proposed buffer zones, nor does it prevent future walkovers.

Mr. Taylor presented a graphic of the proposed Beach Overlay District, noting that the Town has provided an interactive beach overlay tool on its website to help residents better understand how the overlay transposes over their property. He also indicated that several written public comments have been received and will be included with the minutes for the record.

Hamlin O'Kelly, Attorney with Buist, Byers and Kelly

Mr. O'Kelly, representing several property owners on Eugenia Avenue, began the citizen comments with a lengthy presentation. He established his firm's credentials and expressed concern that the ordinance constitutes a taking of private property. He argued that nearly 50% of the lots would become undevelopable, devaluing property. He noted that the beach has been stable and accreting due to the Folly Beach jetties, indicating that scientific evidence shows the dune system in the West Beach area is highly stable.

Mr. O'Kelly invoked the Lucas v. Coastal Council case, warning that if you enact a regulation that makes a property economically useless or economically detrimentally devalues the property, then you have to pay for just compensation. He argued that residents might not be able to rebuild after fires or storms and concluded by asking those opposed to stand.

Mr. O'Kelly requested more time, workshops, and public input, noting that many affected property owners were unaware of the proposal. When asked, numerous audience members stood to indicate opposition to the ordinance as written.

Andrew Francis - 7 Turtle Beach Lane

Mr. Francis stated he was opposed to the ordinance due to potential impacts on property values and the ability to improve property.

Ondrea Schiciano - 25 Eugenia

Ms. Schiano expressed respect for the ordinance's intent but concern about property values and the ability to restore homes after damage. She offered to provide suggested language clarifications regarding rebuilding rights.

Lee Olesky - 63A Eugenia

Mr. Olesky strongly objected, sharing his experience of rebuilding after a fire and requesting crystal-clear language about rebuilding rights in the event of future hurricanes or fires. He emphasized that he did not want any changes to the current approval processes and threatened litigation if property rights were affected.

Mary Helen Wade - 4210 Mariners Watch

Ms. Wade asked about the relationship to the 2026 baseline reconsideration. Mr. Taylor explained the Planning Commission would review the ordinance within 120 days of new lines being established to determine if adjustments were needed.

Larry Rosenfeld - 99 Jack Stay Court

Mr. Rosenfeld asked for clarification about where the current dunes are located relative to the proposed buffer zones. Discussion revealed that protected dunes already exist in many of these areas.

Council Members and residents engaged in an extended discussion about the right to rebuild non-conforming structures. Mr. McQuillen clarified that force majeure events would allow exact rebuilding, though normal permitting would still be required. However, voluntary demolition would require compliance with new standards, potentially requiring variances.

Russell Amundson - 1011 Thrasher Court, Sparrow Pond

Mr. Amundson commented that the elephant in the room was the six-story building on West Beach, which disrupted beach views and wildlife, suggesting that height and setback should be proportional to one another.

Council Member Kaye asked if rebuilding protections could be written directly into the ordinance. McQuillen confirmed that these protections already exist in the non-conforming ordinance, which was recently revised for clarity.

Kathleen Rust of 4428 Sea Forrest

Ms. Rust raised questions about townhomes and villas, asking about the entire structure of condominiums and what would happen if something were to happen. Mayor Belt said that any structure destroyed by a hurricane or fire could be rebuilt exactly where it is without complying with new standards.

Mr. Francis returned with another question: If someone were to voluntarily take down an existing building that they could not rebuild in the same location? Mayor Belt confirmed this was correct - the ordinance is intended to address new development or voluntary teardowns. Francis argued that affects the value... we have what, seven different setbacks right now. Why do we need to change?

Mr. Olesky said, If we have no intention of selling our home, I hope my children and grandchildren get to use it. But if they do want to sell the home in 20 years, it'll be worth a lot less. He warned of a significant financial impact: There are 40 homes... on Eugenia. You're talking about a lot of money, and I think we will litigate... that cannot be the intention of this Town to do that.

Mayor Belt provided context, noting beachfront overlays are traditional planning tools used throughout South Carolina and other coastal areas. He addressed the Lucas case directly: You cited it correctly when you said it renders property useless. That constitutes a compensable taking. But then you said... devalue the property. To be clear, that is not referenced anywhere in Lucas. He emphasized that diminution of value does not in and of itself constitute a taking.

Mayor Belt acknowledged the unique characteristics of Eugenia Avenue properties, with varied setbacks in many cases, explaining that R-2 has 20-foot setback requirements, whereas Eugenia does not. There are all these pre-platted setbacks... only 10-foot setbacks on side setbacks for many of those properties. The setback from the oceanfront varies from property to property. There's no consistency, which is what we're trying to apply here.

The Mayor concluded whether the Planning Commission's proposal gets it exactly right. I don't know. I'm confident that directionally it is where this community, I think, wants to go or needs to go.

Mayor Pro Tem Berner made a motion to close the Public Hearing and return to regular session. Council Member Kaye seconded the motion, and it was unanimously approved.

IX. Old Business:

A. To Consider Approval of Ordinance 2025-18 - An Ordinance for the Town of Kiawah Island to Amend the Town of Kiawah Island's Comprehensive Plan – Second and Final Reading

Mr. Taylor noted that the Town's Comprehensive Plan was ready for adoption following the Planning Commission's edits. He highlighted minor additions outlined in red, noting that the executive summary, "Kiawah by the Numbers," and the strategic action plan outline the Town's direction regarding its Comprehensive Plan. He outlined some minor additions, including a land preservation program similar to the Lowcountry Land Trust's work, as well as additional resiliency

measures. He particularly noted the addition of ecotourism language at Council Member Kaye's request.

Council Member Kaye made a motion to approve Ordinance 2025-18, amending the Town of Kiawah Island's Comprehensive Plan on second and final reading. Mayor Pro Tem Berner seconded the motion.

Council Member Kaye highlighted the "Kiawah by the Numbers" section as an important data source and appreciated the inclusion of all the resiliency elements. She commended Mr. Taylor and the Planning Commission for creating an eminently readable document.

