

MAYOR:  
John Labriola

TOWN ADMINISTRATOR:  
Stephanie Tillerson

TOWN ATTORNEY:  
Joseph Wilson



MAYOR PRO TEMPORE:  
Michael Heidingsfelder

COUNCIL MEMBERS:  
Bradley D. Belt  
Russell A. Berner

**TOWN COUNCIL**  
Municipal Center Council Chambers  
January 10, 2024, 1:30 pm

**AGENDA**

- I. Call to Order:
- II. Pledge of Allegiance
- III. Roll Call:
- IV. Approval of Minutes:
  - A. Minutes of the Town Council Meeting of November 7, 2023 [Tab 1]
  - B. Minutes of the Special Call Town Council Public Hearing of November 28, 2023 [Tab 2]
  - C. Minutes of the Town Council Meeting of December 5, 2023 [Tab 3]
  - D. Minutes of the Special Call Town Council Public Hearing of December 19, 2023 [Tab 4]
- V. Updates:
  - A. Mayor
  - B. Council Members
  - C. Administrator
- VI. Citizens' Comments (Agenda Items Only):
- VII. Presentations & Updates
  - A. Geoengineering - Frieda McKay
- VIII. Old Business:

None
- IX. New Business:
  - A. To Consider Approval of **Ordinance 2024-01** - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance to Establish Tree Preservation and Landscaping Standards – **Public Hearing and First Reading** [Tab 6]
  - B. To Consider Approval of **Ordinance 2024-02** - An Ordinance to Amend the Fiscal Year 2023 -2024 Budget for the Town of Kiawah Island, South Carolina (7/1/23 through 6/30/24) – **First Reading** [Tab 7]
  - C. To Consider Approval of **Ordinance 2024-03** - An Ordinance to Article 8 - Health and Sanitation, Chapter 1 - General Provisions, Section 8-112 – Yard Debris – **First Reading** [Tab 8]

- D. To Consider Approval of the 2024 Off-Duty Deputy Contract with the Charleson County Sheriff's Office [Tab 9]
- E. 2024 Committee Appointments
  - Arts & Cultural Events Council [Tab 10]
  - Audit Committee [Tab 11]
- F. Discussion and Amendment to the Planning Commission and Board of Zoning and Appeals Charters regarding Term Limits.
- G. Discussion and Recommendation to the Planning Commission to Review and Discuss Possible Changes to the Zoning Ordinance, Specifically Sections 12-106. (2)a. - Temporary Uses; and Section 12-162. - Site Plan Review
- H. Discussion and Recommendation to the Planning Commission to Review and Discuss Possible Changes to the Zoning Ordinance, Specifically Article III. - Subdivision Regulations and Article V. - Road Code

**X. Council Member Comments:**

**XI. Citizens' Comments:**

**XII. Adjournment:**



**TAB 1**

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# **TOWN COUNCIL**

**Agenda Item**

**TOWN COUNCIL**  
**Municipal Center Council Chambers**  
**November 7, 2023, 1:00 pm**

**Minutes**

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

**Present at the Meeting:** John D. Labriola, *Mayor*  
Brad Belt, *Council Member*  
Russell Berner, *Council Member*  
Michael Heidingsfelder, *Council Member*

**Also Present:** Stephanie Tillerson, *Town Administrator*  
Joe Wilson, *Town Attorney*  
John Taylor, Jr., *Planning Manager*  
David Irwin, *Mauldin Jenkins*

IV. **Approval of Minutes:**

- A. Minutes of the Town Council Meeting of September 5, 2023

*Council Member Heidingsfelder made a motion to approve the September 5, 2023, Town Council Meeting Minutes. Council Member Belt seconded the motion, and it was unanimously approved.*

- B. Special Call Town Council Meeting of October 3, 2023

*Council Member Heidingsfelder made a motion to approve the October 3, 2023, Special Call Town Council Meeting Minutes. Council Member Berner seconded the motion, and it was unanimously approved.*

- C. Minutes of the Town Council Meeting of October 3, 2023

*Council Member Berner made a motion to approve the October 3, 2023, Town Council Meeting Minutes. Council Member Heidingsfelder seconded the motion, and it was unanimously approved.*

V. **Presentations:**

- A. MUSC – Dr. Patrick Cawley, CEO of MUSC Health System

Dr. Cawley stated that MUSC remains firmly committed to the vision of having 24/7, 365-day emergency care in the community. This project has been a long time coming; last December, after the realization that the original site would not work, the property next to Seafields was identified, and the donation of the property by Kiawah Partners was completed in late July. With that long process completed, the project is now gaining traction.

Dr. Cawley stated the concept of the project remains the same. On the site will be a 24/7, 365-day-a-year Emergency Department with ground and air transportation available, along with a traditional medical office building. The shape of the current property is square rather than rectangular, allowing for a slight reduction of the square footage and still maintaining each and every one of the services planned.

Dr. Cawley reviewed some of the work being done at this point.

- working through the Freshfields ARB approvals would begin with formal submission in the current week, followed by submission to the Town in early December. He noted that renderings would be released once the design gets the two approvals.

- working with the Town of Seabrook to resolve encroachment across the bike path during construction
- Kiawah Island
  - working with Town staff to include an emergency department as a permitted use
  - working with Town staff on appropriate signage
- submission for the OCR permit is expected in the current week

Dr. Cawley stated it was expected to take about six months to receive the OCR permit and begin construction. Construction is anticipated to take 13 to 14 months, beginning in May, with completion early to mid-summer 2025.

Council Member Heidingsfelder expressed concern that the zoning issue had not been resolved. Ms. Tillerson clarified there was no issue from the Town's standpoint in terms of zoning, and a zoning verification letter had been sent.

Council Member Heidingsfelder stated in addition to the MUSC emergency care and office facility, there is an MUSC facility in Freshfields and a concept in development by Trident to build a full-fledged hospital on Maybank Highway, along with the proposed Health and Wellness Village on Betsy Kerrison Parkway. The Health and Wellness Village has been heavily debated, and many in the community are confused about what value it adds and where it fits in. Council Member Heidingsfelder asked Dr. Cawley for his opinion on whether there was a need or if it was becoming a competition. Dr. Cawley responded that he felt the market responding to the state legislature's repealing of the certificate of need, along with healthcare providers responding to the growth of Johns Island and Kiawah and Seabrook Islands. Health planning data shows the need is very high here and in other parts of John's Island.

#### **B. Fiscal Year 2022/2023 Audit Presentation – Mauldin Jenkins**

Mr. David Irwin, a managing partner with the audit firm of Mauldin Jenkins, gave a presentation on the Town's financial audit for the fiscal year ending June 30, 2023. He stated the purpose was to provide an overview of the independent auditor's report, highlight the financial statements, review the results of the compliance report issued in conjunction with the audit, provide the required auditing standards information, and discuss information auditing standards required to be communicated.

Mr. Irwin reviewed the following discussion points:

- **Audit Opinion**  
The financial statements are the responsibility of the Town's management and members of the Town Council. Mauldin Jenkins, as external auditor, is to express opinions on these financial statements based on our audit. Mauldin Jenkins conducted the audit in accordance with governmental auditing standards and generally accepted auditing standards (GAAP).
- **Opinions**  
Mauldin Jenkins has issued a clean or unmodified opinion on this year's audit report, which is the highest level of assurance that can be provided. The respective financial statements are fairly presented in all material respects in accordance with GAAP.
- **Compliance Report**  
The Compliance Report or Yellow Book Report reports on the Town's internal controls and compliance with various state laws and regulations. Mauldin Jenkins has no audit findings to report or found no deficiencies or material weakness in the internal control during the audit.

Mr. Irwin stated that with all the new accounting standards that are being implemented each year and how complex the financial reporting process has become, it makes it all that more impressive to stand before you today and deliver the news that Mauldin Jenkins is issuing a clean opinion with no audit findings. He also commented on the work done by Ms. Szubert and her staff in preparing for the audit and accommodating the audit staff. He also commended the Audit Committee's engagement in thoroughly reviewing the financial documents and helping to oversee the audit process.

- **Financial Statements - ACFR**

An Annual Comprehensive Financial Report (ACFR) goes above and beyond the standard financial reporting required by accounting principles. The Town's ACFR was submitted to the Government Finance Officers Association (GFOA) and was stringently reviewed by GFOA professional staff along with a special Review Committee and deemed to merit the GFOA's Certificate of Achievement for Excellence in Financial Reporting award for the 19<sup>th</sup> year in a row.

- **Financial Statements – MD&A**

The purpose of the Management's Discussion and Analysis (MD&A) is to make it easier for a broader audience to understand the financial statements better. The MD&A provides a narrative explanation or summary of the activities that occurred throughout the year from the management's perspective, along with comparative information.

- **Financial Statements**

The presented financial statements included three components

- 1) government-wide financial statements
- 2) fund financial statements
- 3) notes on the financial statements.

During the discussion of the components of the financial statements, Mr. Irwin reviewed the assets, liabilities, revenues, expenses, and net position. He stated that the Town has a very healthy General Fund balance, pointing out that Kiawah Island does not impose a property tax and identified business licenses, building permits, and franchise fees as significant revenue sources.

Mr. Irwin stated that the footnotes, which disclose the Town's accounting methods and provide an expanded explanation of the financial activities throughout the year, showed no significant changes this year. He also reviewed the required communications:

- Clean Opinion and No Audit Findings
- We Received Full Cooperation from Management and Staff
- No Disagreements with Management
- No Significant Issues Discussed with Management
- No Uncorrected Misstatements
- We are Independent of the Town as required by Government Auditing Standards

Councilmember questions included comparing the Town's financial balance sheet to other luxury communities exposed to other weather risks, the process and methods used in testing compliance and internal controls, and the content reported in the MD&A.

## **VI. Updates:**

### **A. Mayor**

### **B. Council Members**

Council Member Heidingsfelder spoke to his comment at the last Council meeting about his disappointment at not having a clear commitment from the Partners relating to the Upper Beachwalker parcels. There have been additional meetings since last week's Special Council meeting, but despite our best efforts to convince the partners to finally commit, they are sticking with their so-called dual path strategy. He again encouraged the Partners to make a final commitment to either developing these properties as the application submitted to the Planning Director states, or they will go with what is called alternative B, which is a far less dense, lower height building heights, lower number of dwelling units, a higher amount of impervious surfaces, more consideration to the existing tree canopy, larger setbacks, and substantial limitation for short-term rentals.

Council Member Heidingsfelder stated that over the past couple of weeks, there have been many community member conversations about the pending parking problem in the lower Beachwalker area, including the Timbers, the Cape, Parcel 13, and Duneside. Looking at the numbers, there is a substantial

parking problem in that particular area. He and Council Member Berner are concerned about safety and emergency access to those properties. He urged the partners to come forward and commit to resolving these problems.

Council Member Heidingsfelder also stated that the topic of construction traffic on Beachwalker Drive was also addressed with the Partners. An agreement needs to be reached on how to mitigate the traffic to the intersection at the Parkway and contribute financially to the resolutions.

Council Member Berner agreed with the comments made by Council Member Heidingsfelder on Beachwalker Drive. He met with the HOAs (Homeowner Associations) along Beachwalker Drive in the past week and discussed what has to be collectively accomplished in order to make Beachwalker less crowded, dense, and uncomfortable.

Council Member Berner stated that the next day, he met with Mr. Mark Permar and stressed to him that it is not just the density, it is not just the parking, and that any of these future developments have to incorporate a resolution of everything. In order to get this thing fixed, we have to have everybody, not just the Town, at the table, get all of the puzzle pieces together, and collectively come up with a resolution. It cannot be done in a patchwork kind of method.

Council Member Belt picked up on some of the points that Council Members Heidingsfelder and Berner raised. He indicated that representatives of the HOAs that are most directly impacted by Beachwalker developments are in attendance and expected to make comments. A meeting is also scheduled this week with the Partners, Mark Permar and Jordan Phillips, at which HOA representatives will hear from the Partners what they initially propose in terms of a PDD (Planned Development District) and then, as Council Member Heidingsfelder outlined, all of the issues that need to be resolved or addressed before there is an agreement. The process that has been discussed is very similar to what transpired for the Andell West project, in which the most affected community member sits down with the developer and tries to reach an agreement accommodation on a plan or path forward that works for all. That process seems constructive right now, and hopefully, it continues.

Council Member Belt stated that significant issues have been belatedly recognized in terms of addressing general traffic congestion issues, parking congestion, and stresses on infrastructure that suggest that a step back may need to be taken to get a handle on how all this fits before we do any further development.

Council Member Belt stated he was not sure most people appreciate how profound the parking situation is going to be in the Timbers, Cape, and Ocean Pines development, providing a detailed outline of the parking spaces designated to each development and the shortfalls in the allowance for service providers, staff, and visitors parking. He stated that a single external lot of 31 spaces is planned to handle all the overflow from Timbers, all the visitors and guests of Cape residents, all the visitors and guests of the Ocean Pines residents, and all the Cape Club users and staff of those facilities. With the numbers not adding up, the question becomes where those people are going to park. The pressure will be on Duneside and Greens Lake communities, where people will park on the streets or come in and then have to turn around even though there's really not any place to turn around. It will be an unmitigated disaster, even before considering what will be developed on the old Kiawah Island Inn site. This must be figured out because we are at a breaking point now, and it will only worsen.

Council Member Belt stated he wanted to bring to everyone's attention that the proposed Health and Wellness Village just on Betsy Kerrison is going before the Charleston County Planning Commission on November 13<sup>th</sup>. He encouraged the community to engage and let the Charleston County Planning Commission know of your views. He noted that there was a meeting at Town Hall that was hosted by the developer and was very well attended, with some people being supportive, some opposed, and some supportive but had questions or concerns about the scope and scale of the project and if the best place was along Betsy Kerrison Parkway. He noted that the Charleston County Planning Commission staff recommended disapproval of the proposal. In their view, it's incompatible with the surrounding uses,

notwithstanding the fact that it's inside the urban growth boundary. His principal concern is that the proposed uses are fairly expansive, including general office and general retail, and could become problematic because of how the PDD is drafted. If the developer does not go forward with the plans as presented, they also have the right to sell off or subdivide the parcels, and whoever acquires that can use that by right not necessarily to build out a Health and Medical Village but to do general office development and general retail.

Council Member Belt stated that he and Council Member Heidingsfelder had been working with KICA Board members David DeStefano and Kevin Donlin and other community members on the ARB task force over the summer and the fall. A draft of the Phase 2 report is being finalized, and it is the hope and expectation that the report will be able to be sent to the community after Thanksgiving and then a community meeting thereafter for additional input.

#### C. Administrator

### VII. Citizens' Comments (Agenda Items Only):

#### **Maura McIlvain – 146 Blue Heron Pond Road**

Mr. McIlvain spoke to Item C under Old Business, the second reading of the ordinance, which relates to changing the Mayor Pro Tem's term in office. She noted that state statute 5-7-190 limits the term of a Mayor Pro Tem in the state of South Carolina to two years and would encourage the Council not to pass the ordinance. For the record, she read the statute, "immediately after any general election for the municipal Council the council shall elect from its membership a mayor pro temporary for a term of not more than two years." The Council is appointing a Mayor Pro Tem, not after a general election, and encouraged the Council to look into the statute.

#### **Lisa Snowden – 39 Inlet Cove**

Ms. Snowden stated that she and others have pleaded with decision-makers to ensure that further development of Beachwalker is completed in a strategic, collaborative, and holistic way that addresses density, design with nature, traffic, environmental impact, and compliance with all regulations.

At the beginning of the process, she participated in drop-in meetings with council members, finding them engaged in understanding the community's concerns, sat in Planning Commission meetings where public opinions were solicited and heard, watched Mr. Taylor and Administrator Tillerson demonstrate competence and commitment in helping to understand rather complicated zoning codes and witnessed the Planning Commission reach consensus on a measured and thoughtful recommendation to the Town Council. She trusted the process and the integrity and competence of the people involved. Then, at the October 24th Town Council meeting, the expected first reading of the Beachwalker rezoning ordinance was removed from the agenda without explanation despite very clear public support for the planning commission's recommendation. After that meeting, she struggled to understand, and the earlier trust was replaced with deep skepticism and disappointment.

Ms. Snowden requested answers to the following questions to ensure that there is no impropriety in this process.

- 1) Why is time of the essence, and who benefits from rushing to approve the site plans
- 2) Who approved the site plan for the Cape despite insufficient parking, and what is the remedy for that violation
- 3) What is the status of the engineering study that is looking at stormwater runoff and erosion
  - how was that engineering firm selected
  - what's the scope of their study
  - how will they assess the impact on adjacent neighborhoods and
  - how will the community learn the results
- 4) Who is Consulting with the biologist studying Bobcats to understand the impact of proposed development on their habitat



- 5) What controls are in place to ensure that all approvals are compliant with all regulations
- 6) Do any Commissioners, Council Members, Town staff, or their family members have any equity holdings, shares, or financial relationships with any of the Kiawah Island developers or their LLC, and have all of these relationships been disclosed?

Ms. Snowden stated that these were not rhetorical questions, sincerely wanting to hear their answers to restore confidence in both the process and the integrity and competence of the people involved.

#### **Alex Fernandez – 418 Snowy Egret**

Mr. Fernandez stated that he was not representing the KICA Board but himself as a homeowner and permanent resident of Kiawah Island. He stated that the original developers and planners of Kiawah Island had one concept in mind: to design with nature, and homeowners today respect that concept. In the last couple of years, when looking at the Cape and the Timbers, one questions if they respected the concept. He stated that the plans for the Ocean Pines that had been submitted for approval were not designed with nature and asked those authorizing the plans not to forget the concept.

#### **Denise Klizek – 86 Belmeade Hall – Inlet Cove HOA Board Member**

Ms. Klizek stated the efforts of the Planning Commission were appreciated and would like the Town Council to accept the new zoning recommendations. She noted that the 2-lane road Beachwalker Drive cannot be expanded and is treacherous to cross to go to the beach. She urged the Council to take the Planning Commission's recommendations, address nature, and help the community they represent.

#### **Mark Permar – 81 Dungeon Hall**

Mr. Permar stated that he was representing Kiawah Partners and their comments on the agenda items. He stated that independent of the expiration of the Development Agreement on December 4<sup>th</sup>, there was an opportunity to do the best for the greater community, and we were looking forward to the session with Community thought leaders in nearby properties this coming Friday and expect to continue that dialogue with more people involved.

Mr. Permar provided detailed comments on agenda items relating to the recommended zoning classifications to be considered by the Council, referring to issues involving the removal of the commercial classification and zoning changes resulting in the potential for non-conforming structures.

Mr. Permar pointed out that beginning about ten days ago, he had been religiously going by every one of the parcels under consideration in the morning and at the end of the day. No signs about this activity have been posted publicly, which is required during rezonings. He encouraged the continuation of the process, especially along Beachwalker, to ensure that the greater community is engaged.

Council Member Heidingsfelder asked for clarification on Mr. Permar's comments on the Planning Commission's proposal for parcels 8, 9, and 10. He also expressed his disappointment that there was no commitment to parking and traffic. Mr. Permar stated the Partners were looking forward to collaboratively addressing parking issues and traffic issues and, on the traffic issue side, not just long-term traffic but interim conditions like construction activity.

Council Members, along with Mr. Permar and Ms. Tillerson, engaged in an in-depth discussion of the shortfall in parking spaces, the calculation of the potential shortfall in parking spaces, and a commitment from the Partners to resolve the problem.

#### **James Wilson - Representing East West Partners developer of the Cape**

Mr. Wilson apologized for being late to participate in this process, but we really just became aware of it. He was brought in to see how the proposed rezoning would impact East-West and, more importantly, our new homeowners. He confirmed that the East-West Partners team was providing information to the

Town for parking calculations and would be very glad to sit down with the Town; we obviously want to make sure that the project is in compliance.

Mr. Wilson explained that the Cape has two components: the residential component and the club component. The approval process for the project began in 2019. This project's specifics came to the Town Council in 2019 and were approved. The plans then went through site plan approval through building permitting, and the project has been under construction and is very close to completion. Even though it is very unusual, changing the zoning during construction does not change the fact that the approvals are vested rights and that construction will continue until completion. That municipality has provisions for legal non-conforming uses rights that say you're allowed to continue to use those structures and those uses, and if they're damaged, you can restore them. That's normal, so from that perspective, legally, the rezoning really should not change anything about the Cape. The reason we are here is to make sure it's clear with everyone, the Town, the Town Council, and with staff, everybody, that is the common understanding. Because it's really unusual to rezone property mid-construction, we wanted to be here today to be on the record and to emphasize that point.

#### **Miller Harper - East West Partners**

Mr. Harper stated that it was painful to hear the frustration and the comments that several of you have had about the Cape. East-West Partners have spent many thousands of hours working on this with the community, hiring the best Architects, designers, and planners to work on it with us.

Mr. Harper said this hit his radar on Friday afternoon, so they were reacting quickly, trying to ensure they understood the implications and impact on them and our homeowners. He stated that he was never notified and never got a letter, and even though he went out to our property every week, he never saw a sign that said that this was happening.

Mr. Harper stated that the complete project plan was presented to the Town Council in August 2019, with many people in the room who unanimously supported the plan.

At this time, we have to speak on behalf of the new owners as well as our behalf. In effect, this could impact them, and we have to understand that impact, so we would ask you, given that we really are just getting our hands around this, that you slow it down just for a moment.

#### **VIII. Old Business:**

- A. To Consider Approval of Ordinance 2023-17 – An Ordinance to Amend the Town of Kiawah Island Comprehensive Plan – Land Use Element – Future Land Use Categories and Comprehensive Plan Map IX.2, Future Land Use; to Change the Future Land Use Designation for the Subject Properties (TMS# 207-00-00-040; 265-16-00-159; 265-16-00-160) from “Medium Density Residential” to “Active Recreation and Open Space.”- Second and Final Reading**

Mr. Taylor stated that with the expiration of the 2013 Amended and Restated Development Agreement, a number of parcels are being considered for rezoning. Parcels TMS# 207- 00-00-040; 265-16-00-159; 265-16-00-160, currently located in Ocean Park, are zoned R2, and their Future Land Use Destination is Medium-Density Residential. The request is that they go from that designation to Active Recreation and Open Space for the Future Land Use Destination and to Parks and Recreation for the Zoning Designation. Those come with recommendations from the Planning Commission.

***Council Member Heidingsfelder made a motion to approve the second and final reading of Ordinance 2023-17 to Change the Future Land Use Designation for the Subject Properties (TMS# 207-00-00-040; 265-16-00-159; 265-16-00-160) from “Medium Density Residential” to “Active Recreation and Open Space.” Council Member Belt seconded the motion, and it was unanimously approved.***

- B. To Consider Approval of **Ordinance 2023-18** – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. - Zoning, Division 2. - Zoning Map/Districts, Section 12-62. –Zoning Map by Rezoning the Properties (TMS# 207-00-00-040;265-16-00-159;265-16-00-160) from “R-2 Residential” to “Parks and Recreation - **Second and Final Reading**

**Council Member Heidingsfelder made a motion to approve the second and final reading of Ordinance 2023-18 Rezoning the Properties (TMS# 207-00-00-040;265-16-00-159;265-16-00-160) from “R-2 Residential” to “Parks and Recreation. Council Member Berner seconded the motion, and it was unanimously approved.**

- C. To Consider Approval of **Ordinance 2023-19** - An Ordinance to Amend the Town of Kiawah Island Article 2, General Government and Administration, Chapter 2 – Municipal Council, Section 2-205 – Mayor Pro Tempore – **Second and Final Reading**

Mr. Wilson confirmed that the state statute limited the term to no more than two years.

**Council Member Belt moved to table Ordinance 2023-19 – amending the term of the Mayor Pro Tempore. Council Member Heidingsfelder seconded the motion, and it was unanimously approved,**

**IX. New Business:**

- A. To Consider Approval of the Appointment of the Mayor Pro Tempore

**Mayor Labriola made a motion to appoint Council Member Heidingsfelder as Mayor Pro Tempore. Council Member Berner seconded the motion.**

Council Member Belt raised the question of whether there is a process for filling the vacancy of the Mayor Pro Tem position other than as provided in that same statute and, given the language, if procedurally, this is the appropriate way to do that.

Council Members discussed the question and the suggestion to add something to the Town ordinance that provides a mechanism for filling the vacancy.

**Following the discussion, the motion was unanimously approved.**

- B. To Consider Approval of the Re-Appointment of Sanford Ain as Municipal Chief Court Judge

Ms. Tillerson stated that Judge Ain requested the Council to consider a reappointment to a four-year term.

**Council Member Heidingsfelder made a motion to reappoint Sanford Ain as Municipal Court Judge for a four-year term. Council Member Berner seconded the motion, and it was unanimously approved.**

- C. To Consider Approval of the 2024 Ways and Means and Town Council Meeting Dates

**Council Member Berner made a motion to approve the 2024 Ways and Means and Town Council meeting dates. Council Member Heidingsfelder seconded the motion, and it was unanimously approved.**

- D. To Consider Approval of **Ordinance 2023-20** – An Ordinance to Amend the Town of Kiawah Island Comprehensive Plan – Land Use Element – Future Land Use Categories and Comprehensive Plan Map IX.2, Future Land Use; to Change the Future Land Use Designation for the Subject Parcels Within the 2013 Amended and Restated Development Agreement – **First Reading**

- E. To Consider Approval of **Ordinance 2023-21** – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. – Zoning, Division 2. - Zoning Map/Districts, Section 12-62. – Zoning Map by Rezoning the Specific Parcels Within the 2013 Amended and Restated Development Agreement – **First Reading**

Mr. Taylor stated that the parcels are being requested to be rezoned to establish a base zoning District essentially at the expiration of the 2013 amended and restated development agreement and come as recommendations from the Planning Commission.

Mr. Taylor highlighted each of the zoning, the future land use, and the zoning classification recommendations for each parcel.

### Upper Beachwalker

- Parcels 8, 9, and 10
  - **Proposed Future Land Use:** Medium-Density Residential
  - **Proposed Zoning:** R-2, Residential
- Parcels 11 – Beachwalker Lagoon
  - **Proposed Future Land Use:** High-Density Residential
  - **Proposed Zoning:** R-3, Residential
- Former Church Parcel
  - **Proposed Future Land Use:** High-Density Residential
  - **Proposed Zoning:** R-3, Residential

### Lower Beachwalker

- Parcel 13 (lot 1)
  - **Proposed Future Land Use:** High-Density Residential
  - **Proposed Zoning:** R-3, Residential
- The Cape
  - **Proposed Future Land Use:** High-Density Residential
  - **Proposed Zoning:** R-3, Residential
- The Timbers
  - **Proposed Future Land Use:** High-Density Residential
  - **Proposed Zoning:** R-3, Residential

Mr. Taylor stated that Parcel 12 is split within the 2013 Amended and Restated Development Agreement. He noted for the record that these particular parcels are shown as two separate categories but are identified as one TMS number.

- Parcel 12a - Beachwalker Park
  - **Proposed Future Land Use:** Medium-Density Residential
  - **Proposed Zoning:** R-2, Residential
- Parcel 12b - Captain Sam's
  - **Proposed Future Land Use:** Low-Density Residential
  - **Proposed Zoning:** R-1, Residential
- Parcel 16 – The Settlement
  - **Proposed Future Land Use:** Low-Density Residential/Active Recreational and Open Space
  - **Proposed Zoning:** R-1, Residential – Parks and Recreation

The Planning Commission recommended a text amendment to the use table and conditions of uses within the PR category to clarify that the existing uses associated with a personal service improvement related to the spa are included as a condition of use.