Mayor Belt echoed those comments, praising the extraordinary time and effort of the Planning Commission and staff members Ms. Tillerson and Mr. Taylor. He noted it was a lengthy process, longer than it needed to be, with a couple of course corrections, but felt the result was much better than where we started. He specifically credited Planning Commission members, Ms. Devine, and Ms. Devine, for crafting the visual presentation of data.

The Mayor highlighted the substantive addition of a recommendation to establish a "Greenbelt Program Task Force" that ties into the Lowcountry Land Trust's work, emphasizing supporting conservation initiatives on Kiawah and surrounding properties to reduce traffic and protect habitat.

Mayor Pro Tem Berner noted interesting statistics, including the Resort's 1,700 employees and 300,000 non-resident visitors annually. Mayor Belt emphasized Kiawah's role as a substantial employment base with about 3,000 persons employed by Kiawah-based employers.

Council Member Spencer asked about the next steps for implementing recommendations, such as the land bank. Mayor Belt responded that prioritizing and operationalizing would be addressed at the late January/early February strategic planning meeting. Mr. Taylor noted the Planning Commission has already begun prioritization work.

Mayor Pro Tem Berner raised questions about establishing the Kiawah Island Alliance mentioned in the plan. Mayor Belt explained challenges in defining its role as it would be more of a coordinating body than a decision-making entity, with details to be worked out. He indicated that the Alliance could help develop additional emergency access on and off the island if the Kiawah Island Parkway becomes blocked. This led to a discussion about using leisure trails, golf course trails, or creating emergency routes, with Mayor Pro Tem Berner and Mayor Belt exchanging ideas about boat shuttles versus land routes through vegetation.

Following the discussion, the motion to approve Ordinance 2025-18 was unanimously approved.

B. To Consider Approval of Ordinance 2025-24 - An Ordinance To Amend The Town Of Kiawah Island Land Use Planning And Zoning Ordinance To Clarify Memberships of Planning and Zoning Boards - Second and Final Reading

Mr. Taylor explained that the ordinance aimed to clarify the membership of the Planning Commission, the Board of Zoning Appeals, and the Landscape and Tree Preservation Board. He noted municipal boundaries were removed as the only substantive change from the first reading.

Mayor Pro Tem Berner made a motion to approve Ordinance 2025-24, clarifying the Membership of Planning and Zoning Boards, on second and final reading. Council Member Kaye seconded the motion, and it was unanimously approved.

C. To Consider Approval of Ordinance 2025-25 - An Ordinance for the Town of Kiawah Island to Amend Article 4 - Finance and Taxation. Chapter 3. Municipal Business License. Section 4-317. Consent, Franchise, or License Required for Use of Streets - Second and Final Reading

D. To Consider Approval of Ordinance 2025-26 - An Ordinance for the Town of Kiawah Island to Amend Article 10 - Public Utilities - Second and Final Reading

Mayor Belt requested and received unanimous consent to consider both ordinances together. These ordinances move franchise agreement provisions from the business license section to a newly retitled “utilities” article and add requirements that utility providers have to be prepared to provide sewer service to properties required to be on sewer. Mayor Pro Tem Berner added that property owners must pay reasonable connection costs.

Mayor Pro Tem Berner made a motion to approve both Ordinance 2025-25 and 2025-26 on second and final reading. Council Member Kaye seconded the motion.

Council Member Spencer asked detailed questions on why only sewers were addressed, why they were moving content between sections, and whether it was duplicative. Mayor Belt explained this was cleaning up existing language, with more comprehensive franchise ordinance work to come later. After an extended discussion, the Mayor and Ms. Tillerson clarified the organizational changes, after which the Council Members understood these were housekeeping measures.

Following the discussion, the motion was unanimously approved.

X. New Business:

A. To Consider Approval of Ordinance 2025-17 - An Ordinance To Amend Article 4, Finance And Taxation, Chapter 3, Municipal Business Licenses, Section 4-321. – Classification And Rates, Appendix B: Business License Rate Schedule – First Reading

Ms. Szubert explained that state law requires municipalities to update business license classifications every two years based on IRS profitability reviews. The latest review from 2019-2021 (COVID years) resulted in new classifications, with a majority of businesses dropping a class; 85% of affected businesses are short-term rentals. If revenues remain the same as last year, this could result in a decrease of approximately \$65,000.

Ms. Szubert recommended not changing the fees despite the potential revenue drop, citing that the estimated accommodation fees are trending upward and that the fee schedule is very well organized and easy to explain, so she would not want to change any class or item. She also noted that the estimated \$65,000 drop is very minimal compared to the total revenues collected from business licenses.

Council Member Kay made a motion to approve Ordinance 2025-17, accepting the staff's recommendation not to change the fees on first reading. Mayor Pro Tem Berner seconded the motion.

Mayor Pro Tem Berner strongly objected, expressing a preference not to reduce revenue and suggested adjusting rates to offset the loss. When Ms. Szubert suggested that if Council wanted to change rates, they should do so for everyone across the board, all the classes, Mayor Pro Tem Berner agreed. Ms. Szubert explained that changing the rate per thousand from \$1.95 to \$2.00 would generate an additional \$100,000, more than offsetting the loss.

Discussion revealed the \$65,000 estimate assumes no growth in gross receipts. Ms. Szubert noted that accommodation tax collections indicate that rentals will likely report higher revenues due to inflation and rate increases, potentially offsetting the impact of the classification changes.

Council Member Kaye added that any additional costs passed on to the business will ultimately be passed on to the consumer.

Mayor Belt stated he was comfortable with the staff's recommendation on first reading but open to reconsidering on second reading if the Ways and Means Committee wanted to parse the numbers more carefully.

Following the discussion, the motion was unanimously approved.

B. To Consider Approval of the Contract with Caplea Coe/H3 as Architect of Record for the Design of the Civic and Cultural Center Addition

Mayor Pro Tem Berner made a motion to amend the agenda to remove the approval of the Caplea Coe/H3 contract item from New Business. Council Member Kaye seconded the motion.