- Parcel 41 – Osprey Beach
  - **Proposed Future Land Use:** Low-Density Residential/Active Recreational and Open Space
  - **Proposed Zoning:** R-1, Residential – Parks and Recreation

Mr. Taylor stated that not on the spreadsheet are the remaining lots in Ocean Park, which are designated R2 classification for Ocean Park, and then the pr category for the open space, and as mentioned earlier, consideration could be taken to remove the Marsh House property and rezone that to PR as requested by Property Owners from the HOA.

Mr. Taylor also stated that the Town received several public comments that the Council should have received via the online portal and wanted to make sure that those were part of the record as well.

***Council Member Berner made a motion to approve the first reading of Ordinance 2034-20 and Ordinance 2023-21. Council Member Heidingsfelder seconded the motion.***

Council Member Heidingsfelder asked if it would be the right process to send the Marsh House and the other properties in Ocean Park back to the Planning Commission for review and recommendation for re-zoning those parcels as they have done previously. Mr. Taylor agreed that the additional dialog would not hurt.

Council Member Heidingsfelder asked for clarification on why the Planning Commission recommended Parcel 12b - Captain Sam's to have the Low-Density/R1 designation rather than the Staff recommendation of Parks and Recreation. He noted that the SC Supreme Court ruled there could be no residential development allowed on Captain Sams.

Mr. Taylor stated that if that parcel wanted to be developed, it could be. It's just a road component that prevents access to that parcel. During their discussion, the Planning Commission factored into the recommendation of existing land use patterns, existing future land use, and all of those legal implications landing back on the R1 residential component. From the staff's perspective, based on all those factors, he believed that that would be the most appropriate based on its current state.

Council Member Belt proposed minor changes to the language of Ordinances 2023-2 and 21. The third "whereas" clause states, "the Town also adopted Ordinance 2013-15" should read Ordinance 2013-14.

Committee Member Belt stated he wanted to make a couple of General comments. This is more for the public record and to address some earlier comments that were made during the Citizens' Comment period.

We are undertaking zoning changes that change zoning classifications that have existed under the Amended and Restated Development Agreement. My view is for the record that the Planning Commission undertook a very extensive review and provided a very rational basis for making the zoning changes they did. For the record, I would note that the four Cs that are relevant to this analysis and discussion were considered.

The first is compatibility, that what the Planning Commission has recommended with regard to each of these parcels is, in fact, compatible with the surrounding adjacent residential properties; I might have wished that the Planning Commission would even gone a little bit further, but the surrounding parcels particularly Beachwalker parcels are all, with the exception of Timbers and the Cape, one-story, two-and-one-half story or two-story single-family residential developments.

Second, the Planning Commission's recommendations are consistent with the Comprehensive Plan. I will quote from the Comprehensive Plan on page 15: "That low-density development that is being designed in harmony with nature is consistent with the Town's Vision while tall, massive buildings are inconsistent because they dominate the landscape rather than blending in and meshing with it. Large homes, hotels, and other large buildings should be located on large parcels or lots and should be set back from property lines to reduce their visual impact from streets, the beach, other open space, and neighboring lots."

The third thing I would note for the record, which has actually been brought up on a number of occasions, is what underpins some of these changes in zoning classifications in some cases from a dual, an optional RC to just R, is changed conditions. The zoning standards and zoning classifications that were embedded

in the Development Agreement go back multiple decades. What we now realize is while those zoning standards may have worked for the first 20 or 30 years of the Island's existence, for the last decade or so, we have shown the adverse impacts of what was then planned as higher-density development, particularly in the West End. We have seen an increase in pressure on infrastructure, on our amenities, and in terms of traffic conditions. So, changed conditions have warranted the Planning Commission's recommendations and will underpin my vote with regard to the Planning Commission's recommendations.

The fourth “C” is Community Support. We clearly had overwhelming Community Support; I dare say unanimous Community Support, not only at Planning Commission recommendations but also at Council meetings and the dozens of comments received through their portal and sent directly to Council Members. For all of those reasons, I would argue that there's a substantial basis for the Town.

The council will accept the Planning Commission's zoning recommendations, and there is a rational basis for the Town Council to approve those. In fact, there is no issue presented of a “taking” that was a declarative statement that communities routinely rezone or down zone, and there has to be a rational basis for them doing so, and I believe that the Planning Commission has established that rational basis.

Council Member Heidingsfelder asked what the Planning Commission vote was on Parcel 12b – Captain Sam’s—the motion passed by a 4 to 3 vote.

Committee Member Heidingsfelder stated that the fact here is, for the record, it was not a 7 to 0 vote; there were clearly Commissioners that would have liked to make the change in the zoning, is my understanding, and that should be an indication enough for us to really look at the Comprehensive Plan again when it's done, and then follow one of these criteria of compatibility or consistency again.

***Following the discussion, the motion to approve the first reading of Ordinance 2034-20 and Ordinance 2023-21 was unanimously approved.***

**F. To Consider Approval of **Ordinance 2023-22** – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. – Zoning, Division 3. – Use Regulations, Section 12-103. – Conditions Of Use - **First Reading****

Mr. Taylor stated the ordinance is an amendment to Section 12-13 - Conditions of Use. As alluded to in the previous zoning amendment, this was a recommendation by the Planning Commission to look at the uses conditionally used by right within the Settlement area based on the spa. It is a small form text amendment that would ensure that the uses that are allowed today are conditionally used within that area as it is part of the inside of an enclosed building.

***Council Member Berner made a motion to approve the first reading of Ordinance 2023-2. Council Member Heidingsfelder seconded the motion.***

***Following discussion, the motion was unanimously approved.***

**G. To Consider Approval of **Ordinance 2023-23** – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance Pursuant to Existing Ordinance 2013-14 to Remove the 2013 Amended and Restated Development Agreement from the Zoning Code as an Appendix –**First Reading****

Mr. Taylor stated that the final component of the order amendments is the ordinance removing the 2013 Amended and Restate Development Agreement as an appendix from the zoning code. He noted two things that will also happen as part of this amendment. The 2013-14 amendment also essentially created the zoning classifications for the Freshfields Plan Development, so as part of this ordinance, the zoning standards for the Freshfields Retail Village are retained. Another component is that there are a number of parcels that are being recommended to retain their setbacks to prevent complications. Section B highlights a list of those parcels showing exactly the property setbacks that will remain in place. The final

component is all of the amendments that have been made; sections D and E reaffirm those new zoning classifications based on attaching the actual zoning map of those classifications to this exhibit.

***Council Member Belt made a motion to approve the first reading of Ordinance 2023-23. Council Member Berner seconded the motion.***

Council Member Belt reviewed the minor language changes he proposed to the ordinance.

Council Member Belt spoke to a broader point he has mentioned a couple of times. You will not find any reference to the ARDA (Amended and Restated Development Agreement) anywhere in any appendices. Still, the Town Attorney has opined that it is, in fact, part of our Town's ordinances, so it is critically important now that the termination agreement that we correct what was probably a mistake in the first place for a couple of reasons. One, we do not want to continue the terms of the development agreement past the life of the development agreement, which would be inconsistent with the intent of the state development agreement statute. Secondly, if the entirety of the Development Agreement is part of our Town's ordinances, that means all the exhibits, there two, which include Designing with Nature and the graphic standards, then we are in the uncomfortable position of having had a private third party administering and enforcing Town ordinances. So, I would encourage my colleagues to approve passing this ordinance for those reasons.

Council Member Heidingsfelder stated that just for clarity and for the record, nowhere else in that little book is now a reference to the ARDA, 2013-14 is the only reference to the development agreement, and if there had been a thorough check, double and triple check made of all the other ordinances that there is not another reference to 2013-14 or the ARDA, etc. that may have been missed.

Council Member Heidingsfelder stated that in the planned development for Freshfields, specific uses are permitted that cause concern and many of us would disagree with them. Since there may come a time when Andell West comes under Town jurisdiction, it would be a good time to review or have the Planning Commission again review all these permitted uses and clean out some of the things that we may have made by error and discuss maybe make some changes. Mr. Taylor stated that at the next retreat, an RFP would be presented to look at the entire zoning code, and the review of the entire use table had already been built into it. There has not been a cleanup of the entire code since I have been working with Kiawah, and it is important that we look at all standards that would be part of that project.

Council Member Belt noted that those uses are not conditional or special exceptions; they are all permitted by right. He also noted that looking at the Freshfields PDD for fresh was part of the conversation with Riverstone, the Andell West developer; some of those permitted uses had been removed in the Andel West PDD that is before Charleston County right now.

***Following the discussion, the motion was unanimously approved.***

#### **X. Council Member Comments:**

Council Member Heidingsfelder spoke to an earlier comment that the Town has not complied with its notification regulations for these zoning changes, with no signs and no letters to owners.

Mr. Taylor stated that the Planning Staff sends out letters to notify property owners whether or not every property owner received one is based on the address in the records for Charleston County. As for signs, while it is not normal for Kiawah, staff have previously had signs removed by construction contractors.

Mr. Taylor stated that, in this instance, it would be his recommendation to hold a second public hearing to ensure clarity. Ms. Tillerson confirmed that a second public hearing could be scheduled for the 14<sup>th</sup>, along with the second reading of the ordinances. She noted that the letter that was sent was dated September 22<sup>nd</sup>.

Council Member Heidingsfelder confirmed that the Town fulfilled its obligation of notifying owners of those different properties as well as we could. That a letter obviously did not reach East-West could be because either it ended up in the wrong department or the address was wrong.

Council Member Heidingsfelder encouraged the community to please go to the Charleston County Planning Commission meeting on Monday, November 13th at 2:00. It is important that our Sea Island communities appear in person to make clear their feelings and/or concerns about the Health and Wellness Village project that is supposed to go up along Betsy Carrison Parkway.

Council Member Belt stated that if you cannot attend in person, you can send comments to the County Planning Commission. The email information and instructions on how and where to send those comments can be found in a link from the John's Island Task Force. If comments are sent to your representative in the County Council, they will not be counted. The closing for public comments is Thursday at 5:00 pm.

Council Member Berner reminded the community that the next Community Drop-In meeting with himself and Council Heidingsfelder would be at the Sandcastle on Wednesday afternoon.

Mayor Labriola thanked East West for attending the meeting and apologized that they did not receive the notification. He felt it necessary to state that no one is under the payroll, no one owns stock in the Partners, and no one is getting anything from anybody, but he thought it was interesting to note that in 2018 and 2019, there was probably a room full of people who supported these projects and how things have changed from 2018/2019 to 2023. Right, wrong, or indifferent, things have changed.

#### **XI. Citizens' Comments:**

##### **Peter Marks – Victory Bay Lane**

Mr. Marks thanked the Council for approving the re-zoning of the three Ocean Park parcels from R2 to Park and Recreation. The homeowners have identified three remaining parcels that remain zoned R-2. With the rezoning of the parcels going back to the Planning Commission for review and recommendation, he asked when the ordinance can expect its first reading. Mr. Taylor said it would be after the first of the new year.

##### **Lisa Snowden – 39 Inlet Cove**

Ms. Snowden thanked the Mayor for the answer to question number six but reminded the Council that she said her questions were not rhetorical and asked when and how in this process she might expect answers.

Mayor Labriola stated that he thought they were very good questions. Ms. Tillerson indicated that she had noted all the questions and that the answers would be emailed to Ms. Snowden.

##### **John Connelly – 1020 Scalp Court**

Mr. Connelly wanted to take this opportunity since the East-West partners are here to let them know that they really need to focus on this parking issue because it is going to impact all of the owners at the Cape, and it is going to be a fiasco if nothing is done to fix it.

Mr. Connelly also stated he wanted to make sure that East-West was aware that five years ago, there was an agreement between the Community Association and the Partners restricting the use of Duneside Road. Part of that is that deliveries and services to the Club are not to be done through Duneside Road.

##### **Kelly Satch – Nicholas Lane**

Ms. Satch spoke to the State Accommodation Tax Committee (SATAX). The Council votes on the appointment of the members in January, and the seven committee members are one town member and



two residents, and the four are commercial members, the Partners, the Resort, the Andell Inn, and Akers Ellis. She stated that with 72% of accommodation tax revenue coming from short-term rentals, why are individual residents not part of the SATAX Committee?

Council Member Heidingsfelder, Belt, along with Ms. Tillerson, discussed and responded to some of the points made by Ms. Satch.

Council Member Heidingsfelder stated he would be chairing the SATAX Committee meeting taking place in two weeks, and afterward, he would be better able to address Ms. Satch's comments. He also stated he would certainly make sure that all the different aspects are looked at when we have to reappoint in January.

**David DeStefano – 32 Burroughs Hall Road**

Mr. DeStefano commented on the parking issue, stating that a lot of people had contacted him about the memorandum of understanding (MOU). He stated that after reading it in detail, he found the agreement ambiguous. He provided details of his research and pointed out the contradiction between the written agreement and one of the drawings included with it.

Council Member Belt and Council Member Heidingsfelder provided detailed responses to Mr. DeStefano's comments.

**Mark Permar – 81 Dungeon Hall**

Mr. Permar once again spoke to the lack of public notice and the need to do a better job.

**XII. Adjournment:**

***Mayor Labriola adjourned the meeting at 4:31 pm.***

**Submitted by,**

\_\_\_\_\_  
**Petra S. Reynolds, Town Clerk**

**Approved by,**

\_\_\_\_\_  
**John D. Labriola, Mayor**

\_\_\_\_\_  
**Date**



**TAB 2**

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# **TOWN COUNCIL**

## **Agenda Item**

# SPECIAL CALL TOWN COUNCIL MEETING AND PUBLIC HEARING

Municipal Center Council Chambers  
November 28, 2023, 2:00 pm

## Minutes

- I. **Call to Order:** *Mayor Labriola called the meeting to order at 2:00 pm.*
- II. **Roll Call:**

**Present at the Meeting:**

John D. Labriola, Mayor  
Michael Heidingsfelder, Mayor Pro Tem  
Brad Belt, Council Member  
Russell Berner, Council Member

**Also Present:**

Stephanie Tillerson, Town Administrator  
Joe Wilson, Town Attorney  
John Taylor, Jr., Planning Manager

Mayor Labriola stated that this is the second Public Hearing for the Ordinances being presented at this meeting. There has been a lot of discussion or confusion, possibly because we have received a lot of phone calls from residents, so before we get started with the Public Hearing, I'm going to ask Ms. Tillerson to come to the podium to make some explanations that I think may help understand the situation a little bit better.

Ms. Tillerson stated that staff and Council Members, including myself, have received a number of calls from residents on John's Island. We understand that when the property at Beachwalker County Park was posted for the rezoning, it caused some confusion, and there were comments on the Johns Island social media. I did go on to that social media post, and I did see where it was posted that the Town, through its rezoning, is essentially closing Beachwalker Park and the access to Beachwalker Park, even to the extent that the Town was going to remove parking spaces from there.

While the Town Council today is holding a public hearing and second reading for Parcels that includes Beachwalker County Park, it is part of a Development Agreement that has been longstanding between the former Kiawah Partners and the current Partners with the Town of Kiawah. These parcels, including Beachwalker County Park, had zoning attached to them and are going through a process of making sure that when that Development Agreement terminates on December 4th, we have zoning attached to them. This process will not restrict or close Beachwalker County Park, it will not remove any parking spaces, and public access will remain open.

There is a 99-year lease that was signed, I believe, in 1976, so it has about 47 more years on it between Kiawah Partners and Charleston County Government with regard to the use of that park. Charleston County Park and Recreation operates Beachwalker Park. If anything happens with the park, it is because of some discussion or agreement between the Charleston County government and the developers or the holders of that lease. Still, again, I just wanted to ease a little bit of some concerns that I had received through emails. This has no impact; it will not close the Park, the Park will still be open to residents, visitors, and people from John's Island or other parts of the area who can access the Park. There are restrictions on parking through the lease; there are only 150 parking spaces there.

***Mayor Pro Tem Heidingsfelder made a motion to open the Public hearing. Council Member Belt seconded the motion, and it was unanimously approved.***

### **III. Public Hearing:**

#### **Denise Klizek – 86 Belmeade Hall – Inlet Cove HOA Board Member**

Ms. Klizek wanted to reiterate that the HOA Board recommends supporting the zoning changes for Upper and Lower Beachwalker. There has been a lot of discussion about that, but we still feel we highly favor the changes.

#### **Andy Capelli – 160 Governor's Drive**

Mr. Capelli stated the comments he was making is as a property owner since 1989. I am concerned about the unintended consequences of the proposed amendments to the ARDA (Amended and restated Development Agreement). Since the Planning Commission, of which I am a member, rejected the staff recommendation to establish two new zoning categories for the Beachwalker properties and agreed to recommend the changes you are considering today without any discussion of the impact of the recommended changes on other current currently undeveloped and redevelopment of existing properties and what the effect of those changes would be. I am excluding any legal consequences that may or will result from the adoption of the recommendations, but I am also referring only to the effect in the future on undeveloped and redevelopment recommendations as a result of the rejection of the staff recommendation to establish new separate and very limited zoning classifications and to apply the recommended changes to all existing zoning categories. As a result, I suggest that unless each and every member of the council has considered the effects of these changes or that these changes will have on all properties to which they could be applied in the future, I believe any vote on the recommendations and finalize the changes to the zoning land use regulations is not only premature but also Reckless.

#### **Lisa Snowden – 39 Inlet Cove**

Ms. Snowden stated that at our last Town Council meeting, I raised six non-rhetorical questions, and I received a tremendous amount of support and curiosity pertaining to the answers to those questions, so I thought it might serve the Public's interest for me to share the answers I received as well as to share the remaining unanswered questions.

Now, first, I want to thank many people, the leaders of the impacted HOAs, for your persistence in identifying and working to resolve the community's concerns. Members of our Town Council and Planning Commission who were listening to the community and actively finding solutions to our concerns, specifically Council Member Belt, and Council Member Berner. Mayor Pro Tem Heidingsfelder, Ms. Hennessy and Ms. Kaye. Third, Mr. Permar and Mr. Phillips met with and are continuing to meet with neighborhood and Community leaders to try to find common ground and solutions that will work for all parties. Fourth, Administrator Tillerson for providing answers to my questions, and finally, Planning Director Mr. Taylor for his comments to the developers noting the parking issue on lot one. I am encouraged by the work of each of these parties, and I feel a renewed sense of optimism and confidence in this process.

I want to highlight a few areas that still need attention. Allow me to review the questions I asked at the last meeting, the responses I've received, and my perception of unsettled concerns.

1. I asked why time is of the essence and who benefits from rushing to approve the site plans. Ms. Tillerson responded that “the town has no intention to rush through this process; however, upon our review, we are required by law to provide a thorough response to a site plan application. Furthermore, the third-party engineering firm reviewing the site plans at the request of Mr. Taylor is thoroughly reviewing the site plans for engineering, stormwater, and planning compliance. There's no rush on their or our part. They will take the necessary time to complete the review process thoroughly.”

While I am happy to hear that the engineering firm is thoroughly reviewing the site plan, this claim would be more believable if actual site visits were planned, and the contract didn't require the engineering firm's report by November 30<sup>th</sup>.

2. I asked who approved the site plan for the Cape despite insufficient parking and what is the remedy for that violation.

Ms. Tillerson responded that “the Town Planning Department approved the site plan for the Cape. Staff are currently looking into the parking concerns for that entire area, including Timbers, Cape, and the future development of Ocean Pines. Once we have determined the parking deficiencies, we will appropriately communicate to Timbers the Cape and the Partners.”

I understand that on November 16<sup>th</sup>, Mr. Taylor sent a comment letter to the developer indicating that at least 125 additional parking spaces need to be provided for Lot 1 - Ocean Pines and that the application is deemed incomplete until a revised plan addresses the deficiency. Thank you, Mr. Taylor, for holding the developer accountable on this point. I want to ensure that the parking deficiency is addressed on Lot 1 and not elsewhere on Beachwalker, as suggested during a meeting between the HOAs and the developer. Likewise, I did not hear a direct answer to my question about the remedy for the Cape's shortfall of parking.

3. What is the status of the engineering study that is looking at stormwater runoff and erosion
  - how was that engineering firm selected
  - what's the scope of their study
  - how will they assess the impact on adjacent neighborhoods and
  - how will the community learn the results

Ms. Tillerson responded, and I'm paraphrasing here that the site plans are still under review by Weston and Samson, who were recommended in a letter to the Town by the attorney representing Preserve Kiawah and that I would need to submit a FOIA request to get a copy of the contract and then once reviewed by John Taylor and the developers engineering firm the comments will be posted on the town's website.

So, a few details seem amiss here. It is my understanding that it was the HOA counsel, not the Preserve Kiawah attorney, who recommended the list of engineering firms after Ms. Tillerson advised that The town was retaining SafeBuilt, a firm no one had heard of. Second, if the Town had gone through the regular process for retaining Professional Services, the Ways and Means Committee and the Council would have reviewed the contract, and a copy would have been part of the public meeting materials. I still don't understand why this process wasn't followed and why I have had to file a FOIA request to see the contract. If this is a public document, then why the hurdles? Lastly and most importantly, the question of whether the engineering firm is addressing adjacent communities and broad impacts beyond the site plan has not been addressed.

4. Who is Consulting with the biologist studying Bobcats to understand the impact of proposed development on their habitat

Ms. Tillerson responded that “the planning director does talk with the Town's biologist on planning-related matters that could impact natural habitats still nothing specific in our ordinance for site plan review process requires discussing natural habitats.”

This answer is most disappointing. It is disingenuous for the Town to have completed an extensive Bobcat study and then claim that they don't need to follow it on an ordinance technicality. So, I would like to suggest that the Council include habitat impact as you evaluate the process for future site plan reviews and approvals. I am also very excited to learn that a Planning Commission subcommittee is writing a tree ordinance.

5. What controls are in place to ensure that all approvals are compliant with all regulations

Ms. Tillerson responded, "the site plan review process requires letters from various entities such as KICA, DHEC, STJFD, and Kiawah Utility. In addition, the Town, at the request of the Planning Director, has brought in an independent engineering firm that we've already talked about."

6. Do any Commissioners, Council Members, Town staff, or their family members have any equity holdings, shares, or financial relationships with any of the Kiawah Island developers or their LLCs, and have all of these relationships been disclosed?

Ms. Tillerson responded none for the Mayor, Town Council Members, Planning Commissioners, Town Administrator, and Planning Director. Mayor Pro Tem Heidingsfelder referenced a yearly ethics and compliance form that he and everybody completes.

So, it was a relief to get this response and to learn that there is a yearly ethics and compliance form, and perhaps the Town would consider posting those forms on the website.

7. What is the remedy for any non-compliance regarding clear-cutting at the Cape?

Ms. Tillerson responded, "the Cape was made aware of the unapproved removal of the 50 saplings by the ARB, and they addressed that issue."

So, this response confused me on two levels. First, it is a misrepresentation to suggest that the removal of saplings was the issue with the clear-cutting at the Cape. Second, it seems inappropriate that the ARB would be placed in a position to enforce their owner's work, so I support the ordinance that I understand is being drafted to move that authority to the Town.

8. If the Pedestrian bicycle path on Duneside could be extended to address increased traffic safety issues on that road

Ms. Tillerson explained that "as Duneside is within the jurisdiction of KICA, the Town is not involved in this matter. As long as the bike path will not cross over onto Beachwalker Drive, which is a public road."

Okay, I understand that, but here's another idea: so, while an extension of the Duneside pedestrian bike path isn't an option, could it be an option to finish paving the bicycle path alongside Sparrow Pond that connects to Sand Alley Road? I understand The Resort owns that land, and during the last Town Council drop-in with Council Members Berner and Belt, Mr. Permar was kind enough to offer to discuss the possibility with the Resort, so I hope we might hear good news soon on that front.

So, while I appreciate the effort in providing answers to these questions and especially appreciate that Mr. Taylor raised concerns about insufficient parking on Lot 1 - Ocean Pines and his comments to the developer, I remain concerned that the review process will not fully ensure that the parking short shortfall at the cape and Ocean Pines is addressed on those parcels and not at the other end of Beachwalker. Further, Town Council, Planning Staff, and developers, I implore you to ensure that your decisions and next steps attend to traffic safety and stormwater runoff in the adjacent communities and natural habitats.

In summary, members of the Town Council, please approve the recommendation from the Planning Commission and please continue to work collaboratively with the Partners and the community to ensure any development on Beachwalker addresses one-density, two-design with nature principles-three-traffic and safety, four-environmental impact and five-compliance with all regulations.

### **Mark Permar – 81 Dungannon**

Mr. Premar reviewed a detailed list of comments for each parcel being considered for rezoning and answered the questions posed by the Members of the Council.

## **Madelene Kaye - 252 Sea Marsh Drive and Joanne Hennessy – 2 Blue Heron Pond Road**

Ms. Kaye stated that she and Ms. Hennessy are members of the Planning Commission; however, we are only here to represent what happened during some of those meetings. She wanted to assure the community that despite any inference that we didn't do a very thorough job of thinking about the consequences of our plans and our proposals, I certainly have not been aware of another ordinance where people have spent more time listening to the community, assessing that input, evaluating the strengths and weaknesses, and then putting a plan together that we felt was fair and that represented the best interest of the community. We did certainly think about unintended consequences, and I again want to reassure you that we spent a lot of time and a lot of diligence working on this particular proposal.

Ms. Hennessy stated there has been a lot of talk about nonconforming properties. I was the Planning Commissioner Member who said, "I am not concerned about it," and I'm still not concerned about it. Let me explain to you why. I served in Planning and Zoning for over 12 years in Connecticut. As they grow, most communities in this entire country start with maybe a few houses here and there. As Towns grow up, subsequent zoning boards come through and say what they want their communities to be like, not what they are, not necessarily to reflect what has been done. The fact is that after years of development, there may be whole swaths of a town that are now non-conforming and have turned over multiple times. I would guess that many people out there have bought or sold a non-conforming property and never even knew it.

What does non-conforming mean? Does it matter to real estate brokers, mortgage bankers, insurance companies, or title companies? I've researched all this, and the answer is "no," so if it doesn't matter to your mortgage broker, to a construction lender, or a title company, who does it matter to?

What we did on the Planning Commission was rezone for how we want the island to be going forward. We didn't want the new Beachwalker one and two zoning categories, and the reason is it gave mixed use as of right, and that's one of the reasons I think the partners didn't come to us and say, why don't you make it Park and Recreation. When we looked at that, we would have thought about that, but that would have been a significant down zoning, and we were concerned about going from what was allowed in the ARDA to park and recreation as being a taking, so by rezoning it residential, we think that is the appropriate designation. It's next to the General Store, which is commercial, yes, but it's also next to the Church Parcel, which is residential. So, one side is commercial, and one side is residential. The community said they don't want mixed use as of right. Now, if you ask me as an individual what the best solution for Beachwalker is, I would say we should do a plan development. In that case, we should consolidate the lots. We should have one plan and make it something really nice for the entire Community, but we never saw anything, so we've zoned it the way we zoned it because we think that was the best we could do. Now, if they want to come back to us and say we want to do a planned development, I think all of us on the Planning Commission and the Town Council would be more than happy to look at that. We would want the community to have lower heights and lower density, but we're not going to allow commercial space as of right now because that's not what the community asks for. We sincerely hope that the Town Council will support these zoning recommendations that the Planning Commission well thought out.

## **Andy Capelli – 160 Governor's Drive**

Mr. Capelli stated that since he was mentioned, he would not discuss any of the issues raised by the two other Planning Commission members, but the only issue he raised was with the rejection of the planning classifications that were restricted to these properties on Beachwalker. The first thing at the Planning Commission meeting that day was my introduction of a motion to approve the three categories, not what's in the categories, none of the specifics of the categories, but to approve the three categories so we would have only those categories to discuss with respect to whether or not it was conforming, nonconforming or any of the other issues that were raised. That vote went 5-2.

and it was over; there was no discussion at all about the classification question. The classification question is paramount to this whole discussion because it would limit everything the Commission has done or recommended according to what is on the table to items on those parcels on Beachwalker, not the rest of the island. My concern is the unintended consequences that would come when other undeveloped properties are owned by the Resort; there may be a lot of individual property owners who would now have to live with these new zoning categories or zoning specifications. The question I have is not so much the individual properties, but there could be someone who has enough property that rips down the house and wants to build some multi-family housing on that property attached, and if it's big enough, it could be done under these categories. So, I am suggesting giving it some thought and maybe going back and revisiting the rejection of the original recommendation to have classifications limited, in this case, to the Beachwalker properties.

**Mayor Pro Tem Heidingsfelder made a motion to close the Public hearing. Council Member Belt seconded the motion, and it was unanimously approved.**

- A. Ordinance 2023-20 – An Ordinance to Amend the Town of Kiawah Island Comprehensive Plan – Land Use Element – Future Land Use Categories and Comprehensive Plan Map IX.2, Future Land Use; to Change the Future Land Use Designation for the Subject Parcels Within the 2013 Amended and Restated Development Agreement - Public Hearing and Second and Final Reading**

**Mayor Pro Tem Heidingsfelder made a motion to approve the second and final reading of Ordinance 2023-20. Council Member Berner seconded the motion.**

Council Member Berner stated his discussion was with respect to a letter received from Ms. Rebecca Wilson with the Lowndes Firm. The very last paragraph on that page references that these ordinance changes will be a regulatory taking, and the thing I want to bring up is whether we need to go into an Executive Session to discuss this because, to me, that sounds like a threat of a lawsuit, and I want to make sure this is adequately addressed or considered or thought about before we vote.

Council Member Belt that a second letter was received from the counselor or attorney for the Charleston County Parks and Recreation Department regarding the classification of the Beachwalker Park parcel. He stated that in the letter, a reference was made to a procedural issue that pertains to each of the ordinance recommendations. She notes that in Section 2, the language of each of our ordinances says, "Town hereby amends the zoning classification for the reference parcels attached hereto and incorporated herein by reference as Exhibit A," which is actually four different recommendations and should be modified to include only the zoning classifications that are actually being approved by the Council, eliminating the other columns.

**to include that under Section 2 of Ordinance 2023-20 behind Exhibit A, the additional language references what is called a "Planning Commission recommendation." Council Member Berner seconded the motion.**

**Following further discussion, Mayor Pro Tem Heidingsfelder withdrew his amended motion. Council Member Berner consented.**

**Mayor Pro Tem Heidingsfelder amended his motion to include that Exhibit A will be modified to reflect two columns, The first Column – Parcels and the second column - Planning Commission Planning Recommendations. Council Member Belt seconded the motion, and it was unanimously approved.**



**Council Member Berner made a motion to go into Executive Session to discuss the potential litigation based on the letter from Rebecca Wilson. Council Member Belt seconded the motion, and it was unanimously approved.**

**Council Member Belt made a motion to return to Regular Session. Council Member Berner seconded the motion, and it was unanimously approved.**

Mayor Labriola stated that in the Executive Session, no actions were taken, and no decisions were made.

Mayor Pro Tem Heidingsfelder recommended moving with the recommendation from the Planning Commission but also encouraged Kiawah Partners to come forward in the next two weeks with their commitment to work with the Town on rezoning again parcels 8, 9, and 10 and splitting Beachwalker Park so that all of those far four parcels from what is potentially approved, but in the coming weeks all four to the Park and Recreation classification. but I would like to encourage the partners to come forward with that in writing so that we can bypass the legal concerns and move straight forward with another amendment to the zoning for those four parcels to become Park and Recreation going through the proper process of the Planning Department review, Planning Commission review and then a recommendation to the Town Council.

Council Member Belt commended the Planning Commission for their very thoughtful and diligent work. The important thing to note about the recommendations before the Council are clearly in the public interest, reflect compatibility, rezoning classifications reflect compatibility with neighboring properties and communities, are consistent with the Comprehensive Plan uh they also reflect changed conditions on the island, and there is a rational basis for the Town moving forward to accept the planning commission's recommendations. last but not least, they have extraordinarily broad community support, and for those reasons, I again commend uh the work of the Planning Commission and will support the Planning Commission's recommendations.

**Following the discussion, the motion to approve the second and final reading of ordinance 2023-20 was unanimously approved.**

- B. Ordinance 2023-21 – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. – Zoning, Division 2. - Zoning Map/Districts, Section 12-62. - Zoning Map by Rezoning the Specific Parcels**  
**Within the 2013 Amended and Restated Development Agreement - Public Hearing**

**Council Member Berner made a motion to approve the second and final reading of Ordinance 2023-21. Mayor Pro Tem Heidingsfelder seconded the motion, and it was unanimously approved.**

- C. Ordinance 2023-22 – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. – Zoning, Division 3. – Use Regulations, Section 12-103. – Conditions Of Use - Public Hearing**

**Council Member Berner made a motion to approve the second and final reading of Ordinance 2023-22. Mayor Pro Tem Heidingsfelder seconded the motion, and it was unanimously approved.**

- D. Ordinance 2023-23 – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance**  
**Pursuant to Existing Ordinance 2013-14 to Remove the 2013 Amended and Restated Development Agreement from the Zoning Code as an Appendix - Public Hearing**

***Mayor Pro Tem Heidingsfelder made a motion to approve the second and final reading of Ordinance 2023-23. Council Member Berner seconded the motion.***

**IV. Council Member Comments:**

Mayor Pro Tem Heidingsfelder reiterated his earlier comment that the Partners work with the Town on rezoning the four identified parcels to the Park and Recreation classification.

**V. Citizens' Comments:**

**Maura McIlvain – 146 Blue Heron Pond Road**

Ms. McIlvain commented on attendance at the meeting, which speaks to community engagement and needs to be commented on.

**Lisa Snowden – 39 Sunlet Bend**

Ms. Snowden first gave a huge thank you to each of you for your vote. I really do appreciate that you honored the work of the Planning Commission.

I appreciate the spirit of wanting to have this conversation outside of the normal protocol around the Parks and Recreation designation, but I just want to make sure I'm really clear about what my concerns are and what the concerns of the community are. We don't want Parks and Recreation to be a smoke screen for the Partners to be able to put a pool, associated parking, and associated commercial activity at the end of Beachwalker as a solution to the parking issues under the current development. I love pools; I don't want to take that from anybody, but what I worry about. I still think of that child who, with her nanny, was dragged under a truck at the intersection right before the security gate, and I don't think anything has happened substantially to prevent that kind of an issue. so, in my mind, what I see when I think about pools is lots of kids on bicycles crossing a road that will get busier and busier, and that's not good for anybody. I also don't want to see shuttle services going up and down Beachwalker because there is insufficient parking down at one end, and so we put the parking down here because, again, that's just creating traffic and safety issues, and at the end of the day, that's what I care about most. sure, it'd be nice to have less density and lower buildings and this and this and this, but we have an infrastructure issue, and until we can fundamentally deal with the infrastructure issue, we are putting people's lives at risk. So, I appreciate the fact that we want to be creative about some solutions that become win-win, but please do the due diligence to think about if we go with Parks and Recreation, what will the impact be on parking, traffic, children, and safety on that already very busy road.

Mayor Pro Tem Heidingsfelder wanted to make a few comments. First of all, there will be no backroom discussions about moving any zones to PR as you I think we're saying, because I said very clearly in my earlier statement that if the Partners are coming forward and signaling that they are willing to rezone these parcels to PR that it will go through the absolutely defined orderly process from the Planning Department to the Planning Commission, to the Town Council. So, I clearly negate what you were trying to say in the very beginning that we are trying to do something, you know, behind doors that's not going to happen, and I'm going to make this very clear.

The second comment is that for the last couple of months, several of us have been debating different options to ease the risk at the Beachwalker Drive, Kiawah Island Parkway intersection when it comes to the Leisure Trail and, therefore, the bike and pedestrian traffic at that intersection. There will be, hopefully, with a little bit of luck, depending on the vendors, some first measures that will hopefully ease that kind of risk before Christmas.

In all of the discussions we had about a potential plan development on Parcels 8, 9, 10, Church, and 11, it was always part of that discussion that this entire Leisure Trail would be rerouted away from this intersection by like 200 yards, I would think South, cross over Beachwalker Drive, and then go

back to the original path so that this whole area of left turns, right turns, and left turns etc. is going to be eased. I have no reason to believe that this will not be put in place whenever there's going to be a planned development moving forward. You can be assured that we have that in our focus.

Mayor Labriola stated that even though a lot of people left, I, too, want to thank everybody for attending. This is a good example of how things can begin to get misinterpreted, and I'm glad they called Stephanie and were able to clarify some of these things. I also want to thank Ms. Snowden, in particular, for the way in which you have conducted yourself, and your questions were very helpful. It has been a good discussion and a difficult discussion.

**VI. Adjournment:**

***Mayor Labriola adjourned the meeting at 4:01 pm.***

**Submitted by,**

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**Petra S. Reynolds, Town Clerk**

**Approved by,**

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**John D. Labriola, Mayor**

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**Date**



**TAB 3**

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# **TOWN COUNCIL**

## **Agenda Item**

# WORK IN PROGRESS

The minutes of the December 19, 2023 Special Call Town Council Meeting will be sent electronically and posted once they have been reviewed.

Thank you, Petra



**TAB 4**

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# **TOWN COUNCIL**

## **Agenda Item**

# SPECIAL CALL TOWN COUNCIL

## Municipal Center Council Chambers

December 19, 2023

Immediately following the Special Call Ways and Means

### Minutes

I. Call to Order: *Mayor Labriola called the meeting to order at 9:40 am.*

II. Roll Call:

**Present at Meeting:** Michael Heidingsfelder, *Chairman*  
John D. Labriola, *Mayor*  
Russell Berner, *Committee Member*

**Attending Via Zoom:** Brad Belt, *Committee Member*

**Also Present:** Stephanie Tillerson, *Town Administrator*  
Dorota Szubert, *Finance Director*  
Bruce Spicher, *Building Official*

III. Citizens' Comments (Agenda Items Only):

**Maura McIlvain – 186 Blue Heron Pond Road**

Ms. McIlvain commented on the proposed amendment to the Town Attorney Contract, stating that she was aware that the term of the current contract expires on December 31st and, if not terminated by that date, would extend from year to year, but thinks the 60-day notice is still relevant. She also responded to a comment that Mayor Pro Tem Heidingsfelder made at the end of the last meeting.

**Alex Fernandez – 418 Snowy Egret**

Mr. Fernandez indicated he would be commenting on the item listed under the Executive Session and that he was not speaking for the KICA (Kiawah Island Community Association) Board but would be expressing his beliefs and opinions as an individual KICA Board member and Kiawah homeowner.

Mr. Fernandez stated that he had read the sections of the Development Agreement that pertain to Captain Sam's Spit or Parcel 12b, and he believes that there are obligations that are yet to be fulfilled by Kiawah Development Partners under Section 16(f). KICA legal counsel agrees, and a public letter has been sent to the Partners. He asked that the Town Council take the necessary steps to ensure that Kiawah Development Partners comply with the conveyance to KICA as outlined in the Development Agreement.

**Brad McIlvain – 186 Blue Heron Pond Road**

Mr. McIlvain reiterated his earlier comment that obtaining a new attorney is an opportunity for this Council and stressed the importance of the attorney representing the entire Council. He noted that the attorney KICA hired was very experienced and knowledgeable and asked the Council to make sure they considered it. She also responded to a comment that Mayor Pro Tem Heidingsfelder made at the end of the last meeting.

IV. Old Business:

A. To Consider Approval of **Ordinance 2023-24** - An Ordinance to Amend Article 4, Finance and Taxation, Chapter 3, Municipal Business Licenses to Update the Class Schedule as Required by Act 176 of 2020 – **Second and Final Reading**

***Mayor Pro Tem Heidingsfelder made a motion to approve the second and final reading of Ordinance 2023-24. Council Member Berner seconded the motion, and it was unanimously approved.***

**V. New Business:**

- A.** To Consider Approval of **Resolution 2023-06** - A Resolution for the Adoption of the Amended 2023-2024 Charleston Regional Hazard Mitigation and Program for Public Information Plan

***Mayor Pro Tem Heidingsfelder made a motion to approve Resolution 2023-06 to adopt the amended 2023-2024 Charleston Regional Hazard Mitigation and Program for Public Information Plan. Council Member Berner seconded the motion.***

Mr. Spicher stated that the Charleston Hazard Mitigation Manual is actually just a compilation of the risk assessments and enforcement efforts in relation to floodplain management for all the jurisdictions within Charleston County. Each jurisdiction has its own subsection within the manual, which contains its action plan and status report. The status report is basically the risk vulnerability study, what we see on the island, and how we go about mitigating to minimize any floodplain issues. The action plan is how we go about that mitigation effort. Adopting the program doesn't require the Town to perform any studies, and there is no money involved other than that if the Town does not adopt the program, it will adversely affect the Town's CRS (Community Rating System) rating.

Mr. Spicher explained that as part of the CRS program, representatives from each jurisdiction meet quarterly to discuss a variety of topics and that within the manual, there are opportunities to receive credits toward decreasing the rating. The manual was reviewed by FEMA (Federal Emergency Management Agency) in March for content purposes, and any required amendments have to be made by the end of the year so that they can be attached to the manual and sent back to FEMA.

Mayor Labriola asked if the Town is obtaining the maximum number of credits. Mr. Spicher stated that other efforts could possibly be made for additional credits and that those would be presented at the upcoming Council Retreat. In March, a FEMA representative will be doing an audit of everything that the Town currently does and is proposing to do. The audit tabulation takes about a year to come up with a new CRS rating.

Council members discussed the earlier concerns, the kinds of changes made in the current updated version, whether there are any updates for the Kiawah Community, and if the Town's plan is in concert with the Community Association. Also discussed were some of the efforts and the events that will be included in the plan, the dated information currently on the Charleston County website, and that the 2023 update was not the new five-year plan.

***Following the discussion, the motion to approve Resolution 2023-06 was unanimously approved.***

- B.** To Consider Approval of **Resolution 2023-07** - A Resolution for the Adoption of a Framework for Council Related to Matters Outside of Kiawah

***Mayor Pro Tem Heidingsfelder made a motion to approve Resolution 2023-06 to adopt a Framework for Council Related to Matters Outside of Kiawah. Council Member Berner seconded the motion.***

Mayor Pro Tem Heidingsfelder stated that the members of the Council felt it was appropriate to give, at least the current Council, a little bit of a framework when, as a council, they may want to get involved in matters that are outside of their jurisdiction but do, under certain criteria, impact either the community or the sea Islands as a whole.



Mayor Pro Tem Heidingsfelder stated that the document gives members a framework or guidance when they feel they should consider getting involved and be heard. as we have been He provided the example of submitting letters to Seabrook when the Bohicket Marina expansion was up for a vote and also a letter recently submitted to the Charleston County Council relating to the Health and Wellness Village along Betsy Kerrison. This document should provide a framework for the community to understand under which circumstances the Council should get involved or under which circumstances the Council would want to have more input from the community on whether the Council should get involved. He clarified that the word “involved” meant just making a statement since it may be outside of the Council’s jurisdiction.

***Following the discussion, the motion to approve Resolution 2023-07 was unanimously approved.***

- C. To Consider Approval of the continuation of Joe Wilson as the Town Attorney for Three Months, Starting January 1, 2024, through March 31, 2024, at a rate of \$300/hour.

Mayor Labriola stated that the contract amendment was reviewed and discussed at the Ways and Means Committee meeting.

***Mayor Pro Tem Heidingsfelder made a motion to approve the continuation of Joe Wilson as the Town Attorney for Three Months, Starting January 1, 2024, through March 31, 2024, at a rate of \$300/hour. Council Member Berner seconded the motion.***

Council Member Belt stated that the only issue he would raise, and the reason he voted in the negative at the Ways and Means Committee meeting, was not with an extension for three months and hopefully providing some transition time, but that he did not see any basis for a 50% increase in the hourly rate that had just been negotiated a couple of months ago.

***Following the discussion, the motion was unanimously approved.***

## **VI. Executive Session:**

- A. Executive Session to receive legal advice regarding the 2013 Amended and Restated Development Agreement and Captain Sam’s Spit pursuant to South Carolina Code Section 30-4-70(a)(2).

***Mayor Pro Tem Heidingsfelder made a motion to move into Executive Session to receive legal advice regarding the 2013 Amended and Restated Development Agreement and Captain Sam’s Spit pursuant to South Carolina Code Section 30-4-70(a)(2). Council Member Berner seconded the motion, and it was unanimously approved.***

***Mayor Pro Tem Heidingsfelder made a motion to move back into regular session. Council Member Berner seconded the motion, and it was unanimously approved.***

Mayor Labriola stated that no decisions were made. and no actions were taken during the Executive Session.

Mayor Labriola stated that he was authorizing Joe Wilson, the Town Attorney, to pursue an interpretation of the ARDA (Amended and Restated Development Agreement) in accordance with the procedure set out in the ARDA.

## **VII. Council Member Comments:**

Council Member Belt provided an update following the Charleston County Public Hearing on the Island Park Place development, also referred to as the Health and Wellness Village. The hearing was actually extraordinarily well attended. He spoke at the hearing along with a number of members of the Kiawah Island community, some in support and others in opposition. When speaking to the Council Members,

he noted, for the record, that they should have received the results of the survey and, at a high level, summarized it.

Council Member Belt stated that there was a fairly robust discussion of a wide range of issues, and he encouraged the council members to not only look at the high-level results, which showed that approximately 80% of respondents, nearly 900, opposed the Health and Wellness Village project as proposed per the application submitted. But looking through the respondents who actually provide additional narrative content, which was about half of the respondents, what really came through was both from the proponent as well as the opponent standpoint is that the people were not necessarily opposed to the concept of having more accessible Health Care Services on and around Kiawah Island, but it was with regard to the scope and scale of the particular project, as well as the range of permitted uses.

Council Member Belt stated that the upshot is that at the end, he noted that a process that had worked well to achieve a mutually beneficial outcome was for the developer to sit down and negotiate with key stakeholders what a project scale and scope might be acceptable, pointing to what happened with Riverstone. Several of the Council Members, including the Chairman, pushed the developer as to whether they would be willing and amenable to sitting down and coming up with a revised proposal, and the developer so indicated. As a result, the first reading that was scheduled for two days from now has been deferred or postponed till at least the January Charleston County Council meeting.

Council Member Belt stated in light of the executive session, so the community understands what is being talked about with respect to these various issues is to put into the record the December 4th letter we received from the KICA Board regarding the Sam Spit matter as it pertains to the ARDA the December 14<sup>th</sup> response from Kiawah Partners to that KICA letter, as well as a December 15th opinion received from Amy Armstrong the General Counsel and executive director of SCEL (South Carolina Environmental Law Project) regarding this matter.

**VIII. Citizens' Comments:**

None

**IX. Adjournment:**

*Mayor Labriola adjourned the meeting at 4:21 pm.*

Submitted by,

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**Petra S. Reynolds, Town Clerk**

Approved by,

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**John D. Labriola, Mayor**



**TAB 5**

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# **TOWN COUNCIL**

## **Agenda Item**

## ***Town of Kiawah Island*** **PROCLAMATION**

**WHEREAS**, the Town of Kiawah Island wishes to honor and thank Deputy Chief Jackie Stanley for more than forty years of dedicated service to the St. John's Fire District and to the Town of Kiawah Island; and

**WHEREAS**, the Town of Kiawah Island has benefited from Deputy Chief Stanley's experience and ability during the years he has served; and

**WHEREAS**, Deputy Chief Stanley has been a dedicated representative to the Town's Public Safety Committee, who diligently attended the monthly meetings to report on the events of the St. John's Fire District; and

**WHEREAS**, Deputy Chief Stanley has earned the respect and admiration of the community and residents of Kiawah Island; and

**WHEREAS**, everyone who had the pleasure to work with Deputy Chief Stanley will miss his presence and expertise; the Town wishes him a great deal of happiness in retirement and much success in future endeavors.

**NOW, THEREFORE, BE IT RESOLVED** that I, John D. Labriola, Mayor of the Town of Kiawah Island, South Carolina, do proclaim **February 6, 2024**, as

### **“Deputy Chief Jackie Stanley Day”**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the Town of Kiawah Island, South Carolina, to be affixed here on this 6<sup>th</sup> day of January 2024.

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The Honorable John D. Labriola  
Mayor  
Town of Kiawah Island, South Carolina



**TAB 6**

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# **TOWN COUNCIL**

## **Agenda Item**

# **Town of Kiawah Island Zoning Ordinance Amendment Request**

## **Case AZO23-000004 History**

**Planning Commission Meeting: December 6, 2023**  
**Public Hearing and First Reading: January 9, 2024**  
**Second Reading: February 6, 2024**

### **CASE INFORMATION**

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to establish tree preservation and landscaping standards. The purpose of the proposed amendments is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island's municipal boundaries in order to consistently preserve and enhance Kiawah's natural environment and to assure the continuance of significant and specimen trees and forests for present and future generations. The proper care of trees, shrubs and other landscape plants is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals utilize industry best practices in providing the proper care for the overall health of the trees.

The Planning Commission began this process by establishing a subcommittee to focus on formalizing tree preservation standards for the Town of Kiawah Island. The Tree Preservation Subcommittee set a priority to focus on tree preservation standards for Phase One with the intent to also develop landscape standards in the next phase of this proposed ordinance.

The proposed ordinance format, structure and factors considered were reviewed based on issues relevant to the Kiawah community as existing tree preservation community concerns, overall permitting process, staff resources, implementation of the ordinance and the development process timeline. Additionally, Kiawah's Grow Native program was an important factor considered to help promote native species benefiting Kiawah's wildlife.

#### **Key Factors of the Proposed Ordinance:**

The proposed ordinance:

- a) Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island. This grants the Town the ability to administer tree removal. This does not prevent or excludes the rights for the KIARB to continue to administer tree removal under their guidelines. A property owner would need to also comply with the Town's standards now.
- b) Is applicable to all non-single-family residential developments. Through the process of developing the draft ordinance for recommendation, the Planning Commission responded to concerns and admiration of the current review process specifically for single family residential. However, this is with the intent that the Town will determine the appropriate time if and when in the future, single-family residential developments would also need to comply with the ordinance.
- c) Is folded into the current Site Plan Review Process where a Tree Survey, Tree Preservation Plan and or Landscape Plan would be submitted along with site package for development for review.
- d) Aims to be less restrictive than Kiawah Island ARB guidelines as well as provides some discretion for flexible design.
- e) Exempts normal tree maintenance / pruning. The ordinance would not restrict routine maintenance

of trees. The proposed ordinance intent does include the proper care for trees.

- f) Introduces a Tree Preservation Board for additional layer of review and mechanism for relief from standards if needed.
- g) Aims to avoid duplication of processes to not significantly impact permitting/construction timeline resulting in delay.
- h) Defines additional key terms related to trees.
- i) Promotes Kiawah's Grow Native initiative.

As part of the process, the subcommittee met early on with Jim Jordan, TOKI Wildlife Biologist, to better understand Kiawah's Grow Native, Wildlife and Invasive species. *Designing with Nature* and various jurisdictions tree preservation ordinances were reviewed for understanding and compatibility.

An ordinance implication analysis was conducted several times prior to the Planning Commission's recommendation. This analysis was completed with Jennifer Hayes, Kiawah Island Architectural Review Board's Landscape Coordinator. This analysis allowed the Planning Commission to understand implications of the ordinance if the proposed ordinance became effective, as well as ensure a goal that the proposed ordinance not become more restrictive than the KIARB.

Design Community Input: Town staff held multiple workshops to present the proposed amendments. All landscape architects, architects, tree care and lawn maintenance companies and builders with a valid Town of Kiawah Island business license were notified of the workshops. Public workshops were held on November 8, 2023, November 18, 2023 and November 29, 2023. The workshops provided a dialogue medium for the design community to express concerns and make suggestions to improve the proposed ordinance.

Town staff has held multiple workshops to present the proposed amendments. All landscape architects, architects, lawn maintenance companies and builders with a valid Town of Kiawah Island business license were notified of the workshops. Public workshops were held on November 8, 2023, November 18, 2023 and November 29, 2023. Public comments received are included in the supplementary packet of materials.

Please see exhibits attached for the proposed language of the requested amendment. These include:  
(Sec. 12-129. *Tree Preservation and Landscape Standards*) \*new section  
(Sec. 12-24.1 *Landscape and Tree Preservation Board*) \*new section  
(Sec. 12-162. *Site Plan Review*) \*amended section.  
(Sec. 12-165. *Zoning Permits*) \*amended section.  
(Sec. 12-374. *Definitions*) \*amended section.

#### **RECOMMENDATION BY THE PLANNING COMMISSION**

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

#### **DECISION ON AMENDMENT BY THE TOWN COUNCIL**

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or

deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

#### **APPROVAL CRITERIA AND APPLICANT'S RESPONSE**

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

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

The proposed amendment is consistent with the purposes and intent of the Town's Comprehensive Plan, where the proposed amendment aims to *"complete the Island's development in a way that maintains the Island's environmental integrity and natural beauty"* and *"maintains the existing quality of the natural resources on Kiawah Island."*

**b. The proposed amendment is consistent with the purposes and intent of this article;**

The proposed amendment is consistent with the purpose and intent of the Land Use Planning and Zoning Ordinance. The proposed amendment considers the conservation of land and building values, promotes desirable living, and implements land use policies that will preserve the natural character of the Town as outlined within this article.

**c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;**

The proposed amendment acknowledges the many benefits of trees for the environment. The proposed amendment furthers the general health, safety and welfare of the Town of Kiawah Island by establishing tree removal and mitigation standards for the Town's development review process.

**d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.**

The Town does not currently have a tree preservation ordinance. Historically the Town has relied on the Kiawah Island Architectural Review Board for tree removal. The proposed text amendment establishes minimum tree removal and mitigation standards for the Town to administer, providing the Town of Kiawah greater oversight to how trees are preserved. As many communities do, the Town at this time finds it critical to incorporate tree preservation standards. The application of this proposed ordinance helps meet a challenge to have required minimum tree removal standards on Kiawah independent of any other review entity.

#### **PLANNING COMMISSION MEETING**

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

**On December 6, 2023, the Planning Commission recommended approval of the proposed zoning text amendments. The proposed ordinances were recommended approval with the following votes:**

*(Sec. 12-129. Tree Preservation and Landscape Standards) recommended approval by a vote of 6-1.*  
*(Sec. 12-24.1 Landscape and Tree Preservation Board) recommended approval by a vote of 7-0.*



(Sec. 12-162. *Site Plan Review*) **recommended approval by a vote of 7-0.**

(Sec. 12-165. *Zoning Permits*) **recommended approval by a vote of 6-1.**

(Sec. 12-374. *Definitions*) **recommended approval by a vote of 7-0**

Along with the recommendation, the Planning Commission discussed understanding the implications of the next iteration of a review body for architectural standards on Kiawah Island on how it may or may not influence future town standards. The Planning Commission also discussed and highlighted the importance of adequate resources in staff to ensure implementation of the proposed ordinance.

Upon adoption, Planning department would host an open house to review the ordinance with design professionals and property owners.

Additional steps include developing a formal charter and establishing rules of procedure for the recommended Tree Preservation Board.