Mayor Belt explained that while the Council had authorized contract negotiations and Mayor Pro Tem Berner had been involved in drafting the AIA contract, a complete draft had not been received until last Friday. All the outstanding issues had not been resolved. He expressed the intention to resolve matters quickly and may schedule a Special Call meeting rather than wait another month.

Following the discussion, the motion was unanimously approved.

C. To Consider Approval of the Public Safety Committee Recommendation to Charleston County Council for Appointment of St. Johns Fire District Fire Commissioner

Mayor Pro Tem Berner, as chair of the Public Safety Committee, explained that Steve Rolando's term as a St. Johns Fire Commissioner was expiring and expressed a desire to continue serving on the Commission. Mayor Pro Tem Berner detailed Mr. Rolando's qualifications: former volunteer firefighter, current commissioner and chair of the Human Resources Committee, and CERT member. He particularly appreciated Rolando's goal to improve the island's emergency medical capability. He noted that the Public Safety Committee unanimously recommended him for reappointment to the St. Johns Fire Commission.

Mayor Pro Tem Berner made a motion to recommend to the Charleston County Council that Mr. Steve Rolando be reappointed to the St. Johns Fire Commission. Council Member Kaye seconded the motion.

Mayor Belt noted the process wasn't as robust as it should have been, with limited time for other candidates to apply. He explained that the Town has instituted new policies requiring public notice for board and commission openings. Two other candidates with Kiawah ties expressed interest but were not Kiawah residents as required by state law.

Following the discussion, the motion was unanimously approved.

XI. Citizens' Comments:

No citizen comments were received.

XII. Council Member Comments:

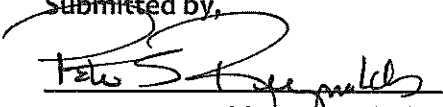
Council Member Kaye noted the meeting's remarkable efficiency.

Mayor Belt thanked everyone for a constructive meeting and said that the date and time of the potential Special Call meeting regarding the architect's contract will be announced.

XIII. Adjournment:

Mayor Belt adjourned the meeting at 4:05 pm.

Submitted by,


Petra S. Reynolds, Town Clerk

12.3.2025

Date



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.

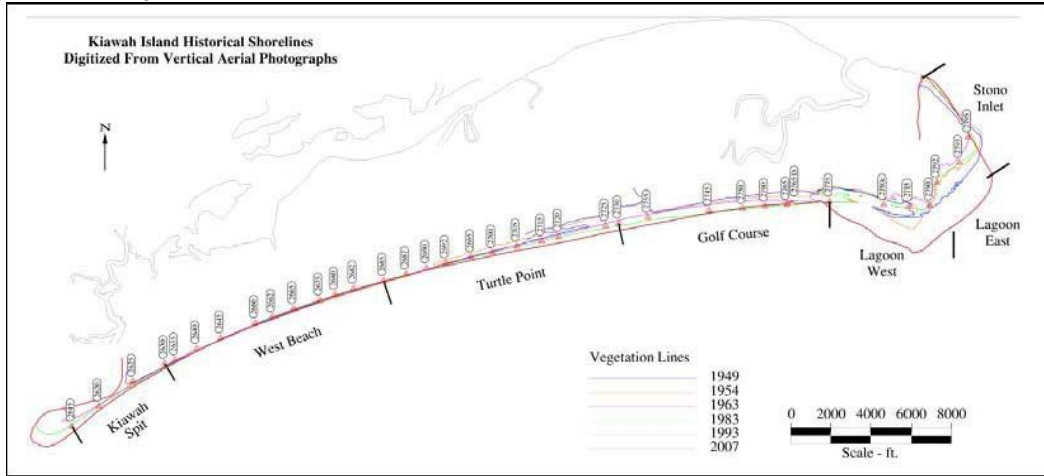
Discussion:

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):

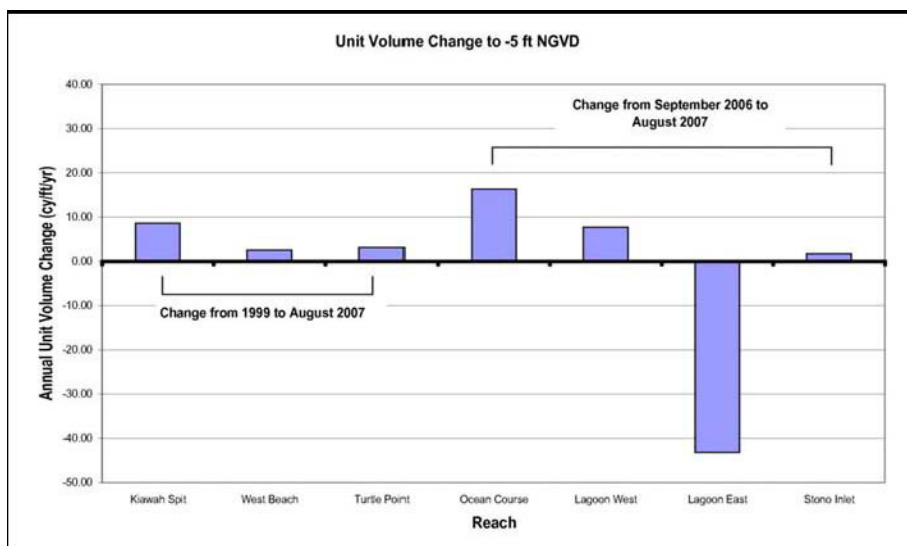


Figure 2. Annual unit volume change of beach/dunes between 1999 to August 2007 is shown on the left-half of the graph for Kiawah Spit, West Beach (Eugenia Ave.) and Turtle Point. There has been a net accretion of beach representing 950,000 cubic ft. during this time span. All three regions have shown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

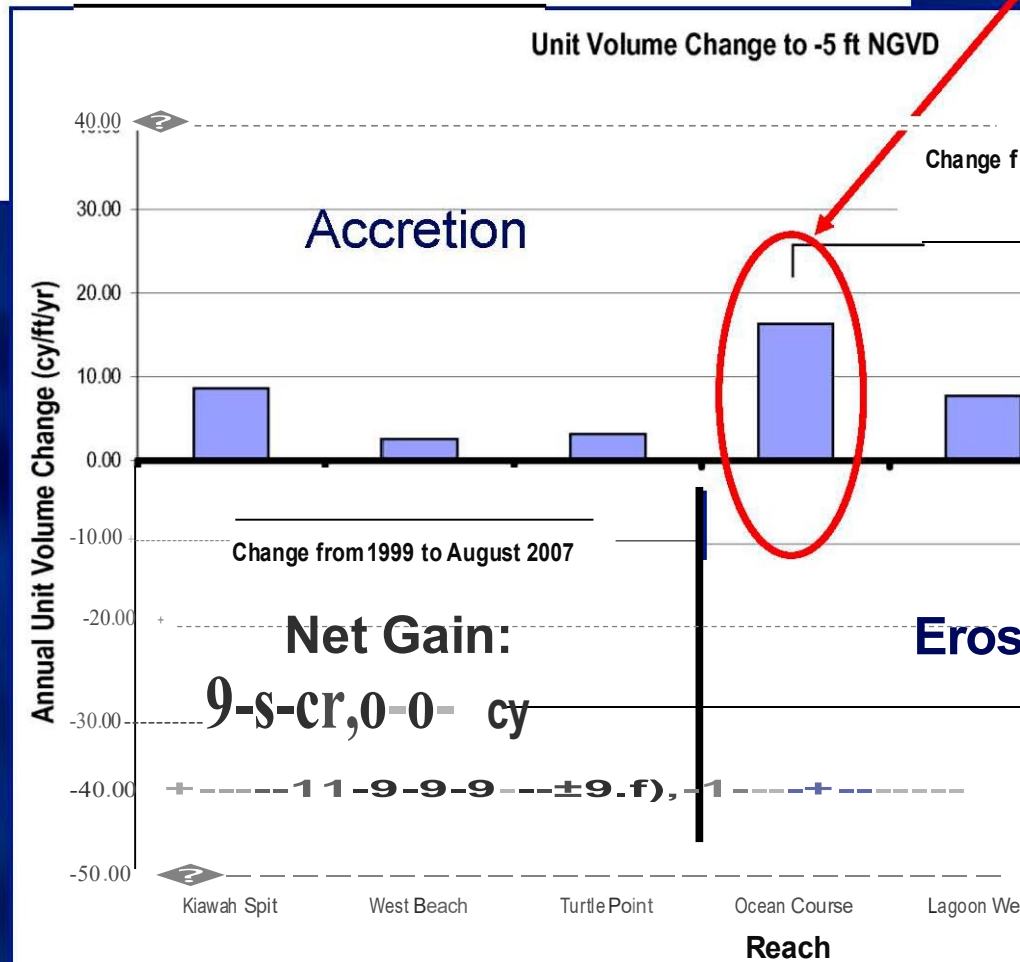
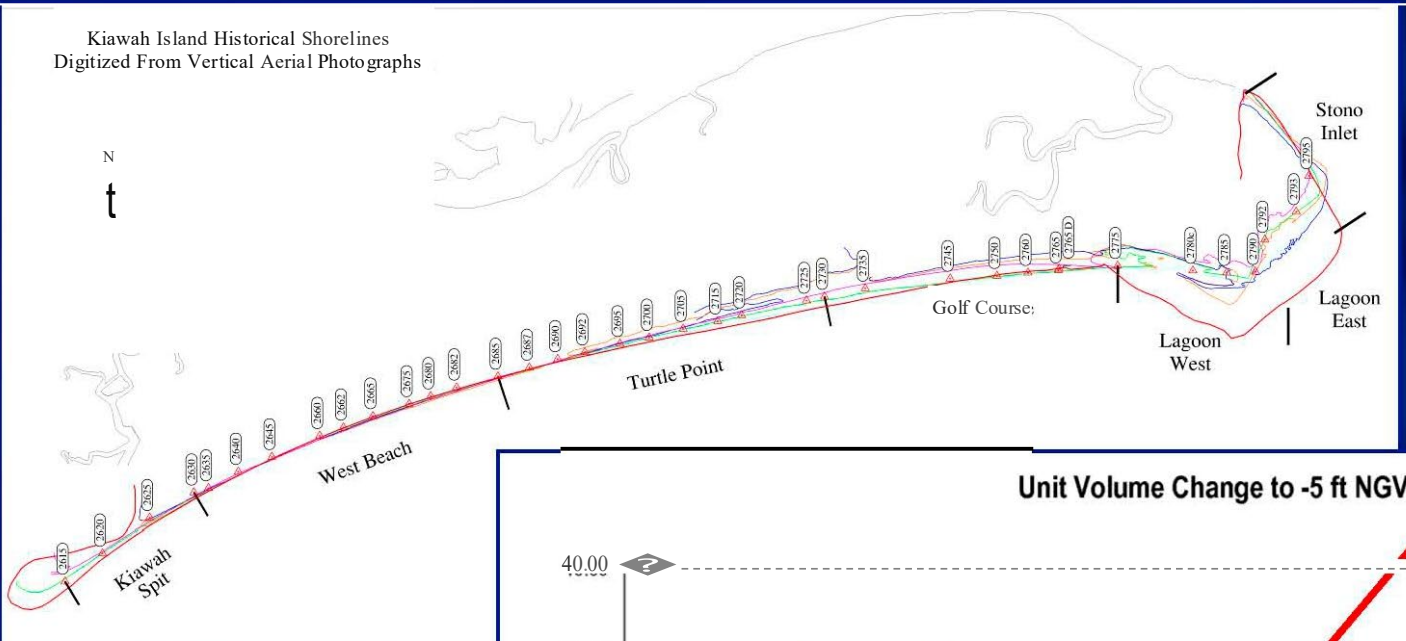
⁶ Photos (see attachments)