# Town of Kiawah Island

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

January 9, 2024



1

# LANDSCAPE & TREE PRESERVATION

2

## Why does the Town seek to establish a comprehensive landscape and tree preservation ordinance?

Kiawah’s identity has been built on a concept of designing with nature. This represents an embrace of wildlife and nature and the idea that the built environment is truly balanced to the unbuilt environment. In application of this designing with nature concept, Kiawah as a community has historically relied on the Kiawah Island Architectural Review Board to fulfill and administer landscape and tree preservation standards and guidelines. The robust guidelines and standards of the Kiawah Island Architectural Review Board “Designing With Nature” are far more extensive than the minimal standards within the Town’s current Land Use Planning and Zoning Ordinance, and they are far more restrictive than most standards within other communities. Wholistically, this has resulted in a standard that many communities envy Kiawah by which developments are nestled within lush vegetation and magnificent landscapes.

As Kiawah continues to grow and mature, the strategies in which landscape and tree preservation guidelines and standards are deployed must also mature or evolve to ensure the concept of designing with nature is not compromised and that this concept is sustained as part the identity of Kiawah.

As we understand conditions are ever-changing, one of the most significant conditions of change is the sunseting of the long term executed development agreement with the master developer. With the Town not having its own comprehensive landscape and tree preservation ordinance that it administers; this creates an opportunity for the Town to cement new strategies and standards in Kiawah’s next phase of ensuring designing with nature as a concept is sustained for generations.

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## Who can develop landscape and tree preservation standards?

The Planning Commission has the power and duty to prepare and recommend for adoption to Town Council the following to implement plans and programs within the Town:

- a. A zoning ordinance that includes zoning district maps and appropriate revisions thereof;
- b. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that are adopted by Town Council;
- c. An official map and appropriate revision of it showing the exact location of existing or proposed public streets, highways, and utility rights-of-way, and public building sites; regulations to control the erection of buildings or other structures; changes in land use within rights-of-way, building sites, or open spaces within the Town or specified areas within the Town;
- d. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
- e. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the Town Council or other governmental bodies responsible for implementation prior to preparation of their capital budget; and
- f. Policies or procedures to facilitate implementation of planning elements.

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## Are there standards the Town currently administers?

The Town does not have a comprehensive landscape or tree preservation ordinance. However, there are standards which express some landscape or tree preservation elements for Kiawah.

- Sec. 12-104. - Accessory uses, buildings/structures.
- Sec. 12-127. - Compatibility buffering standards.
- Sec. 12-128. - Access, parking and loading regulations.

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## Protecting Trees Yields Satisfying Results...

Trees are an essential natural resource, an invaluable economic resource, and a priceless aesthetic resource. Trees play a critical role in purifying air and water, providing wildlife habitat, and enhancing natural drainage of stormwater and sediment control. They also help conserve energy by providing shade and buffering different land uses and beautifying the landscape.

Habitat	Shade	Sound Barrier	Buffering
Infiltration	Screening	Windbreak	Aesthetics

6

6



7

# What elements might a landscape and tree preservation ordinance consider?

- Landscaping Plant and Tree Types
- Landscape Material Specifications
- Street Trees
- Parking Area Landscapes
- Access and Parking Standards
- Vision Clearance and Sight Distance Visibility
- Site Lighting
- Right of Way Buffers
- Compatibility Buffers Types
- Fencing
- Tree Surveys
- Screening
- Installation, Maintenance and Replacement
- Review Procedure and Inspections
- Tree Replacement
- Tree Removal
- Residential vs Commercial

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## Factors for Kiawah To Consider During This Process...

- **“Designing with Nature” Existing Standards and Guidelines**
  - There is a blueprint to successful metrics already familiar to the Kiawah landscape and design professionals.
- **Native Plants**
  - Inserting Grow Native elements is an opportunity to advance the Town’s objective of more native plant species.
- **KiawahNext**
  - How might changes with Town’s Comprehensive Plan impact these standards?
- **Applicability to Contrasting Neighborhoods**
  - Neighborhoods across Kiawah are unique. Should this exercise continue to capture the unique elements of landscape when comparing the various neighborhoods and developments on Kiawah?
- **Capacity Building for Enforcement**
  - A new arena of robust landscape and tree preservation standards for the Town require accountability mechanisms. What measures should the Town take to ensure enforcement?
- **Standards for Rights of Way**
  - Specific standards can be developed for the main access route onto Kiawah Island as the KIP as well as Beachwalker Drive.

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## Getting Started

What is the purpose and intent of this ordinance?

How should the ordinance be structured?

- Tree Removal
- Landscape Standards
- Define Key Terms
- Processes & Application

How will the ordinance changes be memorialized and communicated effectively?

- Land Use Planning and Zoning Ordinance Amendment (New Section)
- Procedural Requirements
- Landscaping Design Guide

Who are the best players to involve?

- Design Teams (LAs, Arborists)
- Kiawah Island Architectural Review Board
- Wildlife Department / Environmental Committee

What additional resources are needed?

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# How did we get here?

- The Tree Preservation Subcommittee set a priority to focus on tree preservation standards for **Phase One** with the intent also develop landscape standards in the next phase.
- Ordinance format, structure and factors to consider were reviewed based on **issues relevant to the Kiawah community**.
  - Existing tree preservation community concerns, overall permitting process, staff resources, implementation, development timeline, etc.
- **Kiawah Context:** Grow Native, Wildlife, Invasive Species (Jim Jordan, TOKI Wildlife Biologist)
- ***Designing with Nature*** and various jurisdictions tree preservation ordinances were reviewed for understanding and compatibility.
- **Ordinance Implication Analysis** (Jennifer Hayes, KIARB Landscape Coordinator)
- **Design Community Input**
  - Landscape Architects, Architects, Builders, Arborists, Lawn Maintenance Companies

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# Public Meetings

- Planning Workshops | Design professionals and tree care professionals provided substantive comments and feedback. Ordinance language was presented and revised after each of the workshops.
  - Nov. 8<sup>th</sup>
  - Nov. 18<sup>th</sup>
  - Nov. 29<sup>th</sup>
- Planning Commission
  - Dec. 6<sup>th</sup>

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# REVIEW DRAFT ORDINANCE LANGUAGE

13

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## What is the purpose?

The purpose of these regulations is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island’s municipal boundaries in order to **consistently preserve and enhance Kiawah’s natural environment** and to assure the **continuance of significant and specimen trees and forests** for present and future generations.

The **proper care of trees, shrubs and other landscape plants** is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals **utilize industry best practices** in providing the proper care for the overall health of the trees.

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## Key Factors of Proposed Ordinance

- **Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island**
- **Applicable to all non-single-family residential developments.**
  - This is with the intent that the Town will determine the appropriate time in the future where single-family residential developments would also need to comply.
- **Aims to be less restrictive than Kiawah Island ARB guidelines**
  - Provides some discretion for flexible design
- **Exempts normal tree maintenance / pruning**
- **Introduces Tree Preservation Board for additional layer of review and mechanism for relief from standards if needed**

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## Key Factors of Proposed Ordinance

- **Aims to avoid duplication of process**
- **Aims to not significantly impact permitting/construction timeline resulting in delay.**
- **Defines additional key terms related to trees**
- **Promotes Kiawah’s Grow Native initiative**
- **Folded into current Site Plan Review Process**
  - Tree Survey, Tree Preservation Plan and or Landscape Plan would be submitted along with site package for development, or during submission.

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## Tree Removal as part of Site Plan Review

- Tree Survey, Tree Mitigation, Landscape would be an added required document (based on ordinance) to the list of application requirements during the site plan review process.
- If a project requires approval from the Tree Preservation Board that would come before issuance of final site plan review approval.

```
graph TD; A[Site Plan Review] --> B[Pre-Application Meeting]; B --> C[Site Plan Review Formal Application Submittal]; C --> D[SPR Committee Review Meeting]; D --> E["Apply for Special Exception and or Variance (if required)"]; E --> F["Resubmit as needed until site plan review is approved"]; F --> G[Submit building plans for review and permitting]; G --> H[Schedule zoning final site inspection];
```

The flowchart illustrates the Site Plan Review process. It begins with 'Site Plan Review', followed by 'Pre-Application Meeting', 'Site Plan Review Formal Application Submittal', 'SPR Committee Review Meeting', and 'Apply for Special Exception and or Variance (if required)'. A note below the last step indicates 'Board of Zoning Appeals or Tree Preservation Board where applicable'. This is followed by 'Resubmit as needed until site plan review is approved', 'Submit building plans for review and permitting', and finally 'Schedule zoning final site inspection'.

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## Planning Commission Recommendation

- **Planning Staff finds the amendment request meets the approval criteria pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*. (6) Approval Criteria.**
  - a) *The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;*
  - b) *The proposed amendment is consistent with the purposes and intent of this article;*
  - c) *The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;*
  - d) *The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.*
- **The Planning Commission recommends approval.**

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## Next Steps

- Town Council
  - January 9, 2024 (Public Hearing and 1<sup>st</sup> Reading)
  - February 6, 2024 (Second Reading)
- **Consideration for phased implementation**
  - Propose future time where single family residential may comply with the ordinance
  - Schedule Open House with Design Teams and Property Owners upon adoption to share the ordinance and new standards
  - Develop Charter and Rules of Procedure for recommended Tree Preservation Board
- **Prepare for Phase II of ordinance which focuses on landscape standards**

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TOWN OF KIAWAH ISLAND

**ORDINANCE 2024-01**

**AN ORDINANCE TO AMEND CHAPTER 12 - LAND USE PLANNING AND ZONING  
ORDINANCE TO ESTABLISH TREE PRESERVATION AND LANDSCAPING STANDARDS.**

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

**WHEREAS**, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to establish landscape and tree preservation standards; and

**WHEREAS**, the Town of Kiawah Island desires to provide tree preservation and landscaping standards in order to consistently preserve and enhance Kiawah’s natural environment and to assure the continuance of significant and specimen trees and forests for present and future generations; and

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

**WHEREAS**, the Planning Commission held a meeting on December 6, 2023, at which time a presentation was made by staff, and an opportunity was given for the public to comment on the text amendment request; and

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

**WHEREAS**, the Town Council held a Public Hearing on January 6, 2023, providing the public an opportunity to comment on the proposed amendment.

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

**Section 1**                      **Purpose**

The purpose of this Ordinance is to amend Chapter 12 - Land Use Planning and Zoning Ordinance to establish Landscape and Tree Preservation Standards for the Town of Kiawah Island.

**Section 2**                      **Ordinance**

- (1) The Town hereby establishes Section 12-129. Tree Preservation and Landscaping Standards as shown in the attached “**Exhibit A.**”
- (2) The Town hereby amends Section 12-162. Site Plan Review as shown in the attached “**Exhibit B.**”
- (3) The Town hereby amends Section 12-165. Zoning Permits are shown in the attached “**Exhibit C.**”

(4) The Town hereby amends Section 12-374. Definitions are shown in the attached "**Exhibit D.**"

(5) The Town hereby establishes Section 12-24.1 Landscape and Tree Preservation Board as shown in the attached "**Exhibit E.**"

**Section 3**                      **Severability**

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

**Section 4**                      **Effective Date and Duration**

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

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

\_\_\_\_\_  
**John Labriola, Mayor**

**ATTEST:**

**By:** \_\_\_\_\_  
**Petra Reynolds, Town Clerk**

1<sup>st</sup> Reading:

2<sup>nd</sup> Reading:

\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)  
**Section 12-129. Tree Preservation & Landscaping Standards**

**Purpose & Intent**

The purpose of these regulations is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island's municipal boundaries in order to consistently preserve and enhance Kiawah's natural environment and to assure the continuance of significant and specimen trees and forests for present and future generations. The proper care of trees, shrubs and other landscape plants is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals utilize industry best practices in providing the proper care for the overall health of the trees. The intent of these regulations are to:

- a. Preserve the natural character of neighborhoods;
- b. Ensure the health and wellbeing of Kiawah's native trees and maritime forests;
- c. Protect the health and safety of residents;
- d. Protect water quality and minimize stormwater runoff;
- e. Help prevent erosion or flooding;
- f. Promote integrated development with nature to minimize tree loss and environmental degradation;
- g. Establish a minimum standard for tree preservation and mitigation of environmental impacts resulting from tree removal;
- h. Screen noise, dust and glare;
- i. Maintain and or improve aesthetic and property values; and
- j. Promote the planting of native trees and shrubs.
- k. Encourage best practices for proper tree care.

(1) *Applicability & Exemptions.* The provisions of this Article apply to all real property within the municipal limits of the Town of Kiawah Island excluding single family residential developments, except as otherwise expressly exempted.

- a. The following are exempt from the provisions of this Article:
  - 1. Pruning of trees or shrubs for regular maintenance including dune maintenance

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\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)

2. The trimming or removal of trees or vegetation for safe sight distance and visibility within or adjacent to a right of way for pedestrian, bicycle and or vehicular travel.
3. Routine maintenance of trees on golf courses
4. The removal of trees for emergency work
5. The removal of invasive tree species as defined within this Article.
6. Tree work completed by utility companies, electric suppliers, or governmental agencies.

This Article shall not restrict utility and electric suppliers from maintaining safe clearance around existing utility equipment, and existing easements in accordance with applicable state laws. The siting and construction of future gas, telephone, communications, electrical lines or other utilities shall be exempt from the provisions of this Article provided that the applicable company, supplier or agency has consulted with the Town and received zoning approval from the Planning Director prior to the commencement of construction or major maintenance projects to develop a strategy to:

- i. Minimize trimming of Protected Trees that do not substantially interfere with the intended purpose of construction or maintenance;
  - ii. Prioritize the protection of Protected Trees as a factor to be considered in the design process;
  - iii. Specify that trees to be removed from the rights-of-way by electric utilities and other utilities may be required to be replaced by such entity.
7. Nothing in this article shall be construed to prevent the ordinary trimming and maintenance of trees provided that a permit is obtained if required and such trimming is not so excessive so as to constitute an abuse as described in this section.

(2) *Required Permit.*

- a. No person shall cut down, top, remove, relocate, damage, destroy, or in any manner abuse any protected tree or specimen tree on any lot or right-of-way unless authorized by the terms of this Article.
- b. The removal of any protected or specimen tree on any site prior to the issuance of a Zoning Permit by the Town of Kiawah Island is prohibited. A zoning permit shall be required for the removal, relocation or destruction of protected trees in accordance with the procedures set

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out in this Article. Permits for tree removal may be approved when the Planning Director  
has determined that one or more of the following conditions exist:

1. The tree removal is part of a greater development plan or site plan for which a tree plan prepared by a licensed surveyor, civil engineer, forester, arborist, or landscape architect has been reviewed and approved by the Planning Director pursuant to this Article; or
  2. The tree to be removed has been approved by the Tree Preservation Board.
  3. The density of trees is great enough that removal of a tree would be beneficial to the overall area and or health of a protected tree and or an environment as determined by a certified arborist.
  4. Trees that are determined to be causing structural damage to a structure greater than 200 square feet or sidewalks and driveways, where said damage cannot be remedied without removing the tree may be removed as determined by a certified arborist .  
When there is a question of whether tree removal is necessary, the Planning Director may require documentation from a certified arborist with Tree Risk Assessment Qualifications that said damage cannot be successfully halted through root pruning and the installation of a root barrier while maintaining the structural integrity of the tree.
  5. An approved zoning permit for tree removal may be approved with conditions as determined by the Planning Director.
- c. A permit shall not be required if one or more of the following conditions exists, however notification shall be made to the Town's Planning Department of such condition(s) prior to tree removal:
1. The tree(s) to be removed is dead, diseased, irreparably damaged, hazardous, or clearly causing damage to the property or injury to a person in the opinion of a certified arborist or Tree Risk Assessment Qualified (TRAQ) Arborist;
  2. Notification to the Planning Department should include photos of the subject tree(s) and any supporting documentation to describe the conditions.



(3) *Tree Surveys, Tree Preservation Plans, and Landscape Plans.*

- a. A tree survey showing all existing trees throughout the portion of any site or right-of-way proposed for disturbance and including any area counted as required open space area shall be submitted as part of any site plan for zoning permits for new construction, substantial improvements, or renovations; or any preliminary and final subdivision plats in accordance with the requirements below. Tree Survey submittal requirements can be found in *Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements* of this article.
  1. Tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, civil engineer, forester, arborist, or landscape architect.
  2. The tree survey must be certified and dated within two (2) years of its submittal.
  3. A topographical and tree survey must be to an architectural or engineers scale and is required to show the legal description of the property, including the following:
    - i. Recorded property lines, easements, and setbacks.
    - ii. The topographical contours of the lot, along with spot elevations for existing curbs, the street, and neighboring lot curbing.
    - iii. The location, genus, and species of all oak trees over 3" caliper DBH and other trees more than 6" caliper DBH.
    - iv. Any prominent natural features of the site.
    - v. Adjacent residences with roof heights from mean sea level (MSL), garages, and driveways.
    - vi. Current Ocean and Coastal Resource Management's Certified Critical Line which must be certified with five years of submittal.
    - vii. Utility locations
- b. A Tree Preservation Plan is a plan that shows all trees in the area to be developed or within the property, the trees to be protected or preserved, the measures taken to preserve them and those scheduled to be removed, including dead and damaged trees. Tree Preservation Plans may be required to be submitted to meet the requirements of this Article.

1. The Tree Preservation Plan will include calculations to determine the number of replacement trees as required by the tree removal, mitigation, and replacement section of this article and a proposed reforestation landscape plan.
2. The Tree Preservation Plan shall be developed by a forester, arborist, landscape architect or other horticultural registered professional.
3. The Tree Preservation Plan shall reflect the applicant's best effort to determine the most feasible and practical layout of buildings, parking lots, driveways, streets, storage, and other physical features, so that the fewest specimen and protected trees are destroyed or damaged and to minimize the negative environmental impact to the site.
4. The Tree Preservation Plan should consider how the subject property along with adjacent properties, tree densities and landscape can contribute to develop and or maintain wildlife habitat.
5. The Tree Preservation Plan shall consider the grade quality of trees greater than 8" DBH where all Grade A and Grade B trees should be prioritized for preservation.
6. Required Tree Protection Fencing: Tree protection fencing shall be shown on the plan, placed around all trees designated to be saved, prior to the start of development activities or grading. Such barriers shall be erected at a recommended minimum distance from the base of protected trees according to the following standards:
  - i. Tree protection fencing shall be placed at a minimum distance equal to 10 feet from the base of a specimen tree. All vegetation on the site that is not impacted by construction shall be protected using tree protection fencing.
  - ii. Tree protection fencing shall consist of barriers approved by the Planning Department (a minimum of 4 feet in height). The Planning Department shall not require that chain link fences be used.

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\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)

- iii. Protective barricades shall remain in place until development activities are complete. The area within the tree protection fencing shall remain free of all building materials, stockpiled soil, or other construction debris. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees. Any violations must be addressed immediately, or a stop work will be issued.
- iv. Construction access to a site should occur where an existing or proposed entrance/exit is located, except for driveway access points, sidewalks, and curb and gutter, land disturbance within a tree dripline is prohibited.
- c. Landscape Plans may be required to be submitted to meet the requirements of this Article.
  - 1. A required landscape plan shall be drawn to engineer's scale which contains dimensions and details for revegetating an area.
  - 2. The landscape plan shall contain trees and shrubs species depicted at maturity, fencing, and other site elements along with details of landscape materials including hard and soft scape elements.
  - 3. Landscape plans shall be prepared by a licensed, registered Landscape Architect whenever the area of land disturbance or development activity exceeds one half acre or when the total area of disturbance proposed building footprint exceeds 2,500 square feet.
- d. *Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements* in subsection (3) of this section shows the minimum requirements for submittal of various plans.

Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements			
Improvement Type	New Construction and Lot Preparation	Major Improvement <sup>1</sup>	Minor Improvement
Tree Survey	Required	Not Required <sup>3</sup>	Not Required <sup>3</sup>

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\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)

Tree Preservation Plan	Required	Required <sup>2</sup>	Not Required <sup>2</sup>
Landscape Plan	Required	Required	Not Required <sup>3</sup>
<b>Submittal Requirement Notes:</b>  (1) A major improvement shall include any repair, renovation, reconstruction, alteration or improvement where the footprint of the structure is being modified or where the proposed improvement creates any earth disturbing activity greater than 25 percent of the lot.  (2) A tree preservation plan shall be required if a proposed development requires the removal of a specimen or protected tree(s).  (3) At the discretion of the Planning Director a landscape plan or tree survey may be required for any improvement which has been determined to create a potential adverse impact.			

*(4) Specimen and Protected Trees.*

- a. Specimen and protected trees are species chosen as a point of focus in a landscape which usually has an unusual shape, texture, color or other feature that distinguishes it from other trees and shrubs in the area excluding invasive species. These trees have a life expectancy of greater than ten years, have a relatively sound and solid trunk with no extensive decay or hollow, and have no major insects, pathological problem, or defects. Specimen trees are valued for their size and their legacy.
- b. Under the provisions of this article, the following trees are considered Specimen Trees and shall be prohibited from being removed unless approval is granted by the Planning Director or designee in accordance with the requirements of this Article:
  1. Grand Trees: Any tree with a diameter breast height of twenty-four (24) inches or greater in size; and
  2. Live Oak Trees with a diameter breast height of sixteen (16) inches or greater
- c. Under the provisions of this article, the following trees are considered Protected Trees and shall be prohibited from being removed unless approved by the Planning Director or designee in accordance with the requirements of this Article:
  1. Any tree with a diameter breast height of eight (8) inches or greater.

*(5) Native Species*

- a. Using native plants in landscaping has a direct impact on the local ecosystem which include benefits as the protection of water resources, allowing gardeners to reduce fertilizers, pesticides, and irrigation practices which otherwise can contribute to stormwater runoff pollution and degradation of downstream water quality; sustaining pollinators which are

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*\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)*

vital for fruit production and provide high-quality food and shelter; providing essential watershed protection, helping natural aquifers recharge, serving to filter water naturally flowing into rivers and estuaries, lessening erosion and flooding; and resistance to saltwater intrusion from flooding and storm surge.

- b. Native plants can be found in the Town of Kiawah Island's online Grow Native Plant Database. The Grow Native Plant Database is a searchable online database of native trees, shrubs, perennials, vines, ferns, and grasses that provides detailed information on growing conditions, size, flowering information, salt tolerance, deer resistance, and the wildlife value for each plant. The database was designed to help promote the use of native plants on the island and serve as a resource for residents, landscapers, landscape architects, landscape designers, and other entities.

*(6) Invasive Species.*

- a. Invasive species means species that are not native to South Carolina and cause economic or environmental harm or harm to human health. Invasive species may be found in the Nonnative Invasive Plants of Southern Forests registry published by the US Department of Agriculture or list provided by Clemson University Cooperative Extension.
- b. Submitted landscape plans shall not indicate the use of any invasive plant species. These species shall be removed during site development if existing on the property.

*(7) Tree Removal and Tree Impacts.*

- a. For the purpose of this Article, the term "Tree Removal" shall include, but not be limited to, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction, changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; excessive paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree; excessive grading; or any act of malicious damage to a tree. The final determination of tree removal shall be made by the Planning Director.

1. Tree Pruning:

- i. Pruning or thinning more than 25 percent of the leaf surface on both the lateral branch and the overall foliage of a mature tree that is pruned within a growing season shall be considered excessive. Additionally, one-half of the foliage of a mature tree should remain evenly distributed in the lower two thirds of the crown and individual limbs upon completion of any pruning.
- ii. Pruning or thinning such as the removal of branches six inches or greater in diameter shall also be considered excessive.
- iii. Crape Myrtle Trees shall be excluded from the requirements of tree pruning.

2. Tree Root Zone Protection:

- i. Paving or grading within five (5) feet of the base of the tree or paving or grading 50% or greater of the circumference of the tree shall also be considered excessive as determined by the Planning Director.

(8) *Tree Mitigation and Replacement.*

- a. Tree mitigation shall adhere to the following standards in which the applicant shall mitigate loss or removal of protected and specimen trees by planting replacement trees in appropriate areas on the property in accordance with the tree replacement requirements as listed in *Table 4J. Tree Preservation Requirements and Mitigation Standards* and the approved tree preservation plan.

Table 4J. Tree Preservation Requirements and Mitigation Standards			
Tree Size	Location /Context	Preservation Requirements	Mitigation Standard
Individual Tree Removal (Post Occupancy)			
Specimen Trees (Grand Trees)	All areas	Removal prohibited except as approved by the Planning Director or designee and in accordance with	Must replant trees with a minimum combined DBH equal to 100% of the tree(s) removed with the discretion of the Planning Director. Replanted

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**\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)**

(24 inches or greater & Live Oaks 16 inches DBH or greater)		required tree preservation plan and the mitigation standards.	trees shall be 70% native species. This mitigation standard shall only be required for applicable Grade A Grade B graded trees.
Protected Trees (8 inches or greater)	Outside of the Building Footprint of the Structure	Removal prohibited except as approved by the Planning Director or designee and in accordance with the required tree preservation plan and mitigation standards.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All trees	Edge of marsh, ponds or dunes and or at the Critical line on the landward side	Removal prohibited except as approved by the Planning Director or designee and in accordance with the required tree preservation plan and mitigation standards.	Must replant trees with a minimum combined DBH equal to 70% of the tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
<b>Tree Removal for Construction Activity/Site Development</b>			
Specimen Trees	Within Building Footprint of Structure	Removal prohibited except as approved by the Planning Director or designee and in accordance with required tree preservation plan and the mitigation standards.	Must replant trees with a minimum combined DBH equal to 100% of the tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species. This mitigation standard shall only be required for applicable Grade A Grade B graded trees.
Protected Trees (8 inches or greater)	Outside of Buildable Area	Full preservation of all Protected Trees is required in all yards (front, side and rear) except for any required or permitted driveways, roads, easements, stormwater retention/detention areas or drainage structures.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All Trees (8 inches or greater)	Within the Buildable Area and Outside of the Building Footprint of Structure	Removal prohibited except as approved by the Planning Director or designee and in accordance with required tree preservation plan and the mitigation standards.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All trees	Edge of marsh, ponds, or dunes and or at the Critical line on the landward side	Removal prohibited except as approved by the Planning Director or designee and in accordance with the mitigation standards.	Must replant trees with a minimum combined DBH equal to 70% of the tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
<b>Mitigation Standard Notes:</b> <ol style="list-style-type: none"> <li>(1) The preferred density should be equal to a combined DBH greater than or equal to twenty trees per acre or 160 inches per acre, whichever is greater. Preservation and mitigation trees should equal 70% of the total number trees on the lot.</li> <li>(2) Mitigation for specimen trees shall only be required for grade quality Grade A and Grade B trees as determined by a certified arborist.</li> <li>(3) Edge of marsh, ponds shall be defined as the area within three (3) feet of a marsh, pond line.</li> <li>(4) The trees required to be replaced pursuant to this ordinance shall be in addition to any other trees required to be planted pursuant to any other provision of the Town's ordinance.</li> </ol>			

- (5) Palm trees, Palmetto trees, Pine trees, and Sweet Gums within the buildable area shall not require mitigation.
- (6) Mitigation may not be required for removal of trees within storm water retention/detention areas at the discretion of the Planning Director.
- (7) Mitigation trees shall measure a minimum of three (3) inches in caliper DBH.
- (8) The grade quality of trees may be considered in the preservation requirements.
- (9) Removal without mitigation may be permitted if necessitated by emergencies, death, disease, or damage not caused by the property owner as determined by the Planning Director. Removal without mitigation is also permitted for the removal of invasive species.
- (10) To prevent a monoculture among plantings, the Town shall require a diversity in the trees planted for mitigation. No single plant species shall represent more than 40 percent of the total landscape plantings per plant type, except for projects whose landscape requirements for Canopy Trees are less than 10 Trees.
- (11) Depending on the number of trees planted, there shall be a diversity of the plantings. The following diversity of trees is recommended:
  - 5 to 10 trees: minimum 2 types of trees to be planted;
  - 10 to 20 trees: minimum 4 types of trees to be planted;
  - 20 to 100 trees: minimum 7 types of trees to be planted;
  - Greater than 100 trees: minimum 10 types of trees to be planted
- (12) The replacement tree and plants utilized for mitigation shall be native species. Submitted landscape plans used to satisfy the requirements of this Article, shall be 70% native species. The replacement tree preferred shall be native species such as oak, magnolia, palmetto, or hickory.
- (13) Palmetto Trees may be used to fulfill the Canopy Tree requirements. These trees are to be planted at a ratio of three Palmetto Trees for each Canopy Tree and are to be planted in groupings of three.
- (14) Where mitigation trees will not fit on a lot, the Town may consider alternative locations adjacent to the subject property, planning area. Coordination of an alternative location may include but is not limited to right of way enhancement, open space, adjacent property or other public or common areas within or adjacent the Town limits as determined by the Planning Director. The Planning Director may coordinate with the Public Works Director, island entities, or other broader community stakeholders. Coordination should also consider how mitigation trees may be maintained.
- (15) Where mitigation trees are planted on the subject property, they shall be guaranteed for one (1) full year after planting. Any trees that die within this time period must be replaced by the applicant and/or property owner. Mitigation trees which may be planted in an alternative location are not required to be guaranteed.