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

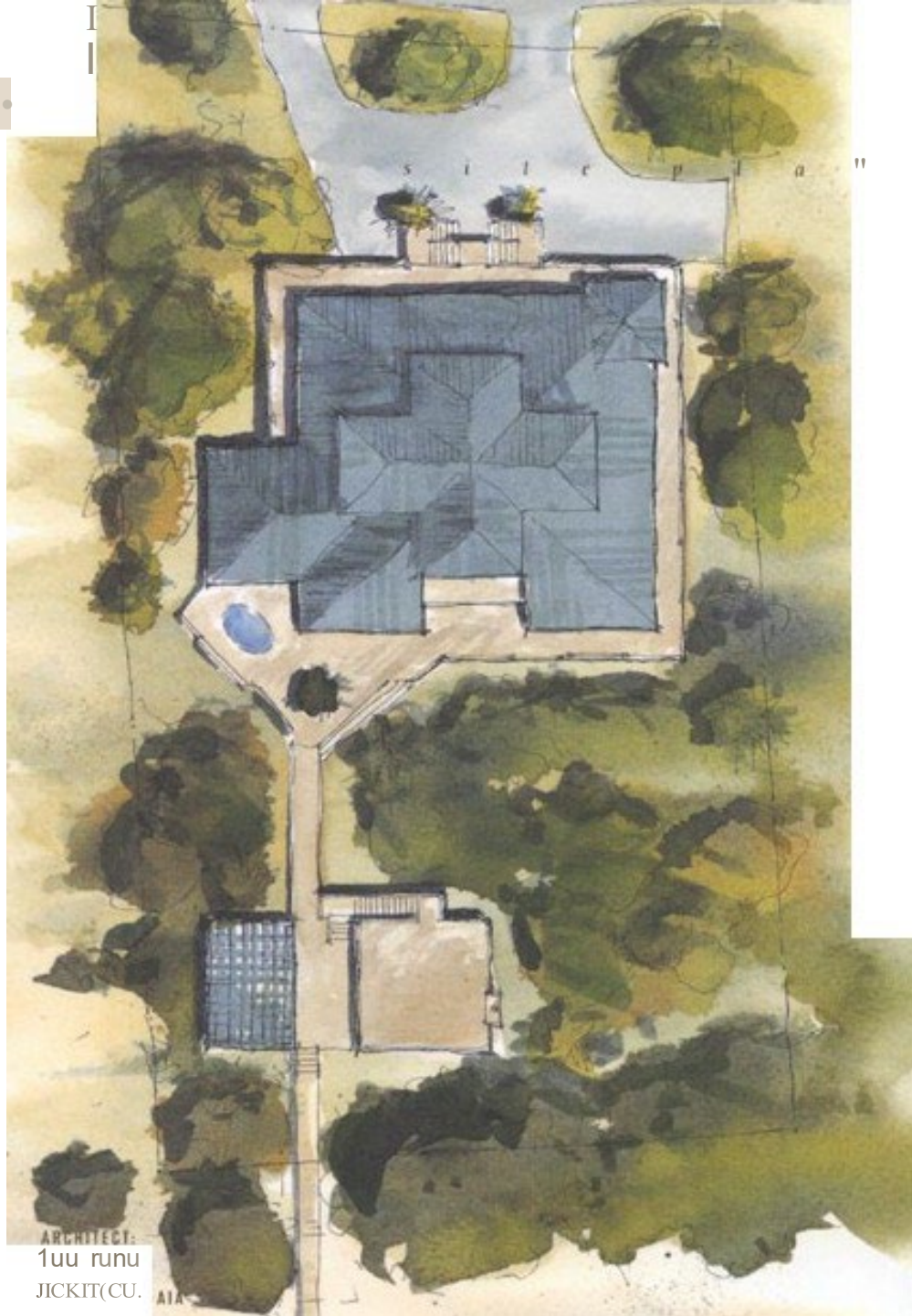
New Dunes Since 2001: 35 - 45 ft.
37 Eugenia Ave

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kholland
2009-03-31 03:26:00

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





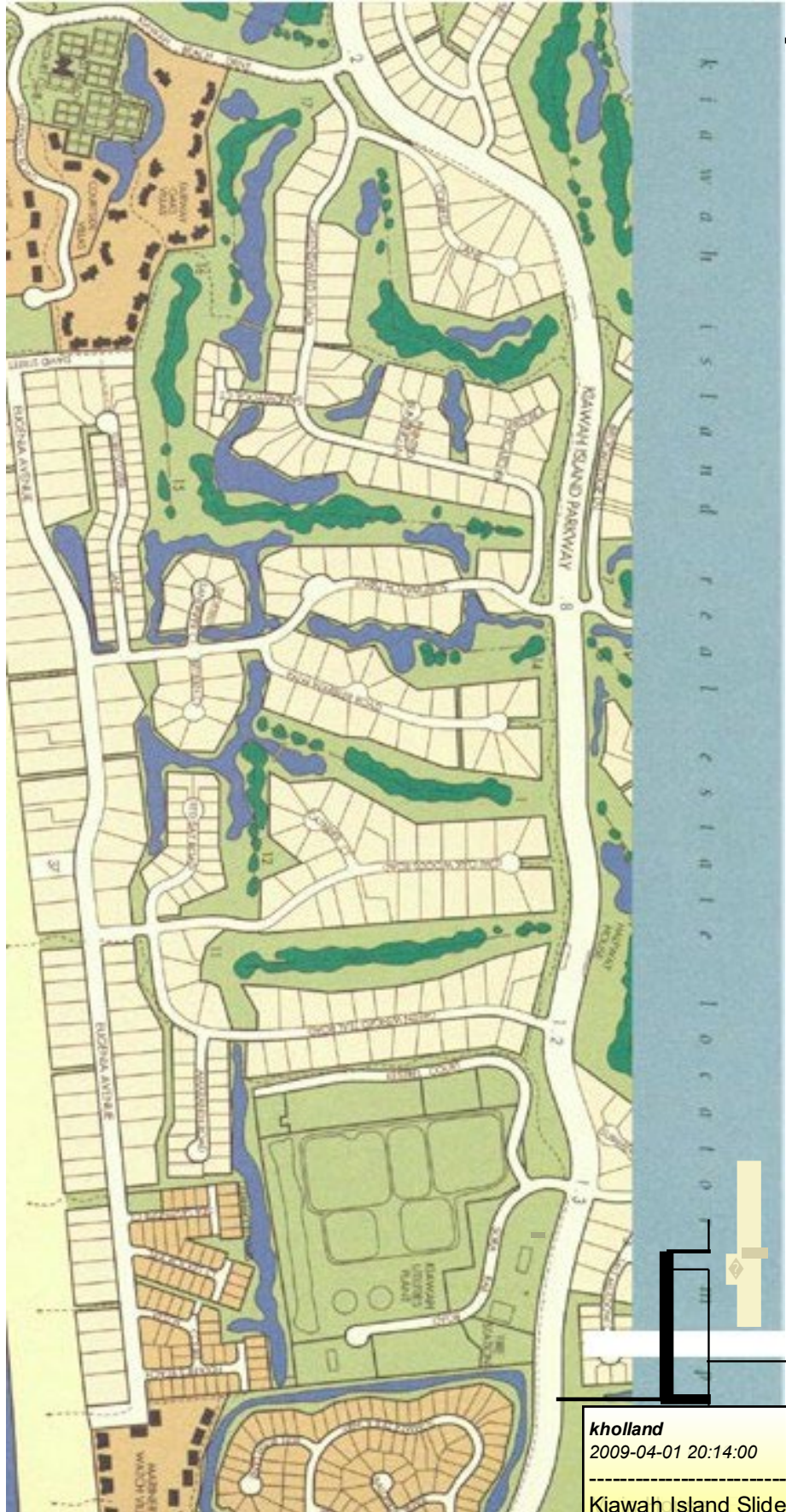
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2009-04-01 20:14:00

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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California Debt Collector License Number 10724-99

RECEIVED

NOV 05 REC'D

Town of Kiawah Island

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.

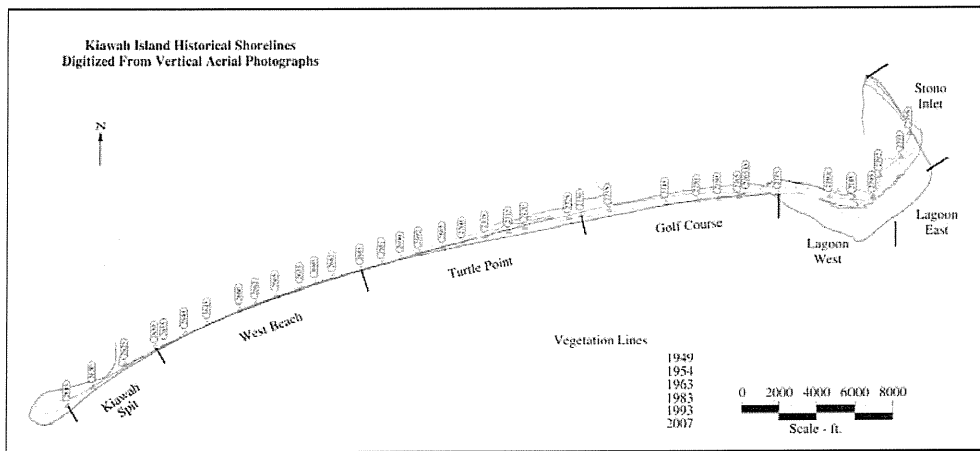


Figure 1. Aerial photographs digitalized of Kiawah Island from 1949 through 2007. Overlap of lines document that the West Beach (Eugenia Avenue) has remained stable with no erosion. The red line represents the most recent 2007 analysis and overlaps all prior lines. Aerial photographs of Kiawah Island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

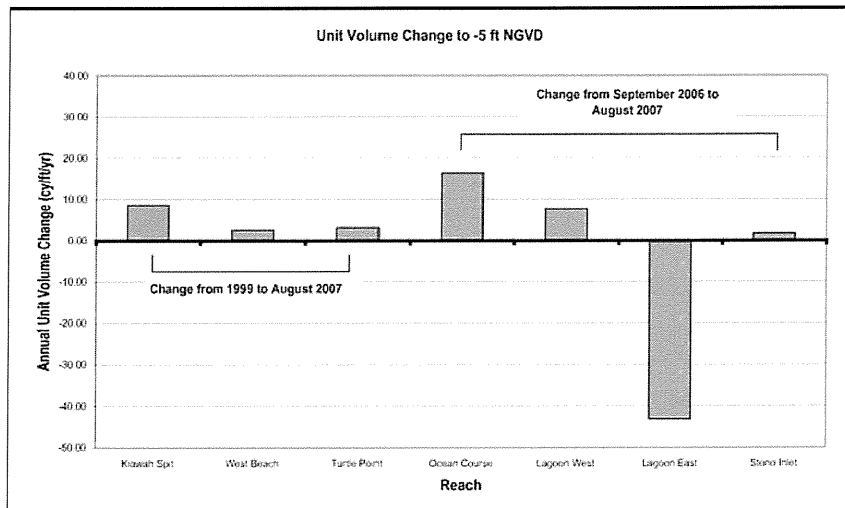


Figure 2. Annual unit volume change of beach/dunes between 1999 to August 2007 is shown on the left-half of the graph for Kiawah Spit, West Beach (Eugenia Ave.) and Turtle Point. There has been a net accretion of beach representing 950,000 cubic ft. during this time span. All three regions have shown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