(9) *Maintenance of Trees.*

- a. Following development, the property owner shall be responsible for maintaining the trees that were saved and/or planted. Proper tree care should use ANSI A300 (Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices) for best practices.



*(10) Administration.*

- a. Plan Alterations or Revisions: Due to seasonal planting problems and/ or a lack of plant availability, approved plans may require minor revisions. Minor revisions to planting plans may be approved by Town Staff if:
  - 1. There is no reduction in the quantity of plant material;
  - 2. There is no significant change in size or location of plant materials; and
  - 3. The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

*(11) Tree Preservation Board.*

- a. The Tree Preservation Board shall be in place to hear special circumstances regarding tree removal or where strict interpretation of the ordinance has been made by the Planning Director. An applicant may apply to be granted relief or exception to this article as reviewed and approved by the Town of Kiawah Island Tree Preservation Board.
- b. The applicant should make their appeal case to the Tree Preservation Board, in which the Tree Preservation Board shall review and make a decision based on the applicant's submission.

*(12) Inspections and Violations.*

- a. The Planning Director may approve a delayed schedule for planting materials (provided by the Applicant's contractor) when the immediate planting schedule would impair the health of plants. When a delayed planting schedule is approved, the Applicant shall provide a bond equivalent to one and one-half times the projected cost of the planting materials and installation in accordance with the American Association of Nurserymen Standards. This is designed to include severe weather, such as droughts, heat waves, and floods. The Applicant shall provide a minimum of two quotes from local (tri-county area) contractors for review and the bond amount shall be determined by the Planning Director.
- b. The Town reserves the right to inspect the site or property at any reasonable time for compliance with tree preservation requirements. Town Staff may inspect the site one year

## "EXHIBIT A"

**DRAFT 12.06.2023**

\*Proposed New Section within Zoning Ordinance (12.129. Tree Preservation and Landscaping Standards)  
after the issuance of a permanent Certificate of Occupancy in order to ensure compliance  
with the approved tree plan.

- c. If the Town finds a development in violation of this ordinance, the Town may consider remedies and enforcement actions pursuant to Sec. 12-214.

DRAFT

**Sec. 12-162. Site plan review.**

The purpose of a site plan review is to ensure that all applicable requirements of this article are complied with prior to the issuance of a zoning and building permit.

- (1) *Applicability.*
  - a. *Generally.* The site plan review process, administered by the Department of Planning, shall be required for all new construction, exterior remodeling involving a change in the building footprint, parking areas or other impervious surfaces, change of use that results in a more intense use, and additions to any structure used for any purpose (except detached single-family residences). No zoning or building permit shall be issued for a development subject to site plan review until the site plan has been approved in accordance with the provisions contained within this article.
  - b. *Single-family detached residential.* The site plan review process, requiring site plan review application, will not apply to detached single-family residences. However, a review by planning staff to determine compliance with all applicable zoning regulations is required.
- (2) *Application.* The property owner or designated representative may initiate site plan review by filing an application with the Planning Director. The contents of the application shall be included on a form developed by the Town. If more than one use in a project or more than one use located on a single tract of land is subject to site plan review, the necessary applications may be submitted in phases; provided, however, that the overall concept is first reviewed with the Planning Director and the Planning Commission. A letter of intent shall be submitted by the applicant describing the proposed use.
- (3) *Procedures for issuance of site plan approval.*
  - a. Site plans for permitted uses shall be reviewed by the Planning Director in conjunction with the zoning permit process. The Planning Director's review and action shall be based on the conformity of the site plan with district regulations, approved plats and the comprehensive plan.
  - b. Site plans for special exceptions shall be reviewed by the Planning Director prior to the application being presented to the Board of Zoning Appeals pursuant to section 12-159.
  - c. Site plans for planned developments shall be reviewed by the Planning Director, Planning Commission and Town Council pursuant to section 12-158 when the planned development does not contain a detailed site plan.
  - d. A site plan may be approved, approved with conditions, or denied.
- (4) *Submittal requirements.* A site plan must be drawn to engineers scale and contain the following information:
  - a. The shape and dimensions of the zoning lot;
  - b. The size and location of all existing structures;
  - c. The lines within which any proposed structures shall be erected, altered, or moved; and the locations of any officially approved building setback lines;
  - d. The heights of all proposed structures and parts thereof;
  - e. The existing and proposed use of each structure and part thereof;
  - f. The uses and zoning of adjoining properties;
  - g. The number of dwelling units in each existing building and the number of dwelling units that each proposed building is intended to accommodate;

- h. The size and location of all proposed driveways, off-street loading areas and off-street parking areas containing more than six parking spaces;
- i. Finished first floor elevation above mean sea level requirement and the flood hazard zone designation if in a special flood hazard A or V zone;
- j. Review comments from the St. John's Fire District;
- k. Tree survey, tree preservation plan, and or landscape plan as required by this Article; and
- ~~k.~~ Such other reasonable and pertinent information with regard to the zoning lot or neighboring lots as the Planning Director may find necessary to carry out the purposes and intent of this article.

(Code 1993, § 12A-508; Ord. No. 94-12, § 2(12A-507), 9-26-1994; Ord. No. 2005-08, § 12A-508, 10-12-2005)

**Sec. 12-165. Zoning permits.**

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

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

(Code 1993, § 12A-511; Ord. No. 2005-08, § 12A-511, 10-12-2005)

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

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

*AASHTO* means the American Association of State Highway and Transportation Officials.

*Accessory* means a use, structure or part of a structure customarily incidental and subordinate to the principal use of a zoning lot or of a structure. An accessory use is located on the same zoning lot as the principal use, except in the cases of off-street parking and temporary construction facilities.

*Accessory dwelling unit* means, in a residential or attached housing district, a subordinate dwelling, attached to or detached from the main building, without separate utilities, which is not used for commercial purposes nor rented but which may contain servants quarters, a washroom, a storage room for domestic storage only, and/or space for one or more automobiles. In any district, a subordinate dwelling, the use of which is incidental to and used only in conjunction with the main building.

*Addition* means a structure added to the original structure at some time after the completion of the original, or an extension, alteration or increase in floor area or height of a building or structure.

*Adjacent* means next to or within 100 feet. Adjacent properties include those properties which abut a property, as well as properties with any portion being located within 100 feet of any boundary of the subject property.

*Administrative and business office* means the use of a building or a portion of a building for the provision of executive, management, or administrative services.

*Administrative decision* means any order, requirement, decision or determination by the Planning Director or designee relating to the administration or enforcement of this chapter.

*Administrative permit* means a permit which may be granted by the Planning Director or other designated administrative official.

*Adult day care facility* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) for adults 18 years of age or older, which offers in a group setting a program of individual and group activities and therapies. The program is directed toward providing community-based day care services for those adults in need of a supportive setting. The program shall provide a minimum of four and a maximum of 14 hours of operation a day. (See SCDHEC Regulation No. 61-75, standards for licensing day care facilities for adults.)

*Agricultural processing.*

- (1) The term "agricultural processing" means the preliminary processing and packaging of agricultural products, such as a packing shed.
- (2) The term "agricultural processing" does not include slaughterhouses, butcheries, tanneries or rendering plants.

*Agricultural sales and service* means an establishment engaged in the retail or wholesale sale from the premises of feed, grain, fertilizers, pesticides and similar goods.

*Agriculture* means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including, but not limited to:

- (1) Forages and sod crops;

- (2) Dairy animals and dairy products;
- (3) Poultry and poultry products;
- (4) Livestock, including beef cattle, sheep, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals;
- (5) Bees and apiary products;
- (6) Fur animals;
- (7) Trees and forest products;
- (8) Fruits of all kinds, including grapes, nuts and berries;
- (9) Vegetables;
- (10) Nursery, floral, ornamental, and greenhouse products; or
- (11) Lands devoted to a soil conservation or forestry management program.

*Alley* means minor right-of-way used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front.

*Alteration, structural.*

- (1) The term "structural alteration" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensional or configurations of the roof or exterior walls.
- (2) The term "structural alteration" does not include the application of exterior siding to an existing building for the purpose of beautifying and modernizing.

*Ambient air quality standard* means an acceptable concentration of an air pollutant in a community.

*Animal.*

- (1) The term "animal" means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit or any other warm blooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. With respect to a dog, the term "animal" means all dogs, including those used for hunting, security or breeding purposes.
- (2) The term "animal" excludes birds, rats of genus *Rattus* and mice of the genus *Mus* bred for use in research, and horses not used for research purposes and other farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.

*Animal aquaculture* means land devoted to the hatching, raising, and breeding of fish, shrimp or other aquatic animals for commercial purposes. The term "animal aquaculture" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.

*Animal, exotic,* means any animal not identified in the definition of the term "animal" that is native to a foreign country or of foreign origin or character, but is not native to the United States, or was introduced from abroad. The term "exotic animal" specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

*Animal production.*

- (1) The term "animal production" means the raising of animals on pasture land or production of animal products on an agricultural or commercial basis. The term "animal production" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.
- (2) The term "animal production" does not include concentrated animal feeding operations, slaughter houses or butcheries.

*Apartment* means one or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing two or more dwelling units.

*Applicant* means an owner of property or a developer submitting an application for an approval pursuant to articles II, III or V of this chapter.

*Application* means the relevant application form and all accompanying documents required by articles II, III or V of this chapter for approval of a use or development plan.

*ARB* means the Kiawah Island Architectural Review Board that is operational pursuant to the declaration of rights, restrictions, affirmative obligations and conditions applicable to all property in Kiawah Island, as amended.

*Arboretum.* See *Botanical gardens*.

*Arborist, certified,* means a person certified by the International Society of Arboriculture.

*Archive.* See *Library*.

*Art gallery* means room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the public.

*ASTM* means the American Society for Testing Materials.

*Aviation* means airports, landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. The term "aviation" also includes facilities for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation.

*Bank* means a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

*Banner* means a strip of cloth containing a message or advertisement.

*Bar or lounge* means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, where 25 percent or more of the gross receipts are for sale of alcohol. This use includes taverns, cocktail lounges, and any member exclusive bars or lounges.

*Barn.*

- (1) The term "barn" means a farm building used for storing farm products or sheltering livestock.
- (2) The term "barn" excludes any residential use or nonagricultural use.

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



*Base course* means the layers of specified or selected material of designated thickness or rate of application, placed upon a subbase or subgrade to comprise a component of the pavement structure, to support the pavement or subsequent layer of construction.

*Base flood elevation (BFE)* means the computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.

*Beachfront or oceanfront property* means property situated along or having direct access to a beach.

*Bed and breakfast* means a portion of an owner occupied dwelling unit or detached accessory structure offering transient lodging, with or without breakfast, to paying guests on an overnight basis, usually staying less than seven days.

*Berm.*

- (1) The term "berm" means a manmade landscape feature generally consisting of a linear mound of soil.
- (2) The term "berm" does not include temporary soil stockpiles and retaining walls.

*Block* means an area within the town enclosed by streets and occupied by or intended for buildings; or, if said word is used as a term of measurement, it shall mean the distance along a side or street between the nearest two streets which intersect said street on said side.

*Board of Zoning Appeals (BZA)* means the Board of Zoning Appeals for the Town of Kiawah Island, South Carolina is also referred to as the "Board" or "BZA."

*Boat slip* means a docking space alongside a pier, wharf or mooring dolphins in which a waterborne boat may be moored. For purposes of this ordinance and in the absence of an authorized quantity of boat slips by state or federal regulating agencies, a boat slip shall be considered a minimum length of 25 feet for side mooring and 15 feet for stern moorings.

*Boatyard.*

- (1) The term "boatyard" means a land-based operation primarily for the repair and service of boats, including any incidental storage of boats in the process of being repaired.
- (2) The term "boatyard" does not include boat building.

*Botanical garden* means a place, generally open to the public for a fee, where a wide variety of plants are cultivated for scientific, educational, or ornamental purposes.

*Bridge* means a structure, including supports, erected over a depression or an obstruction, and having a track or passageway for carrying traffic or other moving loads.

*Buffer, critical line,* means an area of varying width providing a visual, spatial, and ecological transition zone between the OCRM critical line and land development.

*Buffer, landscape,* means a vegetated area of varying width designed exclusively to provide screening between adjoining properties, rights-of-ways, parking lots and structures.

*Bufferyard* means a strip of land, identified on a concept plan, site plan or development plan, established to protect one type of land use from another land use or to provide screening. Normally, a buffer is landscaped and kept in open space uses.

*Building* means a structure which is permanently affixed to the ground, has a roof supported by columns or walls, and is used for human, animal, or chattel enclosure. When a portion thereof is completely separated from

every other portion by a dividing wall or firewall, when applicable, without openings or an unenclosed breezeway, then each such portion shall be deemed to be a separate building.

*Building area* means that portion of the established parcel which can be devoted to buildings and structures identified by the setback standards of the parcel.

*Building code* means a recorded description of building and structural specifications prepared and approved in compliance with the building code of this Code of Ordinances.

*Building cover* means the proportion, expressed as a percentage, of the area of a zoning lot covered by all buildings located thereon, including the area covered by all overhanging roofs.

*Building height* means the vertical distance between the base building height elevation (BBHE), or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and is measured in feet and stories. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. Unless otherwise stated in this ordinance, height in feet means:

- (1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof;
- (2) The highest point of a mansard roof; or
- (3) The highest point of the coping of a flat roof.

In measure the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.

*Building line* means any line parallel or approximately parallel to the street line or other property line and beyond which buildings may be erected.

*Building official* means the officer or other designated authority charged with the administration and enforcement of this chapter.

*Building permit* means an official document or certificate issued under the building code for any carpentry, masonry, roofing, or related construction or repair. A building permit is not required for construction under \$1,000.00, unless the construction or repair involves a structural modification or work done by a contractor.

*Building, principal*, means a building in which is conducted the principal use of the zoning lot on which it is situated. In a residential district, any dwelling shall be deemed to be a principal building on which the lot is situated.

*Bulk standards* means regulations that establish the maximum size of buildings and structures on a lot and the buildable area within the building or structure may be located.

*Bus passenger stand* means a small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

*Business* means and includes retail, commercial and manufacturing uses and districts as herein defined.

*Business, vocational or trade school* means a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university.

*Caliper inch* means a measurement used for nursery stock and in this division refers to replacement trees. It is the unit of measurement for defining the diameter of the tree trunk measured six inches above the soil surface

for tree trunks six (6) diameter inches or less and measured 12 inches above the soil surface for tree trunks greater than six (6) diameter inches.

*Canopy* means a roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy and placed so as to extend outward from the building providing a protective shield for doors, windows and other openings and for protection from sun or weather.

*Canopy tree* means a tree, with a diameter of at least 2½ inches (as measured six inches above grade) at the time of planting, which will grow to a minimum height of 50 feet at maturity.

*Capital improvements program* means a proposed schedule setting forth all future capital facility projects in order of construction priority, together with cost estimates and the anticipated means of financing such projects which are required to implement the comprehensive plan.

*Caretaker* means an individual or family who resides on premises as an accessory use for the purpose of maintaining, protecting or operating a permitted principal use on the premises.

*Catering service* means an establishment that prepares and provides food and related services to off-premises locations.

*Causeway* means an earthen structure with at least one side adjacent to a depression, wetland, or marsh that supports a road for carrying traffic or other moving loads.

*Cemetery* means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

*Centerline of street* means the line surveyed and monumented as the centerline of the street; or if such centerline has not been surveyed, it shall be the line running midway between the curbs or ditches of such street.

*Charter boat or other recreational watercraft rental* means a land-based operation primarily for the rental or leasing of boats or other recreational watercraft.

*Child day care facility* means a facility or dwelling unit that regularly (more than twice a week, for more than four hours, but less than 24 hours) provides child day care for seven or more children. The term "child day care facility" includes child care centers and group day care homes, which are licensed by the South Carolina Department of Social Services (DSS).

*Church* means a place of assembly and worship by a recognized religion including synagogues, temples, churches, instruction rooms and the place of residence for ministers, priests, rabbis, teachers and directors of the premises, but does not include a parochial or similar school.

*Cocktail lounge* means a business establishment which sells alcoholic beverages for consumption on the premises as its primary trade.

*College or university facility* means an educational institution that offers courses of general or specialized study leading to a degree.

*Common open space* means open space, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Common open space shall be substantially free of structures, but may contain such improvements as are approved as a part of the development plan for such district and are appropriate for the residents of the district.

*Communication service* means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, but excludes those classified as major utility facilities.

*Communications tower.*

- (1) The term "communications tower" means a tower of any size that supports communication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users.
- (2) The term "communications tower" does not include communication towers for amateur radio operators licensed by the Federal Communications Commission which are exempt from local zoning restrictions or communications towers under 100 feet in height used solely for educational communications purposes.

*Community character* means the image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

*Community recreation* means a recreational facility that is the principal use of a parcel of land and that is for use by residents and guests of the following: a particular residential development, planned development, church, private primary or secondary educational facility, community affiliated non profit organization. The term "community recreation" can include both indoor and outdoor facilities.

*Community recreation center* means a public or quasi public building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers, there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities. Kitchen facilities and dining areas shall be used for special events only.

*Community residential care facility* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC), which offers room and board and provides a degree of personal assistance for a period of time in excess of 24 consecutive hours for ten or more persons, 18 years old or older, unrelated to the operator. The term "community residential care facility" includes any facility (other than a hospital), which offers a beneficial or protected environment specifically for the mentally ill, drug addicted or alcoholic, or provides or purports to provide any specific procedure or process for the cure or improvement of that disease or condition. A community residential care facility with nine or fewer residents shall be considered a family. (See SCDHEC Regulation No. 61-84, standard for licensing community residential care facility.)

*Comprehensive plan* means the master plan adopted pursuant to the South Carolina Code.

*Concentrated animal feeding operation* means a confined area or facility within which the property is not grazed or cropped annually, and which is used and maintained for the purposes of engaging in the business of the reception and feeding of:

- (1) More than 50 beef or dairy cattle;
- (2) More than 50 horses;
- (3) More than 150 hogs, sheep or goats;
- (4) 1,000 or more birds, such as turkeys, chickens, ducks or geese; or
- (5) More than 1,000 small animals, such as guinea pigs, rabbits and minks.

The term "concentrated animal feeding operation" also includes commercial feed lots.

*Conditional approval* means the official action of the Zoning and Planning Commission conferring certain rights subsequent to preliminary approval but prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.

*Conditional use permit* means a permit formerly issued by the Planning Department authorizing a particular use in a specified location within a zoning district, upon demonstrating that such use complies with all the conditions and standards specified by article II of this chapter.

*Congregate living* means a residential facility providing 24-hour supervision and assisted living for no more than 15 elderly residents (age 60 or older), not needing regular medical attention.

*Construction permit* means a series of permits that may include building, electrical, plumbing, HVAC (heating, ventilating and air conditioning) or gas permits.

*Construction plan* means complete construction drawings of a facility or improvement, including but not limited to road plans and profiles and drainage plans.

*Construction services* means any of the activities commonly referred to as construction and shall include without limiting thereby, plumbing, heating, roofing, interior remodeling, excavating.

*Consumer convenience service* means an establishment providing services, primarily to individuals, of a frequent or recurrent nature.

*Contextual zoning* means zoning that regulates the height and bulk of new buildings, their setback from the street line, and their width along the street frontage, to conform with the character of the neighborhood.

*Convalescent service.*

- (1) The term "convalescent service" means a use providing bed care and in patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services. Typical uses include nursing homes.
- (2) The term "convalescent service" excludes facilities providing care for alcoholism, drug addiction, mental disease or communicable disease.

*Convenience store.*

- (1) The term "convenience store" means establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, newspapers, and limited household supplies, to customers who generally purchase only a few items.
- (2) The term "convenience store" does not include fuel pumps or the selling of fuel for motor vehicles.

*Convention center or visitors bureau* means a formal meeting place where the building or rooms are rented or leased to the members, representatives, or delegates of a particular group. These centers can usually accommodate large groups.

*Council* means the Town Council of the Town of Kiawah Island, South Carolina ("Town Council") is also referred to as the "Council."

*Counseling service* means an establishment providing counseling, guidance, or similar services to persons requiring rehabilitative or vocational assistance. The term "counseling service" includes job training and placement services.

*Country club* means land area and buildings containing golf courses, recreational facilities, a clubhouse, and other customary accessory uses, open only to members and their guests.

*County* means Charleston County, South Carolina.

*County Health Department* means the Charleston County Health Department.

*County Public Works Department* means the Charleston County Department of Public Works.

*Courtyard* means an open unoccupied space, other than a yard, on the same zoning lot with a building, unobstructed from floor or ground level to the sky.

*Crop production.*

- (1) The term "crop production" means the raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. The term "crop production" includes those accessory uses and activities customarily associated with these types of agricultural operations, as determined by the Planning Director.
- (2) The term "crop production" excludes any agricultural uses that are more specifically defined in this section.

*Cul-de-sac* means the turnaround at the end of a dead-end street, but can be used to describe a street with only one means of ingress and egress and having a turnaround at the end.

*Culvert* means any structure not classified as a bridge which provides an opening under any roadway, including pipe culverts and any structure so named in the plans.

*Curb* means a stone, concrete or other improved boundary usually marking the edge of a road or other paved area.

*Data processing services* means establishments primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer.

*Decibel (dB)* means a unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

*Decision-making body* means the entity that is authorized to finally approve or deny an application or permit as required under this chapter.

*Dedication* means the action of a property owner, developer or subdivider to transfer property, or an interest in property, to the Town or other service provider. The approval of a land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the Town of a proposed dedication of a street, easement, or other ground shown on the plat. Acceptance of the dedication must be by action of the Town Council by ordinance, independent of the action on the application.

*Density, dwelling unit capacity* means the determination of dwelling unit capacity for group dwellings is calculated as six persons per dwelling unit.

*Density, dwelling units per acre* means the number of dwelling units per acre. The determination of dwelling units per acre is calculated exclusive of water bodies and land below the mean high water level.

*Design professional* means an individual or firm appropriately licensed and registered in the State of South Carolina.

*Detention* means the temporary holding back of stormwater and releasing it at a controlled rate.

*Developer* means the legal or beneficial owner of a lot or of any land included in a proposed development; or the holder of an option or contract to purchase, or any other person having an enforceable proprietary interest in such land.

*Development* means the planning for or carrying out of a building activity or mining operation, the making of material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels.

*Development agreement* means the current development agreement with Kiawah Resort Associates (KRA) or their successors.

*Development application* means a request for any development approval, including all supplementary information specified in the code or on the application form.

*Diameter breast height (dbh)* means the total diameter, in inches, of a tree trunk or trunks measured at a point 4½ feet above existing grade (at the base of the tree). In measuring dbh, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

*Director of Public Works* means the Director of the Charleston County Department of Public Works of the Town of Kiawah Island or his authorized representative.

*District* means a section of the Town for which the regulations governing the area, height or use of the building are uniform.

*Dock* means a structure extending into or upon a waterway, marshland or other natural water feature that provides docking space for ten boats or less.

*Dock, community*, means any docking facility that provides access for more than four families, has effective docking space of no more than 250 linear feet and is not a marina. The term "effective docking space" means adequate length and water depth to dock a 20-foot boat.

*Dock, fixed*, means a structure that can either be a portion of a dock that does not float, but is fixed, e.g., the walkway and pierhead, or it is the fixed pierhead which is the deck area at the end of a walkway.

*Dock, floating*, means a structure that is part of a pier or dock that floats and provides easy access to moored boats.

*Dock, joint use*, means any private dock intended for the use of two to four families.

*Dock, private*, means any facility that provides access for one family, and is not a marina.

*Drainage* means the removal of surface water or groundwater from land by drains, grading or other means.

*Dripline* means an imaginary vertical line extending from the outermost circumference of the branches of a tree to the ground.

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

*Dry stack storage for watercraft* means a facility for storing boats out of water. This is principally a land operation, where boats are dry stored or stacked until such time as they are transferred to the water for use.

*Duplex* means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

*Dwelling, accessory residential*.

- (1) The term "accessory residential dwelling" means a dwelling unit which is accessory to a primary use and intended for occupancy in support of the primary use, such as caretakers or family members.
- (2) The term "accessory residential dwelling" does not include units that are rented or leased independently of the primary structure.

*Dwelling, multifamily*, means a building or portion thereof containing three or more dwelling units and used for occupancy by three or more households living independently of each other.



*Dwelling, single-family attached*, means two or more dwelling units, constructed with common or abutting walls and each located on a separate lot; also known as townhouses or rowhouses.

*Dwelling, single-family detached*, means one dwelling unit that is not attached to any other dwelling units and is located on an individual lot.

*Dwelling unit* means one or more connecting rooms, designed, occupied or intended for occupancy as a separate living quarter for occupancy by a single household, which have direct access to the outside or to a common hall, with cooking, sleeping and sanitary facilities provided within the dwelling unit. Dwelling units are usually located in dwellings, but may be included as a mixed or accessory use in buildings or in group quarters.

*Earth roads* means those in which the traveled roadway is constructed of compacted earth material.

*Easement* means a privilege or right of use, access or enjoyment granted on, above, under or across a particular tract of land by the landowner.

*Easement, drainage*, means the right of access of stormwater runoff from the adjacent natural drainage basin into the drainageway within the drainage easement.

*Educational nursery*. See *Preschool*.

*Elderly residential care facility* means a facility which provides fulltime residential care, for not more than ten elderly persons who are unrelated to the operator, and require personal assistance (personal assistance is defined by SCDHEC Regulation No. 61-84, standards for licensing, community residential care facility, as amended May 24, 1992).

*Electric substation* means structures and appurtenant facilities used for the distribution of electric energy in voltages less than 115,000 volts.

*Enlargement* means an increase in the size of an existing structure or use, including physical size of the property, building, parking, or other improvements. The term "enlargement" would also include the addition of other structures or uses on the lot.

*Escrow* means a surety bond, certified check, or other instrument readily convertible to cash, provided by the applicant, payable to the Town, and held by a responsible third person until the fulfillment of a specified condition.

*Facade* means the entire building wall, fascia, windows, doors, canopy and on any complete elevation.

*Family* means an individual, or two or more persons related by blood or marriage living together; or a group of not more than six individuals, including live-in servants, not related by blood or marriage but living together as a single housekeeping unit. Residents of community residential care facilities licensed by the South Carolina Department of Health and Environmental Control (DHEC) for nine or fewer individuals shall be considered a family.

*Family day care home* means an occupied residence in which child day care is provided on more than two days a week for periods of less than 24 hours, but more than four hours, for no more than six children, including those children living in the home and children received for day care who are related to the resident caregiver. Family day care homes are licensed by the South Carolina Department of Social Services (DSS). (See S.C. Code 1976, § 20-7-2700, as amended.)

*Family, immediate*, means the property owner's or property owners spouse's, parents, children, grandparents, grandchildren, nieces, nephews, aunts or uncles.

*Farm* means a parcel of land five acres or more that is used for one or more of the following: the tilling of the land, the raising of crops, fruits, and vegetables, and the raising and keeping of animals and plants.



*FEMA* means the Federal Emergency Management Agency, which promulgates flood boundary and floodway maps.

*Fence or wall* means an upright barrier or structure, including any gate which is part thereof, comprised of any material, including without limitation, hedgerow or other plant material, which serves to enclose, divide, protect, confine, screen, or mark the boundary of an area or structure or any portion thereof, or, in the case of a wall, also to support.

*Financial guarantee* means surety intended to ensure that all improvements, facilities or work required by this chapter will be completed, restored or maintained in compliance with this chapter.

*Financial service* means an establishment primarily engaged in the provision of financial and banking services.

*Finished grade* means the average elevation of a lot after construction.

*Flag* means a piece of fabric or other flexible material, usually rectangular and of distinctive design which is used as a symbol, such as for a nation, state, locality, or corporation.

*Flag lot. See lot, flag.*

*Flexible zoning* means zoning techniques designed to allow flexibility in use and/or density of project design, including, but not necessarily limited to, cluster development, floating zones, performance zoning, planned development, overlay zones and conditional uses.

*Floodplain* means any land with a one percent chance of being inundated by water from any source in any given year, as identified by the Federal Emergency Management Agency (FEMA) or other credible floodplain storage.

*Floor area.*

- (1) The term "floor area" means the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls or from the centerlines of walls separating two buildings, computed as follows:
  - a. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space, such as counters, racks, or closets;
  - b. Any basement floor area devoted to the production or processing of goods or to business or professional offices.
- (2) The term "floor area" does not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including ramps, and maneuvering space, or basement floor area, other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

*Floor area ratio (FAR)* means the ratio of the total usable floor space of all buildings on a parcel divided by the total highland area.

*Florist* means a commercial activity offering for sale cut flowers, ornamental plants, floral arrangements, real or artificial, and related accessories including cards, figurines and indoor ornamental fixtures.

*Food sales* means an establishment primarily engaged in the retail sale of food for home consumption. These establishments may include the sale of beer and wine in unopened containers for off-premises consumption where the sale of products other than beer and wine comprise at least 51 percent of the gross sales of the establishment, and at least 51 percent of the total display or shelf space is devoted to products other than beer and wine.

*Funeral service* means an establishment engaged in undertaking services such as preparing the human or animal dead for burial and arranging and managing funerals.

*Garage apartment* means a single dwelling unit located over a private detached garage and containing square footage no greater than that of the garage.

*Garage, private*, means an accessory structure or space on a lot with a dwelling unit devoted to or designed for the storage of automobiles and small (three-quarter-ton capacity or less) trucks and boats less than 20 feet in length and not used for business purposes or occupancy.

*Garden supplies center.*

- (1) The term "garden supplies center" means a commercial activity offering for sale indoor or outdoor plants, garden fixtures, packaged plant food, pesticides or garden tools, manually or power-operated with associated parts and accessories.
- (2) The term "garden supplies center" does not include farm equipment elsewhere provided for in this chapter.

*Gasoline service station.*

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

*General contractor* means an establishment that has the ability to furnish a variety of building materials and provide multiple construction services at a specified price.

*Geographical information system (GIS)* means a computer-based system for generating maps comprised of different informational elements.

*Golf course* means a tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards, and that may include a clubhouse and shelter.

*Governing body.* See *Town Council*.

*Government office* means federal, state, county or city offices, administrative, clerical or public contact services, together with incidental storage and maintenance of necessary vehicles.

*Grade* means, for the purpose of determining building height:

- (1) For buildings adjoining one street only, it is the elevation of the sidewalk directly opposite the center of that wall which adjoins the street; in such case where the average elevation of the finished ground surface adjacent to the exterior walls of the building is lower than the elevation of the sidewalk grade, or where there is no sidewalk grade, or where there are no sidewalks, the grade shall be the average elevation of the ground on the lowest side adjacent to the exterior walls of the building.
- (2) For buildings adjoining more than one street, it is the elevation of the sidewalk directly opposite the center of the wall adjoining the street having the lowest sidewalk elevation.

- (3) For buildings having no wall adjoining the street, it is the average level of the finished ground surface adjacent to the exterior walls of the building.
- (4) All walls which are approximately parallel to and not more than 25 feet from a front lot line shall be considered as adjoining the street. In alleys, the surface of the paving shall be considered to be the sidewalk elevation. Where the elevation of the sidewalk or alley paving has not been established, the Public Works Director shall determine such elevation for the purpose of this chapter.

Grand Tree means any tree with a diameter breast height of twenty-four (24) inches or greater in size excluding pine trees.

*Greenhouse* means a partially or fully enclosed structure which is used for the growth of plants.

*Greenhouse production* means ornamental plants or food crops grown for wholesale sale within an enclosed structure or under cover.

*Gross floor area.*

- (1) The term "gross floor area" means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term "gross floor area" includes the dock area of loading areas.
- (2) The term "gross floor area" does not include parking facilities, driveways and airspace above the atria ground floor which are excluded from gross floor area calculations. Enclosed loading areas and off-street maneuvering area also are excluded.

*Gross leasable area (GLA).*

- (1) The term "gross leasable area (GLA)" means the total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use.
- (2) The term "gross leasable area (GLA)" does not include public or common areas, such as utility rooms, stairwells and malls.

*Ground cover* means low-growing plant material less than 18 inches in height.

*Ground floor level* means the natural ground or the lowest floor elevation for structures as set forth in the town's floodplain management ordinance, whichever is higher provided, however, that ground floor level for structures shall not exceed 14 feet above natural ground. This definition shall not be construed to prevent an owner from constructing a first floor higher than ground floor level, provided, however, that height is measured from ground floor level or base flood elevation (BFE) when located within a flood zone.

*Group care home, residential,* means a staffed residence, licensed by the South Carolina Department of Social Services (DSS), with a population of fewer than 20 children who are in care apart from their parents, relatives, or guardians on a full-time basis. Group care homes are classified by different levels of care ranging from independent to assisted living.

*Group residential/quarters.*

- (1) The term "group residential/quarters" means the residential use of a site, on a weekly or longer basis, for occupancy by groups of more than six persons not defined as a family, such as fraternity or sorority houses, dormitories, or residence halls.
- (2) The term "group residential/quarters" does not include roominghouses or boardinghouses.

*Hardware store* means a retail store where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

*Head-in parking spaces* means parking spaces which are directly accessed from street right-of-way that require the user to drive backwards in the right-of-way to enter or exit this space.

*Heavy construction services* means services involved in road, bridge, building, or other infrastructure construction.

*Height* See building height.

*Height of signs* means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

*Highland* means the area of land above the OCRM critical line.

*Historical site* means a structure or place of outstanding historical and cultural significance and designated as such by the Town of Kiawah Island, the State of South Carolina, or the National Register of Historic Places.

*Hobby shop* means an accessory use housed in a dwelling or in an accessory building in which the residents of the premises engage in recreation activities, none of which shall disturb the neighbors on either side or in the rear thereof, and which no goods may be publicly displayed, offered for sale, or advertised for sale, nor may any sign be used in connection therewith.

*Home health agencies* means a public, nonprofit or proprietary organization licensed by the South Carolina Department of Health and Environmental Control (DHEC) which furnishes or offers to furnish home health services. These services include parttime or intermittent skilled nursing care, as ordered by a physician and provided by or under the supervision of a registered nurse, and at least one other therapeutic service. The majority of home health services are furnished on a visiting basis in a place of temporary or permanent residence used as the individual's home. (See SCDHEC Regulation No. 61-77, standards for licensing home health agencies.)

*Home improvement center* means a facility with over 5,000 square feet of floor area engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, house wares and household appliances, and garden supplies. Facilities under 5,000 square feet shall be considered a hardware store.

*Home occupation* means an accessory use of a dwelling unit or its accessory structure for gainful employment.

*Homeowners' or property owners' association* means a formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area. The homeowners' or property owners' association may take responsibility for costs and upkeep of common open space or facilities, or enforce certain covenants and restrictions.

*Horticultural production.*

- (1) The term "horticultural production" means land used to grow horticultural and floricultural specialties (such as flowers, shrubs, or trees intended for ornamental or landscaping purposes) for wholesale or retail sale in order to be transplanted to a different location. Retail sales shall not comprise more than 25 percent of gross sales.
- (2) The term "horticultural production" excludes crop and greenhouse production that have been identified elsewhere in this chapter.

*Horticulture and landscaping services* means and includes landscaping, tree trimming, tree removal and other similar services together with associated equipment and machinery directed toward the care of trees, plants or lawns.

*Hospital* means a licensed facility primarily providing in-patient medical, surgical, or psychiatric care for a period exceeding 24 hours. Hospital facilities may also include outpatient services and the following types of

accessory activities: outpatient diagnostic and treatment centers, rehabilitation facilities, offices, laboratories, teaching facilities, meeting areas, cafeterias, maintenance and parking facilities. The term "hospital" includes general hospitals, specialized hospitals, chronic hospitals, psychiatric and substance abuse hospitals or hospices. (See SCDHEC Regulation No. 61-16, standards for licensing hospital and general infirmaries, and Regulation No. 61-78, standards for licensing hospices.)

*Hotel or inn* means a building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without meals, in which the rooms are usually occupied singularly for hire, and in which there are six or more sleeping rooms.

*Hydroponics* means land used to produce, for wholesale sale, plants grown in nutrient-enriched water, where no soil is used.

*Impact fees* means charges assessed against newly developing property that attempt to recover the cost incurred by a local government in providing the public facilities required to serve the new development.

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

*Improvements* means street pavements, curbs, sanitary and storm sewers, permanent street monuments, sidewalks, drainage, culverts, utilities, water lines and connections, sewer lines and connections, lighting fixtures and other similar capital and public facility projects.

*Incentive zoning* means the granting by the approving authority of additional development capacity in exchange for a public benefit or amenity.

*Indigenous produce.*

- (1) The term "indigenous produce" means fresh fruit, vegetables and agronomic crops (crops such as field corn, soybean, wheat, and oats) grown in, or are characteristic of Charleston County.
- (2) The term "indigenous produce" specifically excludes livestock, animals or seafood.

*Infill development* means the addition of new housing or other buildings on scattered vacant sites in a built-up area.

*Inoperable vehicle* means any motor driven vehicle, regardless of size, which is incapable of being self propelled upon the public streets of the Town or which does not meet the requirements for operation upon the public streets, including a current motor vehicle registration.

*Invasive species* means species that are not native to South Carolina and cause economic or environmental harm or harm to human health. Invasive species may be found in the Nonnative Invasive Plants of Southern Forests registry published by the US Department of Agriculture or list provided by Clemson University Cooperative Extension.

*Island-based employee* means employees that are employed full or part time on Kiawah Island, yet reside off the Island.

*Kennel* means a facility that provides boarding for three or more dogs, cats, or other household pets for a fee, and may include grooming, breeding, training, or selling of animals.

*Kiawah Island* means the area within the Town of Kiawah Island, South Carolina, including its surrounding marshes and nearby islands and includes all lands and areas encompassed within the boundaries of the low lands, high lands, marsh lands and waterways. Kiawah Island is bounded by the Atlantic Ocean to the East, the Kiawah River to the South and the Stono River to the North.

*KICA* means the Kiawah Island Community Association, Inc.

*KICA covenants* refers to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. recorded in the RMC Office for Charleston County in Book M 114, Page 407, and amendments thereto.

*Kindergarten* means a school for children of pre-public school age in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

*Land development* means changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease or any combination of owner and rental characteristics.

*Land surveyor* means to determine the boundaries, area, or elevations of (land or structures on the earth's surface) by means of measuring angles and distances, using the techniques of geometry and trigonometry.

*Library* means a room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical, or scientific objects.

*Liquor, beer or wine sales* means an establishment primarily engaged in the retail sale of alcoholic beverages for off-premises consumption. The term "liquor, beer or wine sales" includes all retail stores where the sale of alcoholic beverages comprises 49 percent or more of gross sales.

*Living area* means that portion of the dwelling unit utilized for living purposes within the exterior walls of the structure and does not include porches, breezeways, garages and carports.

*Lodginghouse* means a building other than a hotel, where lodging for five or more persons is provided for compensation.

*Lot* means the development parcel identified in a subdivision plat recorded in the Charleston County, RMC office; also referenced to as zoning lot, parcel, plot or tract.

*Lot area* means the area of the lot shall be the net horizontal area of the lot and shall not include portions of streets, alleys and areas below mean high-water and water bodies.

*Lot, corner*, means either a lot bounded entirely by streets or a lot which adjoins the point of intersection or meeting of two or more streets.

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

*Lot depth* means the mean horizontal distance between the front and rear lot lines.

*Lot, double-frontage*, means an interior lot that abuts on two parallel streets or that abuts on two streets that do not intersect at the boundaries of the lot. Lots with access on a street and alley shall not be considered double-frontage lots.

*Lot, flag*, means a legally platted lot that is designed specifically to have a portion that is buildable (the "flag" area) and a portion that [is] unbuildable (the "pole" area) that is used solely for access on the parcel.

*Lot frontage* means the distance for which a zoning lot abuts on a street.

*Lot, interior*, means a lot other than a corner lot.

*Lot line* means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

*Lot line, front*, means the lot line separating a lot from a street right-of-way.

*Lot line, interior*, means the lot line other than a front lot line.

*Lot line, rear*, means the lot line opposite and most distant from the front lot line.

*Lot line, side*, means any lot line other than a front or rear lot line.

*Lot, through*, means an interior lot which abuts on two or more streets.

*Lot width* means the width of:

- (1) A corner lot, if there are:
  - a. Two street yard lines, the shorter of such lines;
  - b. More than two street yard lines, the average length of the two shortest of such lines.
- (2) An interior lot, the length of the front yard line.
- (3) A through lot, a width determined on the basis of a reasonable division of the lot into segments fronting on several streets.

*Lot, zoning*, means any lot that falls within the jurisdiction of this chapter.

*Lots of record, approved*, means platted parcels of land created and recorded with the Register of Mesne Conveyance of Charleston County since January 1, 1955, in conformance with article III of this chapter, subdivision regulations and bearing the Planning Commission or Council stamp of approval, or identical parcels created and recorded by plat or meets and bounds prior to January 1, 1955.

*Main utility lines* means those facilities including piping, conduits, outlets, and other appurtenances necessary for the proper functioning of essential services to a development including water, electricity, gas, sanitary sewer, storm sewer, cable, communications, etc.

*Maintenance agreement* means an agreement which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

*Maintenance guarantee* means any security which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

*Major recreational equipment* means and includes, but is not limited to, boat, boat trailer, recreational vehicle, and containers for transporting such equipment, whether occupied thereby or not.

*Manufactured housing unit*.

- (1) The term "manufactured housing unit" means any residential dwelling unit constructed to standards and codes set forth by the United States Department of Housing and Urban Development, including the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401).
- (2) The term "manufactured housing unit" does not include recreational vehicles, travel trailers or motorized homes licensed for travel on highways, nor manufactured housing units designed and built to meet applicable requirements of South Carolina Modular Buildings Construction Act.



*Manufacturing and production* means an establishment engaged in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, this is a subordinate part of sales. Relatively few customers come to the site.

*Marina* means any of the following, as defined by OCRM:

- (1) Locked harbor facility;
- (2) Any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
- (3) Any facility which has permanent docking space of 250 linear feet or greater;
- (4) Any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats; or
- (5) A dry stack facility.

*Maximum extent feasible* means the point at which all possible measures have been undertaken by the applicant, at which point further measures would involve physical or economic hardships that would render a development project unfeasible or would be unreasonable in the judgment of a review or decision-making body.

*Mean sea level* means elevation 0.0 as determined by NGVD 29 datum.

*Medical clinic, outpatient services.*

- (1) The term "outpatient services medical clinic" means an office or clinic for the private practice of health care professionals licensed by the State of South Carolina. The majority of patient encounters in the office or clinic involve examination, diagnosis, treatment or surgical procedures on an outpatient basis not extending beyond a 24-hour period.
- (2) The term "outpatient services medical clinic" excludes any facilities that have been more specifically defined in this chapter.

*Medical office* means an office used exclusively by a physician, dentist, and/or similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

*Medical services* means any services provided by a licensed medical practitioner.

*MHW* means the mean high-water line.

*Mini-warehouse* means a structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

*Mixed-use structure* means a structure containing both residential and nonresidential uses.

*MLW* means the mean low-water line.

*Modular building unit* means a building including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and not designed for ready removal to another site. A modular building unit must meet the applicable requirements of the South Carolina Modular Buildings Construction Act. The term "modular building unit" is not to be limited to residential dwellings.

*Motion picture/live theater* means a structure that contains audience seating, one or more screens/auditoriums, and a lobby and refreshment stand.



*Motor vehicle* means every vehicle that is self-propelled that can be licensed and registered to be driven on public streets, roads or rights-of-way, except mopeds, and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

*MSL* means the mean sea level.

*Mulching operation* means an operation that produces mulch. Mulch consists of organic substances placed on the earth as a protective covering around plants to retard weed growth and prevent moisture evaporation and freezing of roots.

*Multifamily*. See *Dwelling, multifamily*.

*Museum* means a registered nonprofit organization displaying, preserving, and/or exhibiting objects of community and cultural interest in one or more of the arts and sciences.

*Natural ground* means the average elevation of a lot or development parcel prior to development activity.

*Nature exhibition*.

- (1) The term "nature exhibition" means a public display of materials or living things of the outdoors, including the re-creation of native natural wildlife habitats.
- (2) The term "nature exhibition" does not include facilities, such as zoos, where the primary purpose is the display of live animals.

*News syndicate services* means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest.

*NGVD* means the National Geodetic Vertical Datum.

*Noncommercial copy* means material written for informational purposes only. This material is nonpromotional and does not advertise a business or service.

*Nonconforming lot* means a tract of land, designated on a duly recorded subdivision plat, or by duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

*Nonconforming sign* means a sign that was legally established but which no longer complies with the sign regulations of this chapter.

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

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

*Office* means a building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child care facilities.

*Office of Coastal Resource Management (OCRM) critical line area* means the line defined by the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management at the date of application and determines their jurisdiction.

*Office/warehouse complex* means a structure or group of structures offering compartments of varying size for rental to different tenants for the storage of commercial goods or wares, conducting of certain retail trade activities, or provision of those personal or business services permitted by zoning.

*Open space* means an area that is not divided into building lots, streets, driveways, parking lots or rights-of-way and is intended to provide light and air, and is designed for either environmental resource protection, wildlife habitats, scenic views or recreational purposes as allowed.

*Open storage.*

- (1) The term "open storage" means the location of bulk items, assemblies or sub-assemblies in areas exposed to weather, in whole or in part, for the end use of further manufacturing process, sale or transportation. The term "open storage" shall include, but not be limited to, open display of transportation vehicles, marine craft, aircraft, mobile homes, modules, recreation vehicles, junkyards or "piggy-back" containers.
- (2) The term "open storage" does not include uses that are totally enclosed.

*Outdoor living space.*

- (1) The term "outdoor living space" means uncovered, horizontal open space on a zoning lot, which space:
  - a. Is paved, landscaped, or otherwise improved to make it suitable for passive or active outdoor recreational use and in the case of roofs and balconies is so arranged as to be safe for use by children;
  - b. Is readily accessible to the residents of the building for which it is required; and
  - c. May include land, balcony and roof areas.
- (2) The term "outdoor living space" does not include loading or parking areas, driveways or refuse storage area and is so arranged as to prevent entry by motor vehicles.

*Outside storage* means the keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

*Owner* means an individual, firm, association, syndicate, partnership or corporation having a sufficient proprietary interest in land to seek development of the land.

*Parcel* means a contiguous lot or tract of land owned and recorded as the property of the same persons, or controlled by a single entity.

*Park* means an open space with natural vegetation and landscaping; may include recreational facilities.

*Parking garage* means a building where residents, tourists, customers or employees park their motor vehicles on a temporary or daily basis with a service charge or fee being paid to the owner or operator.

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

*Parks and recreation* means parks, playgrounds, swimming pools, recreation facilities, and open spaces available to the general public, either without a fee or under the management or control of a public agency.

*Parole or probation office* means an office for those who supervise parolees or persons placed on probation by a court in criminal proceedings.

*Patio home* means a detached one-family dwelling on a separate lot with open space setbacks on three sides and with a court.

*Paved streets* means those in which the traveled roadway is constructed of a layer or layers of materials with the surface usually being constructed of Portland cement concrete or asphaltic concrete.

*Pavement* means the uppermost layer of material placed on the street usually as the wearing or riding surface. This term is used interchangeably with surface course or surfacing and will usually imply Portland cement concrete or asphalt concrete.

*Pending ordinance doctrine* means the Zoning Administrator has the authority to refuse a permit for a use which is repugnant to the terms of a proposed zoning ordinance or amendment pending at the time of application for the permit. An ordinance is legally pending when the governing body has resolved to consider a particular scheme of rezoning and has advertised to the public its intention to hold public hearings on the rezoning.

*Pennants, streamers and other moving devices* means pennants, ribbons, streamers, spinners, light bulbs, or other similar moving devices when part of a sign, or when used to draw attention to a business or its signs.

*Person* means an individual, proprietorship, partnership, corporation, association or other legal entity.

*Personal improvement education.*

- (1) The term "personal improvement education" means an establishment primarily engaged in the provision of information or instruction relating to a particular subject or hobby.
- (2) The term "personal improvement education" excludes any educational services more specifically defined in this chapter.

*Personal improvement service.*

- (1) The term "personal improvement service" means an establishment primarily engaged in the provision of informational, instructional, personal improvements or similar services.
- (2) The term "personal improvement service" excludes any services that have been more specifically defined in this chapter.

*Personal services establishment* means an establishment that provides nonmedically related services, including, but not limited to, beauty shops and barbershops; clothing rental; dry cleaning pickup stores; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

*Pervious surface* means an unimproved portion of land maintained in its natural condition or an improved portion of land covered by a material that permits infiltration or percolation of stormwater into the ground as determined by the Planning Director.

*Pet grooming salons* means an establishment primarily engaged in the grooming of household pets.

*Pet, household,* means domestic animals typically kept for company or enjoyment within the home. The term "household pets" includes, but not be limited to: domestic cats; domestic dogs; domestic ferrets; gerbils; guinea pigs; hamsters; domestic laboratory mice; domestic rabbits; goldfish, canaries and parrots.

*Pet store* means an establishment primarily engaged in the retail sale of household pets.

*Pier* means a structure that accesses water for any number of uses that consists of walkway, pierhead and floating dock.

*Planned development district* means a zoning district established under the provisions of section 12-73.

*Planning Commission* means the Planning Commission of the Town of Kiawah island as created by the Town Council and given the responsibilities set forth in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the "Act"). See the Act, sections 6-29-340 through 6-29-380; may also be referred to as "Commission," "Local Planning Commission" or "Planning and Zoning Commission."

*Planning Director* means the Director of the Charleston County Planning Department, or his authorized representative, who shall also serve as the zoning enforcement officer.

*Plants* means and includes seed, seedlings, nursery stocks, roots, tubers, bulbs, cuttings and other plant parts used in the propagation of field crops, vegetables, fruits, flowers or other plants.

*Plat* means a recorded graphic description of property prepared and approved in compliance with article III of this chapter, as amended.

*Plat, conditional*, means a plat proposed in accordance with the provisions of article III of this chapter, which provides detailed land development specifications and is submitted subsequent to an approved preliminary plat and construction plan.

*Plat, final*, means a plat proposed in accordance with the provisions of article III of this chapter, which is in the proper format for filing and recordation. Approval is granted upon completion or installation of all improvements, or the posting of a performance guarantee assuring completion or installation.

*Plat, final plat approval* means the official action of the Commission approving or conditionally approving a preliminary, conditional or final plat.

*Plat, preliminary*, means a plat prepared in accordance with the provisions of article III of this chapter, which is submitted for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

*Postal Service, United States*, means the postal services, including post offices, bulk mail processing, or sorting centers operated by the United States Postal Service.

*Preliminary approval* means the official action of the Zoning and Planning Commission conferring certain rights prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.

*Preschool* means a school, with an accredited training program and staffed with certified teachers, for children who are not old enough to attend kindergarten.

*Preserved* means to remain relatively unchanged. In relation to open space, the term "preserved" means land placed in a conservation easement with a permanent deed restriction that prohibits further development.

*Principal use* means the primary or predominant use to which a property is or may be devoted and to which all other uses on the premises are accessory.

*Private club* means a privately owned, by-invitation only association of two or more members who may have the use of land and facilities owned or leased by the club and made available to members, their guests and others, as the club owners may allow from time to time; membership may be for social, civic, recreational and/or other lawful purposes with such membership conditioned upon the receipt of dues, fees or other charges as are levied by the club owners.

*Private postal or mailing services* means a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal Service and private service), and provides mailboxes for lease.

*Professional office.*

- (1) The term "professional office" means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.
- (2) The term "professional office" does not include "medical office or clinic" or "parole or probation office."

~~*Protected tree* means any tree with a diameter breast height of 8 inches or greater. *Protected tree* means any tree with a diameter breast height of 24 inches or greater, excluding pine trees, and any tree with a diameter breast height of six inches or greater within required buffers or any other required landscape areas.~~

*Public or community health care center.*

- (1) The term "public or community health care center" means a publicly owned facility or not-for-profit organization providing health services for ambulatory patients. These centers can include related facilities, such as laboratories, clinics, and administrative offices typically operated in connection with such care centers.
- (2) The term "public or community health care center" does not include facilities to treat mental health or substance abuse.

*Public project* means any project by or for a public agency using real property, as owner or tenant that falls within the jurisdiction of the Town of Kiawah Island. These public agencies include:

- (1) Agencies and departments of the State of South Carolina;
- (2) Counties, county agencies and departments; and
- (3) Municipalities, municipal agencies, and departments.

*Public Works Director* means the Director of the Department of Public Works of the County of Charleston or an authorized representative.

*Publicly designated area* means an area set aside for public use, by any federal, state, or local government.

*Rack* means a storage slip for a boat in a dry stack storage facility.

*Radio and television broadcasting studio.*

- (1) The term "radio and television broadcasting studio" means an establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures.
- (2) The term "radio and television broadcasting studio" does not include a transmission tower.

*Recreation and entertainment, indoor.*

- (1) The term "indoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted within an enclosed building.
- (2) The term "indoor recreation and entertainment" excludes any sexually oriented businesses.

*Recreation and entertainment, outdoor.*

- (1) The term "outdoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted in open, partially enclosed, or screened facilities.
- (2) The term "outdoor recreation and entertainment" excludes any sexually oriented businesses.