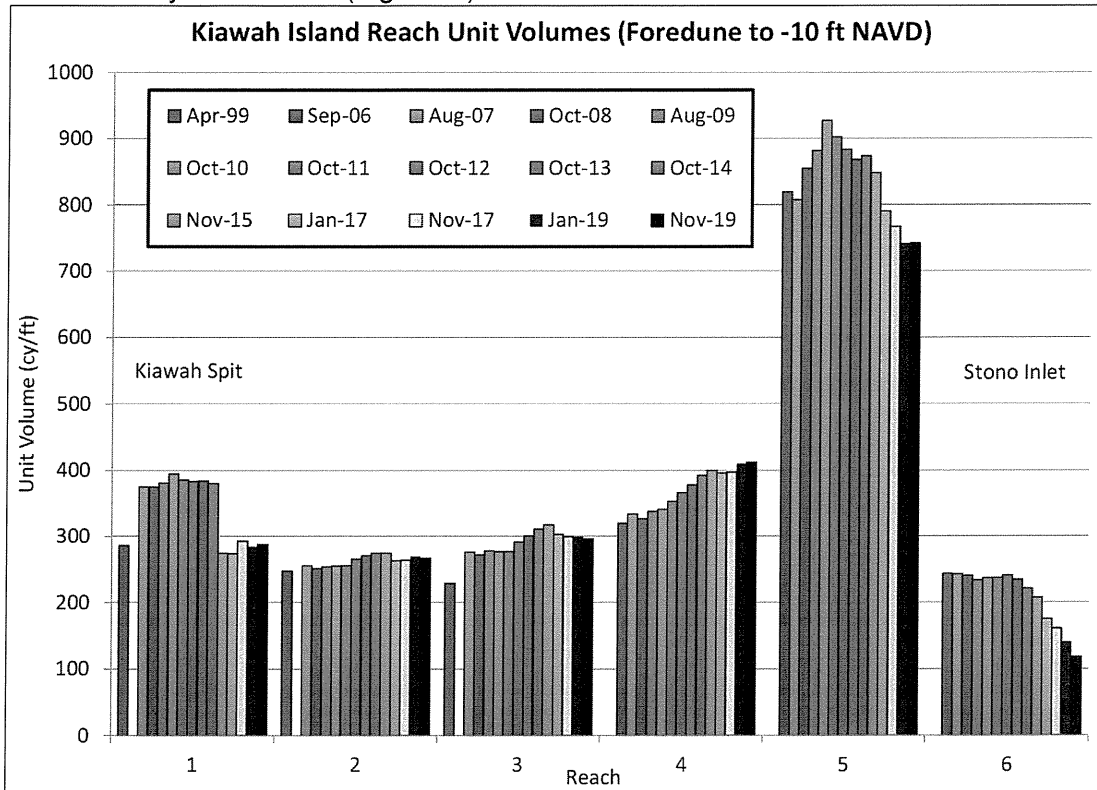


FIGURE A. Unit volumes as measured by reach since April 1999 (September 2006 along the Ocean Course and East End). Overall, the beach had less sand in November 2019 than October 2008 as a result of ~7 years of accretion followed by ~5 years of erosion (on average). However, as this figure illustrates, 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.

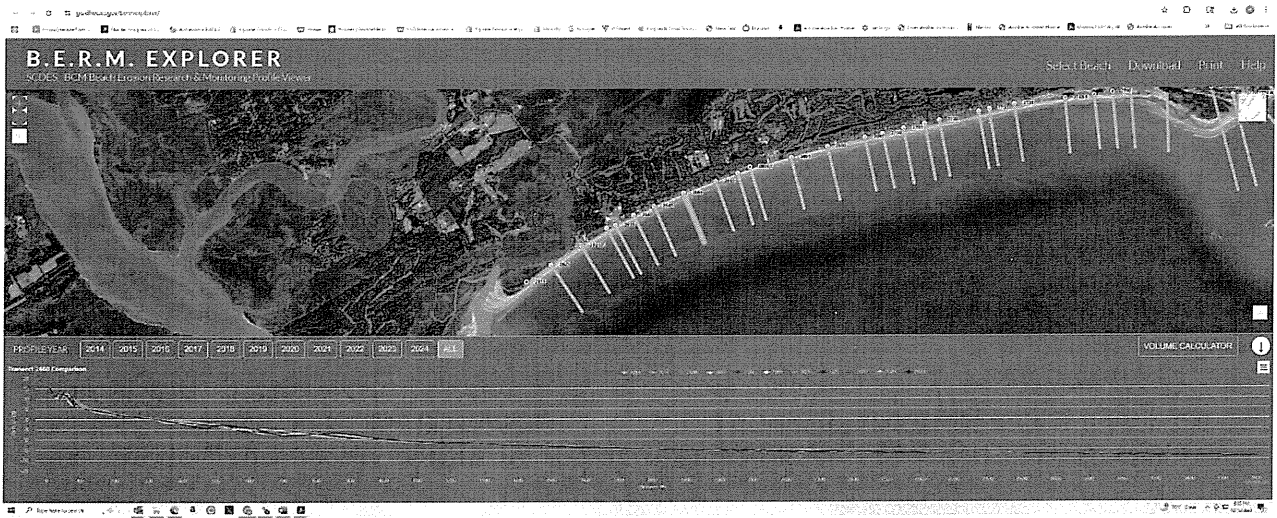
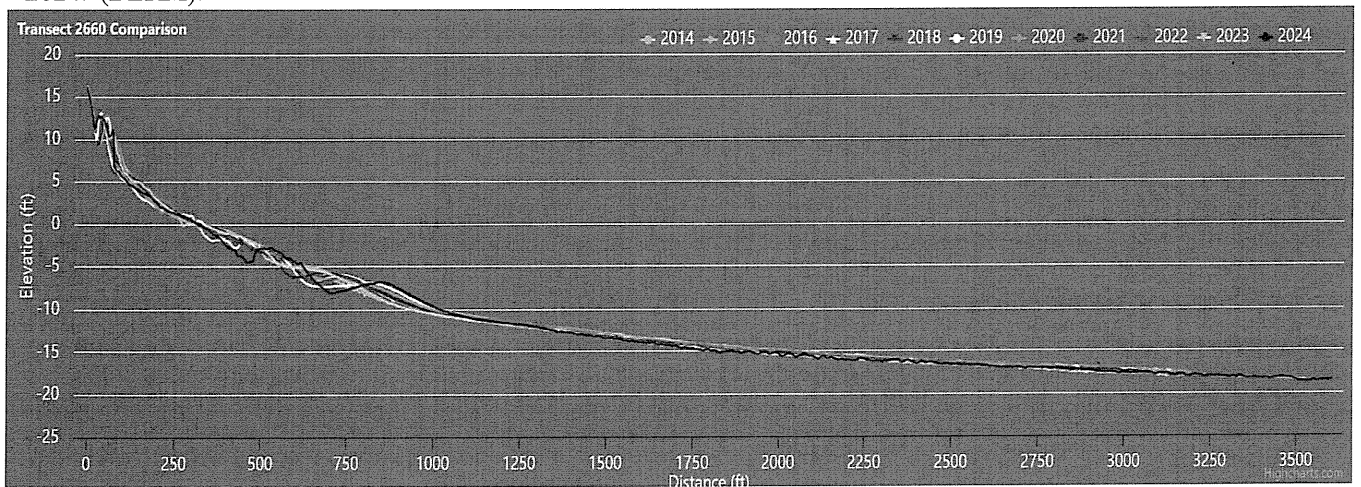


Figure 3. South Carolina OCRM/DEHC BERM Map Explorer⁹ (<https://gis.des.sc.gov/bermexplorer/>). This screen shot shows Monument Marker #2660 along Eugenia Avenue documenting elevation changes for each year between 2014 through 2024. There dune/beach region shows no significant change in elevation and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

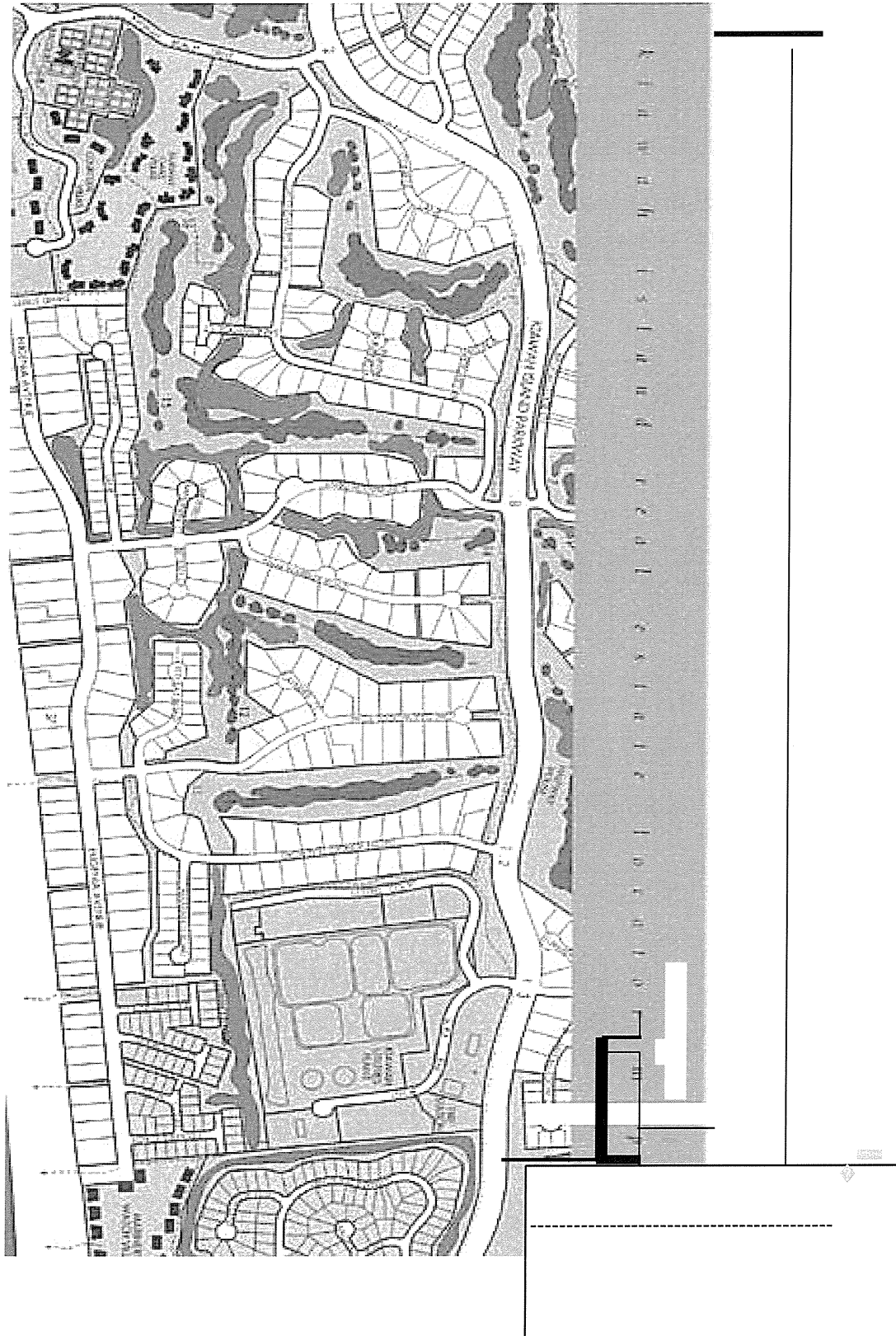
⁸Dr.Kana’s 2020 Beach Management Plan for Kiawah Island.

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 Section)

Eugenia Avenue



Beach Overlay Zone Eugenia Avenue

TOKI Interactive Map