*Recreation center* means a building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities.

*Recreation or vacation camp.*

- (1) The term "recreation or vacation camp" means an area or tract of land primarily used for recreational purposes that retains an open air or natural character. Accommodations for temporary occupancy, such as cabins and tents, may be located or placed in these areas.
- (2) The term "recreation or vacation camp" does not include areas for recreational vehicles or motorized campers.

*Recreational equipment* means equipment associated with indoor and/or outdoor participatory and spectator-oriented recreation and entertainment uses.

*Recreational vehicle.*

- (1) The term "recreational vehicle" means a highway vehicular, portable structure designed as a temporary dwelling for travel, recreational, and vacation uses. The term includes camping trailer, motor home, travel trailer, and truck campers.
- (2) The term "recreational vehicle" does not include manufactured housing units.

*Recreational vehicle park.*

- (1) The term "recreational vehicle park" means any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy as temporary living quarters for purposes of recreation or vacation.
- (2) The term "recreational vehicle park" does not include any premises on which unoccupied recreational vehicles, whether new or used, are parked for the purposes of inspection, sale, storage, or repair.

*Recycling center* means an establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil or other source material that is separated and of nondecayable materials.

*Recycling collection dropoff facility* means a facility used for the collection and transfer, but not the actual processing, of any of the following recyclable materials: glass, paper, plastic, cans, or other source separated, nondecayable materials. Recyclable materials at a recycling collection facility shall not include motor oil, chemicals, household appliances, tires, automobiles, automobile parts or decayable materials.

*Rehabilitation facility* means a facility operated for the primary purpose of assisting in the rehabilitation of disabled individuals through an integrated program of medical, psychological, social or vocational evaluation and services under competent professional supervision.

*Religious assembly* means a church, synagogue, temple, monastery, convent, retreat center or any permanent or temporary building providing regular, organized religious worship of any denomination and religious education incidental thereto, but excluding private primary or secondary educational facilities day care facilities. A property tax exemption obtained pursuant to State Law shall constitute prima facie evidence of religious assembly use.

*Relocated tree* means a protected tree that has been relocated in accordance with the requirements of this chapter.

*Remodel.*

- (1) The term "remodel" means the internal or external alteration or change, in whole or in part, of a structure or thing that changes its characteristic appearance or the fundamental purpose of its existing design or arrangement and the uses contemplated.
- (2) The term "remodel" does not include the terms "enlargement" and "extension."

*Repair service, commercial,* means an establishment engaged in the repair or servicing of industrial, business or consumer machinery, equipment, tools, scientific or professional instruments, or similar products or byproducts. Firms that service consumer goods do so mainly by providing centralized services for separate retail outlets.

*Repair service, consumer,* means an establishment primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding vehicle and commercial repair services.

*Required tree* means the term used to refer, either collectively or separately, to all trees required to be retained or replaced.

*Residential building or use* means a residential building is a building containing only residential uses and uses accessory thereto.

*Residential, short-term,* means any real property rented except dwelling units rented less than two weeks per annum.

*Residential treatment facility for children and adolescents* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) operated for the assessment, diagnosis, treatment, and care of two or more children and/or adolescents in need of mental health treatment. The services include a special education program, recreational facilities, and residential treatment. This definition excludes facilities that are appropriately licensed by the State Department of Social Services. (See SCDHEC Regulation No. 61-103, standards for licensing residential treatment facilities for children and adolescents.)

*Responsible entity* means either:

- (1) The unit of local government responsible under State Law for the maintenance of the roadway; or
- (2) In the case of private roadways (nonpublicly maintained), the owner of the property on which the roadway is located, or a homeowners association, if existing, previously created to maintain the roadway.

*Restaurant, fast-food,* means an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly, or heated in a device such as a microwave oven. A fast-food restaurant generally has one or more of the following characteristics:

- (1) It serves ready to eat foods, frozen deserts, or beverages in edible or paper, plastic or disposable containers;
- (2) It serves foods that customers carry to the restaurant's seating facilities, to motor vehicles, or off premises;
- (3) It serves foods through a pass-through window, (which includes any and all drive in restaurants); or
- (4) Alcoholic beverages shall not comprise more than 25 percent of gross receipts.

*Restaurant, general.*

- (1) The term "general restaurant" means an establishment engaged in the preparation and retail sale of food and beverages for on premises consumption, where the sales of alcoholic beverages does not comprise more than 25 percent of gross receipts.
- (2) The term "general restaurant" does not include fast-food restaurants.

*Retail sales and services, general.*

- (1) The term "general retail sales and services" means an establishment primarily engaged in the sale of new or used products to the general public.
- (2) The term "general retail sales and services" excludes those establishments more specifically defined in this chapter.

*Retirement housing* means the use of a site for one or more dwelling units designed for independent living and marketed specifically for the elderly, persons with physical disabilities or both.

*Review body* means the entity that is authorized to recommend approval or denial of an application or permit required under this chapter.

*Right-of-way* means land that has been, or is being, dedicated for the construction and maintenance of a street. Right-of-way may also be used to identify an area dedicated for use as part of a drainage system or utility corridor.

*Road code* means a recorded description of right-of-way specifications prepared and approved in compliance with article V of this chapter, the road code.

*Roadside stand* means a small open air structure for the retail sale of sweetgrass baskets or indigenous produce grown or produced on the farm where the roadside stand is located.

*Roadway* means the entire area between the outside limits of construction, including appertaining structures, all slopes, ramps intersections, drive, and side ditches, channels waterways, etc., necessary for proper drainage. This term shall in general be considered synonymous with "street" or "road."

*Rock road* means those in which the traveled roadway is constructed of compacted rock material creating a rock driving surface.

*Roominghouse* means a dwelling other than a hotel where for compensation and by pre-arrangement for definite periods, lodging is provided for three or more, but not exceeding 20, persons on a weekly or monthly basis.

*Rowhouse.* See *Townhouse*.

*Safety service* means facilities for the conduct of public safety and emergency services.

*School, primary,* means a public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of South Carolina.

*School, secondary,* means a public, private or parochial school offering instruction at the middle (junior) and senior high school levels in the branches of learning and study required to be taught in the public schools of South Carolina.

*Scrap and salvage service or junkyard* means an establishment primarily engaged in the storage, retail or wholesale sale, assembling, dismantling, sorting, distributing, or other processing of scrap, used equipment, mechanical components, or waste materials.



*Screening* means various combinations of walls, fences, earthen berms, trees, shrubbery, and landscape materials which comprise a screening plan approved by the Planning Director or designee to fulfill the requirements and serve the purposes of this chapter.

*Screening, semi-opaque*, means a combination of screening elements to partially obscure horizontal views between abutting or adjacent properties.

*Self-service storage or mini-warehousing*.

- (1) The term "self-service storage" or "mini-warehousing" means storage services primarily for personal effects and household goods within enclosed storage areas having individual access.
- (2) The term "self-service storage" or "mini-warehousing" excludes uses such as workshops, hobby shops, manufacturing or commercial activity.

*Servants' quarters* means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

*Service station, gasoline*, means a facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories.

*Setback* means a required minimum distance from a lot line or street right-of-way that establishes an area within which a structure shall not be erected.

*Setback, front*, means the setback measured from all street rights-of-way.

*Setback, interior*, means the setback measured from any interior lot line.

*Setback line* means a line measured from and parallel to a lot line.

*Setback, rear*, means the setback measured from the rear lot line.

*Setback, side*, means any setback other than a rear or front setback.

*Sewer* means any pipe or conduit used to collect and convey sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

*Sewer, lateral*, means pipes conducting sewage from individual buildings to larger pipes called truck or interceptor sewers that are generally located in street rights-or-way.

*Sewer main* means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

*Shopping center* means a group or cluster of stores or buildings, divided for separate commercial or service facilities, organized in a balanced arrangement for retail trade, with provisions for parking.

*Shrub* means a self-supporting perennial plant of low stature characterized by multiple stems and branches running continuous from the base.

*Sight triangle* means a triangular-shaped portion of land established at street intersections in which nothing is permitted which limits or obstructs the sight distance of motorists entering or leaving the intersection. The sides of the triangle measure 25 feet from the intersection of the projected edge of pavement lines.

*Sign* means any device or representation for visual communication that is used to announce, direct attention, or advertise, and which is located on or attached to the premises, real property, structures on real property, or a vehicle, and which is visible from a public street or way.

*Sign, abandoned,* means a sign advertising a person, business, service, event or other activity that is no longer available or a sign containing inaccurate or outdated information.

*Sign, animated,* means any sign so designed as to facilitate or permit the rotation, oscillation, or other movement of the sign or of any of its visible parts.

*Sign, area of,* means the entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The area of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letters or devices. Any area devoted to required house numbers shall not be included in the calculation of maximum sign area. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be constructed so that both faces are either parallel or have an interior angle of less than 90 degrees, and the two faces shall not be more than 12 inches apart.

*Sign, flashing.*

- (1) The term "flashing sign" means any lighted or electrical sign that emits light in sudden transitory bursts. For purposes of this chapter, strobe lights in window fronts visible from public rights-of-way are included in this definition.
- (2) The term "flashing sign" does not include on/off time and temperature signs and message boards, for the purpose of this chapter.

*Sign, freestanding,* means a sign supported by a sign structure secured in the ground and which is wholly independent of any building, other than the sign structure, for support. A sign on a fence shall be considered a freestanding sign.

*Sign, height of,* means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

*Sign, illuminated,* means a sign designed to give forth artificial light or to reflect artificial light from a source incorporated in or associated with such sign.

*Sign imitating traffic devices (signals)* means signs of such size, location, movement, content, coloring or of a manner of illumination that could be confused with or construed to be traffic control devices; or hide from view any traffic or street signal; or obstruct the view in any direction from a street intersection.

*Sign imitating traffic signs* means signs that imitate official traffic signs or signals or signs that contain the word "stop," "go," "danger," "slow," "caution," "warning," or similar word, in such a fashion as to imitate official traffic signs or signals.

*Sign in disrepair* means any sign that contains damaged or defective parts, or otherwise presents an unsightly appearance due to lack of maintenance.

*Sign in marshes* means a sign erected or displayed in a marsh area or on land subject to periodic inundation by tidal action.

*Sign, monument,* means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;
- (2) At least 90 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

*Sign, off-premises*, means any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being identified on such sign is itself located or conducted.

*Sign, on-premises*, means a sign which directs attention to a business or profession conducted, or to a principal commodity, service or entertainment sold or offered on the premises where such sign is located.

*Sign, pedestal*, means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;
- (2) At least 50 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

*Sign, portable*, means signs which usually rest on the ground on wheels or metal legs, and may be temporarily anchored by weights and/or cables attached to stakes driven into the ground.

*Sign, real estate*, means temporary sign advertising the real property upon which the sign is located for rent or lease or sale; advertising a business or businesses to be located on the premises; or advertising the architect, contractor, developer, finance organization, subcontractor or material vendor upon which property such individual is furnishing labor, services or material.

*Sign, roof*, means any sign erected upon, against, or directly above a roof or roof eave, or on or above any architectural appendage above the roof or roof eave.

*Sign, snipe*, means a nonpermitted sign pasted or attached to utility poles, trees, fences, or other locations.

*Sign, temporary*, means signs that are not permanently attached to a building, other structures or the ground and do not meet structural standards recognized and enforced by the Building Inspections Services Department.

*Sign, vehicle*, means a permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed to attract the attention of the motoring public or pedestrian traffic.

*Sign, wall/facade*, means a sign painted on or attached to the outside of a building, and erected parallel to the face of a building and supported throughout its length by such building.

*Single-family, detached dwelling* means a building containing one dwelling unit that is not attached to any other dwelling unit and is surrounded by yards or open space.

*Social or civic organization*.

- (1) The term "social or civic organization" means an establishment providing meeting, recreational, or social facilities for a nonprofit association, primarily for use by members and guests of youth organizations, fraternal organizations, and other similar groups.
- (2) The term "social or civic organization" does not include any type of use that is a residential facility, such as fraternity or sorority houses.

*Social club or lodge* means a building, structure, or grounds, or portion thereof, which is owned by or leased to private organizations, social clubs, or nonprofit associations for meeting, recreational, or social purposes. The use of such premises is restricted to the members of these organizations and their guests.

*Special exception use* means a use which may be permitted by the BZA pursuant to section 12-161.

*Special trade contractor* means an establishment that specializes in a specific aspect of construction, such as carpentry, electrical, painting, plumbing, roofing or tile.

*Specimen tree* means any Grand Tree or any Live Oak Tree with a diameter breast height of sixteen (16) inches or greater in size.

*Stable* means a building or land where horses are kept for private or commercial use including boarding, sale, rental, breeding or raising of horses.

*Standard cubic foot (scf)* means a cubic foot of gas at standard temperature and pressure, which are 68 degrees Fahrenheit and 29.92 inches of mercury.

*Stealth tower* means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into the existing surroundings so as not to have the appearance of a communication tower and is designed to hide, obscure or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.

*Story* means that part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor of the building.

*Story, first*, means the first habitat interior floor of a structure above the required flood elevation.

*Story, one-half*, means a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.

*Street* means a vehicular way which may also serve in part as a way for pedestrian traffic, whether called a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, alley, mall or other designated.

*Street, arterial*, means a street used primarily or designed for through traffic, usually on a continuous route.

*Street, collector*, means a street used or designed to carry traffic from minor streets to arterial or major streets.

*Street, cul-de-sac*, means a street with only one means of ingress and egress and having a turnaround at the end.

*Street line* means a lot line separating a street from a lot or parcel.

*Street, local*, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sacs and loop streets are examples of types of local streets. See also *Street, minor*.

*Street, loop*, means a local street that has its only ingress and egress at two points on the same (collector) street.

*Street, minor*, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sac streets, and loop streets are examples of types of minor streets.

*Street, stub*, means a street that intersects with a local street and extends, usually one lot deep, to the property line of the development or rear of the block being developed.

*Structural alterations* means any change in the supporting member of a building such as a bearing wall, column, beams or girders.

*Structure* means anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having a more or less permanent location on the ground.

*Subdivider* means any person, firm, corporation, partnership or association acting individually or as a unit who causes land to be divided for the use of himself or others.

*Subdivision* means the division of a lot, block, tract, or parcel into two or more lots, blocks, tracts or parcels or any division of land involving the dedication of a new street or other public right-of-way or a change in existing streets, alleys, easements, water, sewer or other public improvements. The term "subdivision" also includes the resubdivision of a previously subdivided lot, block, tract or parcel. Subdivision regulations ("land development regulations") are defined pursuant to S.C. Code 1976, § 6-29-1110(2).

*Subdivision improvement agreement* means an agreement which may be required and accepted by the town or another designated governmental agency to ensure that necessary improvements required as part of an application for development will be satisfactorily completed.

*Subdivision regulations* means a recorded description of development standards prepared and approved in compliance with article III of this chapter.

*Subgrade* means the top surface of a roadbed upon which the pavement structure and shoulders are constructed.

*Swale* means a depression in the ground that channels runoff.

*Swale, major*, means a drainage system with a drainage swale one foot in depth or greater.

*Swale, minor*, means a drainage system with a drainage swale not exceeding one foot in depth.

*Teardown* means the construction or remodeling of single-family homes to the maximum allowable size permitted by land use and zoning regulation in neighborhoods distinctly characterized by considerably smaller homes.

*Temporary* means existing or continuing for a limited period of time as determined by a decision-making body.

*Temporary building* means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

*Tobacconists* means tobacco retailers whose business exclusively or primarily involves the sale of tobacco products and related goods.

*Town* means the Town of Kiawah Island, South Carolina, a municipal corporation organized and existing under the Laws of the State of South Carolina.

*Town Council* means the Town Council of the Town of Kiawah Island, South Carolina; also referred to as the "Council."

*Townhouse* means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from another unit by one or more vertical common fire-resistant walls.

*Tract* means the entire land area of a proposed subdivision.

*Traffic mitigation measures* means improvements and/or transportation management strategies to restore or maintain acceptable levels of service for a roadway segment or segments, including, but not limited to turn lane

additions, acceleration/deceleration lanes, a new off-Island Reception Center/security checkpoint, other road widening alternatives, vanpools and other alternatives to decrease traffic volume or increase roadway capacity.

*Traffic mitigation plan* means a plan to restore or maintain acceptable levels of service for a roadway segment or segments.

*Tree* means any self supporting woody plant having a single trunk or trunks of two inches dbh or greater and usually having branches.

*Tree preservation plan* means a plan that shows all trees in the area to be developed or within the property. The plan shall include all significant and specimen trees to be preserved and measures taken to preserve them. The plan will also include calculations to determine the number of replacement trees as required by the tree removal and mitigation.

*Tree protection fencing* means a fence or wall at least four feet in height that ensures the protection of protected and Grand trees during development.

*Understory tree* means a tree, ten to 12 feet tall at the time of planting, which will grow to a minimum height of 20 feet at maturity.

*Use* means the purpose or activity for which land and buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

*Use, multiple*, means the development of land or buildings for a variety of complementary or integrated residential, nonresidential or community service uses.

*Use permitted by right* means a principal use permitted without the requirement of a special exception.

*Utility* means a provider of electricity, gas, water, sewage service, telephone, cable or other similar service for principal development, and the provider of the service is publicly regulated.

*Utility service, major*, means facilities and structures that are necessary for the generation, transmission, and/or distribution of utilities to support principal development, such as generation facilities, electrical and telephone switching facilities, electric substations, pumping stations, sewage collection or disposal facilities, water or sewage treatment plants, water storage tanks, sewage collector or trunk lines, water mains, and similar facilities.

*Utility service, minor*, means minor structures, such as lines and poles that are necessary to distribute utilities and provide service.

*Variance* means a relaxation by the Board of Zoning Appeals, of the dimensional regulations of the ordinance, where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship; and such variance is consistent with S.C. Code 1976, § 6-29-800.

*Vehicle repair, consumer*.

- (1) The term "consumer vehicle repair" means an establishment that primarily provides service to automobiles, light and medium trucks, motorcycles or recreational vehicles. These services include the maintenance, repair, or refinishing of motor vehicles, including both minor and major mechanical overhauling, paint and body work. Generally, the customer does not wait at the site while the service or repair is being performed.
- (2) The term "consumer vehicle repair" excludes any dismantling or scrap and salvage service.

*Vehicle service, limited*, means an establishment that provides direct services to motor vehicles where the driver or passengers generally wait in the vehicle or nearby while the service is performed.

*Vehicle storage*.

- (1) The term "vehicle storage" means an establishment offering long or short-term storage of operating vehicles or vehicles contracted for repair.
- (2) The term "vehicle storage" excludes any dismantling, scrap and salvage service, or junked vehicle yards.

*Veterinary service* means an establishment offering veterinary services and hospitals for animals.

*Vibration* means the periodic displacement or oscillation of the earth.

*Wall or fence* means a structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier.

*Waste-related use*.

- (1) The term "waste-related use" means uses that collect or receive solid or liquid waste for disposal, treatment, transfer to another location, or production of energy from the waste.
- (2) The term "waste-related use" does not include uses otherwise defined as utilities.

*Water and sewage treatment facility* means and includes facilities providing service, maintenance, or repair of essential public utilities to one or more developments including, but not limited to wells, pumping stations, boosters, reservoir, repeaters, water storage tanks, lift stations, regulators, and other similar facilities.

*Water body* means property determined to be under water no less than 11 months of the year and under such standing water for a continuous period of no less than nine months of the year.

*Water main* means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

*Waterfront property* means property within 500 feet of any river, tidal wetland or waterway, including saltwater marshes. Property abutting freshwater wetlands shall not be considered waterfront property.

*Wetlands, freshwater*, means those areas of land that are inundated or saturated by fresh water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions and delineated as freshwater wetlands by the U.S. Army Corps of Engineers.

*Wholesale sales* means an establishment engaged in the wholesale sale of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.

*Written interpretation* means any review or evaluation by the Planning Director, in written form, concerning this chapter, the comprehensive plan or any other relevant documents.

*Yard* means an open, unoccupied space other than a court, on the lot in which a building is situated, and which is unobstructed from the ground to the sky.

*Yard, front*, means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the front line of the principal building to the front property line of the lot.

*Yard, front depth* means the minimum horizontal distance from the front line of the principal building to the front line of the lot.

*Yard, rear,* means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the rear line of the principal building to the rear property line of the lot.

*Yard, rear depth* means the minimum horizontal distance from the rear line of the principal building to the rear line of the lot.

*Zoning district* means a specifically delineated geographic area or zone in the Town of Kiawah Island within which uniform development regulations and requirements govern the use, density and the placement, spacing, or size of buildings.

*Zoning permit* means a permit issued by the Planning Department that acknowledges that the intended land use, structure, building, or construction complies with the provisions of this chapter or authorized variance therefrom. A zoning permit shall be required prior to the activities described in section 12-165.

(b) All definitions not found in this section are defined as they appear in the latest edition of the Black's Law Dictionary.

(Code 1993, art. 12D; Ord. No. 94-12, § 2(12D-102), 9-26-1994; Ord. No. 2005-08, art. 12D, 10-12-2005; Ord. No. 2006-08, § 2.3, 11-7-2006; Ord. No. 2010-02, § 2.1, 3-2-2010; Ord. No. 2015-04, § 2, 4-14-2015; Ord. No. 2021-01, § 2, 3-2-2021)



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

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

- (3) The Tree Preservation Board may propose such legislation as may be needed and practicable to pursue the purpose for which the Board was established.
  - (4) The Tree Preservation Board may serve as an advisory board for the Town for matters pertaining to landscape standards and tree preservation.
- (f) *Filing of applications to the Tree Preservation Board.*
- (1) All applications and matters brought before the Tree Preservation Board shall be heard in the order of filing at the regular meeting of the Tree Preservation Board; provided, however, that the Tree Preservation Board shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Tree Preservation Board.
  - (2) In the event that such a special meeting is called, the Chairperson, at his discretion, shall give notice to interested parties that any or all pending matters before the Tree Preservation Board will be heard and considered at such special meeting.
  - (3) Published notice for appeals shall be provided in accordance the notice provisions of this article.
- (g) *Minutes of the Tree Preservation Board.* The decisions of the Tree Preservation Board shall be in writing and signed by the Chairperson or designee. The minutes of the Tree Preservation Board shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the Tree Preservation Board shall be filed in the offices of the Tree Preservation Board and the Planning Director. True copies thereof shall be sent by registered mail to each of the interested parties, and shall show the date of the filing and of the decision. These decisions shall be a public record.
- (h) *Appeals from Tree Preservation Board decisions.* Any person who may have a substantial interest in any decision of the Tree Preservation Board or any officer, board, or bureau of the Town may appeal from any decision of the Tree Preservation Board to the Circuit Court in and for the County by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Tree Preservation Board is rendered.



# **Supplementary Packet**

January 9, 2024

## **Proposed Tree Preservation Ordinance**

Written Public Comments

**John Taylor**

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**From:** Frank Larence <larencef@att.net>  
**Sent:** Friday, December 15, 2023 10:08 AM  
**To:** TOKI Planning  
**Subject:** Tree ordinance

Hopefully the standards include maintenance of the trees along KiawahIsland parkway,Governors drive and Ocean course drive. The vines are overtaking many of our trees. Let's take better care of what we already have .  
Sent from my iPad

## John Taylor

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**From:** glen.gardnerla.com <glen@gardnerla.com>  
**Sent:** Monday, December 4, 2023 2:01 PM  
**To:** John Taylor  
**Subject:** RE: TOKI Proposed Tree Preservation Ordinance Update

Thank you so much John, I think this has really come a long way and I know you and other have worked very hard on it.

### Glen R. Gardner, Landscape Architect

Mail: Post Office Box 295  
Charleston, South Carolina 29402

-

Office: 6 ½ Judith Street  
Charleston, South Carolina 29403

o 843-722-5885  
c 843-834-8242  
e [glen@gardnerla.com](mailto:glen@gardnerla.com)  
[www.gardnerla.com](http://www.gardnerla.com)

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**From:** John Taylor <jtaylor@kiawahisland.org>  
**Sent:** Monday, December 4, 2023 1:10 PM  
**To:** TOKI Planning <tokiplanning@kiawahisland.org>  
**Subject:** TOKI Proposed Tree Preservation Ordinance Update

Greetings,

This is a reminder that the Town of Kiawah Island's Planning Commission will meet on Wednesday December 6<sup>th</sup> to review the proposed tree preservation ordinance. Revised materials have been uploaded [online](#). A public hearing has also been scheduled for January 9, 2024. We have highlighted a few key take aways from the ordinance below. The Planning Commission is a recommending body to Town Council. Town Council has the ultimate decision-making authority. Two readings of Council are required for adoption. If you have submitted written comments, those comments have been provided to members of the Planning Commission for their consideration. Please let me know if you have any questions.

### Upcoming Public Meetings

- **Planning Commission Meeting: December 6<sup>th</sup> at 2:00 PM**
  - o Kiawah Island Municipal Center – Council Chambers (4475 Betsy Kerrison Parkway)
- **Town Council Public Hearing and 1<sup>st</sup> Reading: January 9<sup>th</sup> 2024 at 1:00 PM**
  - o Kiawah Island Municipal Center – Council Chambers (4475 Betsy Kerrison Parkway)

*Meetings are streamed online for viewing only on the Town's [YouTube Channel](#).*

### Ordinance Takeaway Summary

- **Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island**
- **Applicable to all non-single-family residential projects/developments.**
  - This is with the intent that the Town will determine the appropriate time in the future where single-family residential developments would also need to comply.
- **Aims to be less restrictive than Kiawah Island ARB guidelines**
  - Provides some discretion for flexible design
- **Exempts normal tree maintenance / pruning**
- **Introduces Tree Preservation Board for additional layer of review and mechanism for relief from standards if needed**
- **Aims to avoid duplication of process**
- **Aims to not significantly impact permitting/construction timeline resulting in delay.**
- **Defines additional key terms related to trees**
- **Promotes Kiawah's Grow Native initiative**
- **Folded into current Site Plan Review Process**
  - Tree Survey, Tree Preservation Plan and or Landscape Plan would be submitted along with site package for development, or during submission.

If there are



**John Taylor**

Planning Manager

Direct: 843-768-9979

Jtaylor@kiawahisland.org

www.kiawahisland.org

4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455

Get Social

## John Taylor

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**From:** Josh Dunn <josh@joshdunnla.com>  
**Sent:** Saturday, December 2, 2023 11:38 AM  
**To:** John Taylor  
**Subject:** RE: TOKI - Tree Ordinance Draft Comments

Hi John,

It was good to see you earlier this week, and also to be there for the discussion. Looks like you and your colleagues have been working hard on this. Now that I've had a little time to review, I've listed a few miscellaneous thoughts and comments from my perspective, based on my experience working as a Landscape Architect on Kiawah projects and elsewhere. Several of my questions/comments were answered or addressed already, but I have included a few others in case you don't already have them on your list and may find them helpful.

- **Question came up in the meeting is a tree ordinance needed at all – hard to give a short answer to that, but my initial thought was that many places I work, the ordinances do exist but focus on larger trees such as 18" or 24" and greater, that are in good health and specimen type trees. A concern with covering all of the smaller trees and nuances is that it will create a lot of work for you and your team, as well as the design professionals, especially since ARB already reviews this. However, if the goal is to mirror ARB, then perhaps it makes sense. In my opinion it would be good to ensure that it is well integrated into the design review and permitting process in order to not add time and cost to the homeowners.**
- **As a design professional and from that perspective, I would say it is important that the ordinance be clear enough that we can understand as we start site analysis and conceptual design in the very beginning. Perhaps there is a step where you and your team review and provide feedback early so that the design teams know the parameters clearly. The concern I would have is that if the Town Tree Ordinance plan review happens late in the process, then it may cause the design team to have to take several steps back in an already lengthy process to get from survey to permitted (already approximately anywhere from 6 months to 12 months or sometimes more)**
- **On page 3 you may want to say .....*prepared by a South Carolina licensed Landscape Architect*.....typically if a state has licensure law as does SC we are required to be licensed in that state in order to practice there.**
- **In terms of depicting trees at full mature size, I'd recommend there be some flexibility to show proposed plant material (especially canopy trees) at perhaps half or two thirds mature size as that would be more typical of a proposed landscape plan that I would produce (albeit some may have other practices).....sometimes when showing canopy trees at true mature size the plans don't read very well, and with a live oak for instance it will take many decades for it reach that so showing smaller on plan more accurately depicts what the plan will look like when installed – in other words, graphically I usually try to find a balance between installed size and mature size and show that way.**
- **I'm not sure how the Tree Preservation Board will be set up, but it would be good in my opinion to have one or more design professionals on it – I think the perspective of an Architect, Landscape Architect, and Arborist would all be beneficial in different ways, so if you are able I would include all of those in some capacity.....as a side note that I mentioned in the meeting, for what it's worth the most efficient and effective ARB/DRB s that I have worked with and on have had multiple design professionals involved to help with interpretation of sites, designs, technical aspects etc.**

I hope this helps some. Please feel free to share this with the group, and also to reach out if any questions or items I can help with.

Thanks!

Josh

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**From:** John Taylor <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>  
**Sent:** Tuesday, November 21, 2023 4:36 PM  
**To:** Josh Dunn <[josh@joshdunnla.com](mailto:josh@joshdunnla.com)>  
**Subject:** RE: TOKI - Tree Ordinance Draft Comments

Hi Josh,

The most recent draft has been attached. This will be discussed at the upcoming workshop.

All the best,

John T.

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**From:** Josh Dunn <[josh@joshdunnla.com](mailto:josh@joshdunnla.com)>  
**Sent:** Tuesday, November 21, 2023 6:55 AM  
**To:** John Taylor <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>  
**Subject:** Re: TOKI - Tree Ordinance Draft Comments

Thanks John. I plan to attend the meeting on November 29 and share any comments I have. Will you please keep me in the loop if anything changes on the working draft between now and then?

Thanks!

Josh

Sent from my iPhone

On Nov 16, 2023, at 6:30 AM, John Taylor <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)> wrote:

Hi Josh,

Thank you please note the following upcoming public meetings regarding the proposed tree preservation ordinance. Another workshop has been scheduled .

**Planning Commission Workshop: November 29<sup>th</sup> at 9:00 AM**

- This workshop will allow for additional opportunity for public input from various stakeholders to include design professionals.
- A working draft has been uploaded [online](#) for your review.
- ***Public comments may be provided in person at this workshop or in advance in writing to [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)***
- After this workshop, a revised draft will be published for the scheduled December 6<sup>th</sup> Planning Commission meeting.



### **Planning Commission Meeting: December 6<sup>th</sup> at 2:00 PM**

- This December 6<sup>th</sup> meeting has a goal to present a revised draft for consideration of a recommendation to Town Council. This would also include recommendations regarding implications of the draft ordinance and next steps in terms of education and awareness, along with coordination.
- ***Public comments may be provided in person at this meeting or in advance in writing to [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org).***

Please note the previously scheduled December 5<sup>th</sup> public hearing will be rescheduled to a later date. After a recommendation is made by the Planning Commission, a public hearing with Town Council will be held. Town Council has the final decision-making authority on the presented draft ordinance. This requires a public hearing and two readings of Town Council.

John T.

Town of Kiawah Island

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**From:** Josh Dunn <[josh@joshdunnla.com](mailto:josh@joshdunnla.com)>

**Sent:** Wednesday, November 15, 2023 9:37:16 AM

**To:** John Taylor <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>

**Subject:** TOKI - Tree Ordinance Draft Comments

Hi John,

I hope you are doing well. I left you a voicemail as I understand that you all are working on a tree ordinance and would like to have comments from design professionals.

I've started a list of basic questions/comments, but have only had a few days to work it into the schedule since hearing about it, so would need to refine it a little before I could share.

It sounds like you all might be having a meeting today and just wanted to let you know that if you think it will be helpful, I am happy to chat or share comments but it would be around the end of this week at least before I could have it to a point that I can share.

Please feel free to keep me in the loop if there is still time for me to provide comments or feedback.

Best Regards,  
Josh Dunn  
Landscape Architect  
843.822.1772

# ANDERSON STUDIO

OF ARCHITECTURE AND DESIGN

Dec 1, 2023

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

Phone: (843) 768-9166  
Email: [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)

Re: Town of Kiawah Island Tree Ordinance

Dear Members of the Planning Commission:

Thank you for your efforts toward crafting a pragmatic tree preservation zoning ordinance.

As an architect who has worked on Kiawah Island since 1998, I wish to offer the following observations, opinions, and recommendations as you continue drafting ordinances related to tree preservation.

At this time, I see no need for the Town of Kiawah Island to implement a zoning ordinance for tree preservation. As expressed during the two meetings of the Planning Commission that I have attended, the Kiawah Island Architectural Review Board has guidelines, processes, and expert personnel in place that have produced the exceptional environment existing on Kiawah. These processes for review and approvals are lengthy and costly but effective.

As I see it, the new ordinance will result in additional bureaucracy. The proposed process will add time to execute our work and ultimately result in our clients relying on two separate entities to be in agreement on the same issues but potentially with two different sets of requirements. An additional bureaucracy will not duplicate the KIARB process because the measurables, decision-making process, and personnel will differ from the KIARB. Property owners and the professionals they employ will conceivably have to answer to two authorities, creating unnecessary hardship.

I recommend and request that no ordinance be implemented until the KIARB ceases to operate. From the Planning Commission's comments, I understand that the Town Council has given the Planning Commission a mandate to provide language for an ordinance. If the Planning Commission delivers language for an ordinance, I recommend that the Town establish an implementation date effective after the dissolution of the KIARB. I recommend and request that if and when an ordinance becomes effective, the Town allows for a grace period of 14 months from the date of having executed a KIARB-required site analysis meeting for single-family residences (new, renovations, and tear-downs) that have already made contact with the KIARB and have started the process. Our projects typically take 12-18 months to design and 2+ years to build. We have projects currently in the design phases, where we are working through the KIARB with an expectation to be submitted for a permit 12 months or more from now. Our designs are being developed based on guidance and direction provided by the KIARB. The risk to our clients and all the design professionals they have employed is substantial. Changes in the "rules" while the design is in progress will cost much money and time. I ask that the Planning Commission recognize this risk and hardship.



If and when an ordinance is effective, I request and recommend that the language and spirit of the ordinance match that of the KIARB. The effectiveness of the KIARB process is a result of considerable time spent developing the language, decades of learning by the KIARB staff and Kiawah Development Partners team, the employment of passionate, committed, expert, experienced, and professional KIARB staff, a process that believes iterative review works, recognizes that individual properties are unique and require customized approaches and solutions to provide an excellent balance between nature and development. Experience and reason must not lose out to prescription.

During the last meeting, the Planning Commission expressed that they plan to finalize the tree preservation ordinance prior to developing language for the landscaping standards. The Planning Commission acknowledged that they are not tree experts and have learned much during this process. Developing ordinances that result in an ecosystem equal to or better than today's ecosystem will be arduous; striking a balance between tree preservation, landscaping standards, and building development is complex. I recommend that no ordinance be finalized until all related ordinances have deeply developed language. I believe that working through the issues of the related ordinances will inform language changes to the tree preservation ordinance and vice versa.

In my opinion, the Town has time to work through all these issues before the KIARB ceases to operate and would best serve its constituents by doing so.

Kindest regards,



Scott W. Anderson AIA, ASID  
*Director of Architecture and Design*  
Anderson Studio of Architecture and Design

## John Taylor

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**From:** glen.gardner@la.com <glen@gardnerla.com>  
**Sent:** Friday, December 1, 2023 6:18 PM  
**To:** John Taylor  
**Cc:** Jennifer Hayes; Parker Ranspach  
**Subject:** Tree Ordinance feedback

John, good afternoon. I'm grateful to have had the opportunity to observe and participate in the Wednesday Tree Ordinance forum.

It sounds like the committee is open to feedback and adjustment to get this right, and to not create a burden but to protect the beauty of the island. I wanted to recap and point out a few items I feel are key to keep in mind, seeing that landscape architects are one of the most affected groups involving ordinance details. I could go on but realize this needs to be brief. I'll make 6 points below:

1. Seeing that the majority of pressure for the ordinance is a result of activities on commercial and multi-family development, it seems very appropriate that Single Family private homes should be distinguished separately from commercial and multi-family. In the past the ARB's rules have done what appears to be a successful job in preserving and mitigating the trees on the island where they have the power to mandate high quality design and sensible mitigation when trees do need to be removed.  
I would highly suggest a multi-family/commercial ordinance to go into effect first to relieve fears of additional canopy loss on large development projects, and then over time the Town can learn from the positives and negatives of that ordinance to craft a single family ordinance to dovetail with the ARB process.
2. Concern from the design community over a new ordinance that is too formulaic and prevents or deters good design. Rather than checking boxes and adding red tape, the design community would rather be held to a high standard for success and allowed to get creative to receive their approvals and permits.  
-Concern that good designers will get frustrated by red tape and stop working on the island  
-points of many success of saved trees where the new ordinance wouldn't allow development (ie the 50% rule, needs to allow for previous applications and reward/encouragement for having arborists on board and taking extra steps to protect/save trees when development is close to trees). The way the county ordinance is written it genuinely punishes people for trying hard to use previous materials and work within their trees. I hope Kiawah can craft verbiage encouraging previous driveways/walkways when the need presents itself to travel beneath trees.
3. There needs to be information about when ordinances would take effect, and where projects on the design table currently would fall. Fear of wasted time and scenarios of being partly through the approval process and then applying a new set of rules. Ie.... Something to state that projects entering Conceptual review after X Date are now subject to a new ordinance. This has spread some concern and fear and could easily be clarified.
4. Encouragement to modify the Protected status to 12" and Survey requirement to 5 or 6".
5. There should be a clear differentiation between maintenance/pruning on existing homes as well as existing homes with a dead tree needing to be removed or replaced, versus major projects requiring a higher level of approvals. These really are two differing items that have led to some unfortunate dramatic confusion with a few homeowners in the past. Having one tree that dies or breaks on an existing/developed property should be an easy 'in house' scenario to review and should not warrant lots of attention.
6. Finally, as a landscape ordinance appears to be on the horizon, it would be very important to keep in mind that formulaic design is not good design, especially in a setting where most properties are unique in soil conditions, canopy,

topography and exposure. All should be considered their own unique landscape, absolutely held to the highest standard, but not held to a formulaic design checklist.

Thank you very much for hearing my input! I genuinely appreciate the opportunity to be a small part of the process.  
Glen

**Glen R. Gardner, Landscape Architect**

Mail: Post Office Box 295  
Charleston, South Carolina 29402

-

Office: 6 ½ Judith Street  
Charleston, South Carolina 29403

o 843-722-5885

c 843-834-8242

e [glen@gardnerla.com](mailto:glen@gardnerla.com)

[www.gardnerla.com](http://www.gardnerla.com)

## John Taylor

---

**From:** Jennifer Hayes <JHayes@Kiawah.com>  
**Sent:** Thursday, November 30, 2023 6:23 AM  
**To:** John Taylor  
**Subject:** Fwd: Town of Kiawah Tree ordinance discussion

They agreed that I could share with you and the committee . See below. Thanks

Jennifer V. Hayes

---

**From:** Daniel Milleman <dmillem@bellsouth.net>  
**Sent:** Wednesday, November 29, 2023 4:22 PM  
**To:** Jennifer Hayes <JHayes@Kiawah.com>; sammy milleman <sammymilleman@gmail.com>  
**Subject:** Town of Kiawah Tree ordinance discussion

Hello Jen,

First off, thanks for all your time, work, and input to help the town committee with this new ordinance. Per our short phone conversation, i'm listing a few of the items below that Sammy and I quickly discussed after this mornings workshop.

I view the tree ordinance/permitting process in 2 different categories, being single family home (residential home) and commercial (multi-family developments or commercial developments) and each of these I feel in most ARBs, City, Town, or County permitting I have dealt with have each of these a little different rules/regulations for single family home vs multi-family/commercial, generally the multi-family/commercial having a larger set of rules/regulations to follow. Within these the single family home, I generally an existing home (post occupancy) we are dealing with a single tree or a few trees with issues...example would be a pine tree or oak tree struck by lightning and dies, is a hazard, and needs to be removed, this is generally not overly extensive permitting process for most municipalities or ARB/ARC we deal with. Then single family home for new construction has a set of rules/guidelines to follow that is more extensive, then finally commercial development or multi-family properties have another set of rules/guidelines to follow generally more extensive than single family.

It seems after attending the past 2 workshops, that much of the tree ordinance is well intended, but more focused to regulate the commercial/multi-family type development. I think its hard to have the same standards across the board for a residential existing home (post occupancy), new construction residential single family home, and new development commercial/multi-family. In my dealings with County, City, other ARBs these are different categories have some different variations to meet the different needs of the type of property or proposed development. I think its difficult for all the same rules to apply and check all the boxes for each, existing homes are dealing with existing and growing landscapes and trees, where new development is looking to identify specimen or quality trees/landscape features to plan around, identify poor quality trees or trees with major liability defects so not to plan around a liability, then to replace and add trees/landscape where native/existing trees/plants need to be removed so they are very different animals to me.

One question I would have is...if the main objective is to set standards primarily for multi-family/commercial projects, should that be proposed and leave the single family existing home/single

family new construction as is with ARB and have a Tree Ordinance ready to instate at the time it is needed?

I understand the Town's reason for a tree ordinance, my concern, as many of our peers, is the potential redundancy of doubling up on the process, permitting, etc. which for existing single family home and new construction single family home are already an involved process. As well as the possible delays and costs it could incur the residents of Kiawah, our customers.

A few points on the revised Draft 11.21.2023 are as follows below...

In section (3) Tree Surveys, Tree Preservation Plans, and Landscape Plans

b. 5. (page 5) talking about Tree Preservation Plan considering grade quality of trees greater than 8" caliper DBH where grade A and B trees should be prioritized for preservation

We are asked to give tree assessments on many properties for planning purposes and many of the lots we are looking a tree, or a few specific trees on a lot that are near the proposed home, in the home, or need to be designed around, if we are asked to give grades for all or the majority of the trees on a lot 8" dbh or large this will be much longer process and more costly because of the number of trees this may be asking to assess. Also worth noting this b. 5. says both caliper and DBH, it is worth pointing out that caliper is the diameter of newly planted trees (what they use to measure in a nursery) and measured at 12" off ground level, DBH is the measurement of existing trees or mature trees and used by surveyors, arborists, foresters and this is the diameter of the tree measured at 4.5ft (or breast height) so the the measurement for surveying, and size of tree requesting to remove should be in DBH, the size of tree for mitigation or replanting should be in caliper (diameter 12" off trunk at ground, not 4.5ft dbh). Worth noting so there is uniformity with terminology.

b. 6. 7. 8. discussions about tree protection fencing, this is very important to have planned prior to construction and installed properly to "protect" critical root zones of the trees intended to stay/save. There are some minimum distances depending on tree sizes but its difficult to put into an exact measurement for every tree of different size (dbh) and different species have different sized root systems. My recommendation has always been to allow larger ft<sup>2</sup> areas where possible to save as many roots as possible while allowing some reasonable access for building the home or project allowed. In number 8 (page 5) where it says "The Planning department shall not require chain link fences to be used" I am a bit confused on the reason why? Not all tree protection fencing needs to be chain link, however there are instances where we recommend a substantial tree protection fence like chain link or 2x4 or 2x6 wood construction so it is more permanent, not easily moved by subcontractors or delivery trucks and roots impacted by easily moving or taking up a standard (T-post and orange mesh) fence. I think the t-post and orange mesh at 4ft height is a good minimum requirement (which is standard) but also allowing for recommendation of a more substantial tree protection fencing in critical specimen trees on sites where there are physical pinch points or bottle necking of construction equipment and materials can be a big difference in a trees survivability at the end of the project.

(7) 1. Tree Pruning (page 8) I think is overall in line with ANSI A300 pruning standards, which most tree care companies run by or with ISA Certified Arborists follow these pruning standards. However, there are many instances where tree branches 6" in diameter need to be removed for framing or building of a home and in general if a few branches 6" diameter or larger but within 25% or less canopy encroachment to the overall canopy it is within industry standards, this is generally something that is designed and taken into consideration with the site plan review with ARB and design team. If we are close to or slightly over 25% canopy encroachment this is where fertilization treatments and

practices come it to help minimize stress to the tree. In normal pruning practices of an existing home (post occupancy) this does not come up very often unless tree growth has caused limbs to grow too close to a house or roof to keep property clearances away, when there are not clearance/building issues generally 6" or larger limbs are not looking to be removed, but in clearance situations with the home this can be necessary. This would be a good example of difference between existing single family home (post occupancy) not happening very often, and single family new construction this is something we have to look at on most new construction lots.

#### (7). 2. Tree Root Zone Protection:

This is a little confusing to me with talking about grading 50% of or greater of the circumference of the tree? I think the paving or grading within 5ft statement is not a bad idea, in my opinion different sized trees and different species trees have different parameters to work with, for example I am fine with a paving within 2ft of a palm tree, it has a fibrous root system and it will not adversely effect the health of a palm or be a future issue with breaking a driveway. Much different case if it were a 60" live oak tree with a concrete driveway within 5ft of the center of the tree, the driveway would be into the root plate of the 60" Live oak and very detrimental or damaging to the roots of the tree, so having one specific measurement is touch depending on tree species and size. Also when looking at tree root encroachment, there are many ways to calculate this that could be a whole other discussion, but in general the canopy dripline of the tree would be considered the outside of the critical root zone, or some other measurements like 1x the dbh, that other municipalities use. In general you measure the square footage inside the circle, and like to encroach 25% or less when possible is best case and within industry standards. In cases where trees are in good health, minimal other issues with drainage, grading, etc... and there is more than 25% encroachment, treatments like fertilizing, preventative beetle treatments, and de-compaction or aeration treatment may help from a arborist side, and design features like spot piers, bridged footers, cantilevering, etc.. can help with minimizing impact to the trees to save.

#### (8) Tree Mitigation and Replacement:

This is more of a landscape architect discussion, however, I do want to echo some of the comments on plant material diversity and habitat. There are situations where trees need to be removed and there are not necessarily room for a lot of canopy trees to be replanted on a lot with an already dense canopy coverage. We can see the maintenance side of this down the road when pruning trees in an existing home situation where some of the trees planted to meet requirements do not get enough sunlight, not enough airflow, and are getting out competed by existing mature trees and causing juvenile or planted trees to lose their shape, grow in odd directions, have insect or fungus issues because of bigger existing trees shading them out. These circumstances are good opportunity to focus mitigation and replacement in areas of need in understory or mid story plantings that will do well in the given location depending on sunlight/shade and get the diversity and habitat that is what makes Kiawah such a beautiful, diverse, unique place. This is again an area I would recommend some discretion to the planning director or designee with proper background to be able to make staff level decisions that parallel or coincide with what the ARB is currently doing and have done in past to keep vegetation with a healthy tree canopy coverage while still maintaining mid level and lower level coverage giving this bio-diversity and habitat.

My last comment will be on the potential Planning Director or designee who will be put in charge of the day to day portion of this tree ordinance. I would highly recommend if this Tree Ordinance is implemented and then next a set of landscape guidelines set, to have proper staffing with well qualified individuals to be able to keep with the standards, procedures, processes that are currently in place with the ARB and to hopefully parallel closely in both regulation and timeline. I think it may be



difficult to meet time lines with outside consultants not having this as their primary job. I would highly recommend someone with a landscape architecture background for the staff level decision making for this position. I would also be concerned as to the potential bias v. non-bias decisions or opinions of consulting with professionals that may have projects working on Kiawah. The way the ARB does it with full time professionals in their respective fields and the ARB Board that do not have a bias towards particular design teams, builders, or professionals and have the property owners and Island Community's best interest in the decision process is a formula that has worked well.

Any questions please let me know. Thank you.

Danny Milleman

I.S.A Certified Arborist # S.O. 5307A

Arbor Care

<https://link.edgepilot.com/s/7ea72d32/lwQBNbFj5EeDiZ0tSHiG8w?u=http://www.thearborcare.com/>

843-834-5999 cell

843-768-7229 office



# **Supplementary Packet**

**Planning Commission**

**November 29, 2023**

## **Proposed Tree Preservation Ordinance**

**Written Public Comments**



November 20<sup>th</sup>, 2023

## Comments to Town of Kiawah Island Planning Department- Tree Ordinance

### Exemptions?

On page 1 Regular maintenance pruning is exempt from this ordinance. We feel this is a major omission that could contradict the intent of the goals of tree preservation on Kiawah Island. The ordinance focuses almost solely on tree preservation during construction. In other facets of construction such as electrical and framing, there are very strict codes for new construction. Those codes are no less stringent for renovations and maintenance, no matter how small.

Additionally, on page 7 in the descriptions of “removal”, that paragraph cites several poor pruning practices and other “tree abuses” that are considered excessive and damaging. These pruning recommendations should be brought forward in an additional section on regular tree care and pruning to maintain the ongoing canopy cover and aesthetic appeal of Kiawah Island as stated in the goals of this ordinance.

### Some suggestions:

All Pruning shall be performed under the direction of a certified arborist.

All pruning shall adhere to ANSI A-300 Standards

### Page 2

#### Section (2)b 1

References to opinions of a certified arborist regarding removal of trees based on the opinion of a certified arborist.

#### Suggested addition:

Add removal of potentially hazardous trees based on the opinion of a Certified and Tree Risk Assessment Qualified (TRAQ) Arborist. Assessing tree risk goes beyond basic certification and require additional training and qualifications.

Reference from International Society of Arboriculture

Page 3

Section (3) a,1

References to professional licenses and seals of landscape and surveying professionals.

South Carolina does not license Arborists.

Page 6

Section (4) a

References to conditions of "Specimen" trees

Suggest adding a requirement for a minimum level 1 Tree Risk Assessment by a TRAQ qualified Arborist, not a certified arborist.

Page 7

Section (7) a

This section is titled Tree Removal. Paragraph a list several tree "abuses" and not defining why a tree would need to be removed.

I applaud listing these abuses, but as stated above, we feel these abuses should be determined poor practices for regular tree pruning for maintenance and added to this ordinance.

Additional suggestion

Soil and Water conservation is a paramount goal in a sensitive eco system.

Suggestion all fertilizer applications be based upon a soil test based on sampling submitted to Clemson University, other neighboring land grant university labs or a qualified commercial testing facility. The goal being not to make applications of unneeded elements such as phosphorus to the soil which can be detrimental to bodies of water.

Please contact me should you need additional information.

Respectfully,

A handwritten signature in black ink, appearing to be "Joshua B. [unclear]", written in a cursive style.

Joshua Brent

ISA Certified Arborist #SO-10792A

Certified Tree Care Safety Professional #04151

## John Taylor

---

**From:** Chad McDonald <Chad@McDonaldArchitects.com>  
**Sent:** Monday, November 27, 2023 12:34 PM  
**To:** John Taylor; Jennifer Hayes  
**Subject:** Town Tree Ordinance Comments

JOHN AND JENNIFER,

GOOD MORNING AND I HOPE YOU AND YOUR FAMILIES HAD A GREAT THANKSGIVING HOLIDAY! BELOW ARE MY THOUGHTS ON THE LATEST TREE ORDINANCE DRAFT. UNFORTUNATELY, MY WIFE TESTED POSITIVE FOR COVID THURSDAY, AND WHILE I HAVE NOT YET TESTED POSITIVE, I DON'T THINK I CAN ATTEND THE MEETING WEDNESDAY. JUST DON'T THINK THAT IT WOULD BE THE RIGHT THING TO DO.

HERE ARE MY THOUGHTS:

IN GENERAL, MY TAKEAWAY FROM THE LAST MEETING WAS VERY POSITIVE IF THE INTENDED DIRECTION FOR THE ORDINANCE IS TO SYNC UP WITH THE KIAWAH ARB'S CURRENT STANDARDS AND PRACTICES. I WOULD ENCOURAGE LANGUAGE THAT ALLOWS STAFF APPROVAL ON SETBACK RELIEF OF UP TO 20% TO BETTER PROTECT/WORK WITH DESIRABLE TREES. THE TOWN PLANNING DIRECTOR WOULD ALSO NEED TO SIGN OFF ON THIS OBVIOUSLY. I ALSO THINK THAT THE TIMING OF THE APPROVAL IS VERY IMPORTANT. AT PERMITTING IS OBVIOUSLY TOO LATE IN THE PROCESS. I THINK THAT TREE REMOVAL APPROVAL WOULD BE MOST BENEFICIAL AT THE ROUGH STAKEOUT OF THE PROPERTY. IT MAY BE BEST IF THE "WHEN" IS NOT MENTIONED IN THE TREE ORDINANCE UNLESS IT IS WRITTEN SO THAT THE TIMING IS LEFT UP TO THE PLANNING DIRECTOR. I HAVE A FEELING THAT THIS WILL REQUIRE SOME TRAIL AND ERROR TO COORDINATE WITH THE ARB. MY CONCERN IS THAT WHILE I DO FEEL THAT THE ROUGH STAKEOUT IS THE BEST TIME TO HAVE THE TREE REMOVAL APPROVED, IT MAY ACTUALLY NEED TO HAPPEN AT THE CONCEPTUAL STAGE. TO THIS END, THE LANDSCAPE ARCHITECT MAY NEED TO SUBMIT THE GRADING AND TREE PROTECTION AT THE CONCEPTUAL ARB SUBMITTAL. AND THEN THE CONCEPTUAL LANDSCAPE DESIGN AT THE PRELIMINARY ARB SUBMITTAL. AN INTERIM LANDSCAPE SUBMITTAL COULD BE REQUESTED AT FINAL ARB SUBMITTAL IF THE ARB COMMENTS RELATIVE TO THE VERTICAL ARCHITECTURE AFFECT THE CONCEPTUAL LANDSCAPE DESIGN ON A CASE BY CASE BASIS.

MORE SPECIFIC THOUGHTS.

### TREE SURVEYS —

UNDER (3)A.3.III,

THE SMALL SIZE OF THE TREES BEING ASKED TO BE LOCATED AS A PART OF THE TREE AND TOPOGRAPHIC SURVEY WILL BE ONEROUS IN MY OPINION. HAVING ACTUALLY WORKED ON A SURVEY CREW A COUPLE OF SUMMERS, REQUIRING THESE SIZES WILL TAKE 2-3 TIMES AS LONG. THE RESULT ON A HALF-ACRE PROPERTY COULD GO FROM JUST BELOW \$2,000 TO \$4,000 TO \$6,000 — POSSIBLY MORE. THE ONE THING I AM SURE OF IS THAT IT WILL BE A MULTIPLE OF TIMES MORE EXPENSIVE. ADDITIONALLY, I DON'T THINK THE CREWS WILL BE ABLE TO IDENTIFY TREES THAT ARE 3" IN DIAMETER BY THEIR SPECIES. IT IS HARD ENOUGH WHEN THEY ARE LARGER AND YOU CAN SEE THE ADULT LIKE BARK, GROWTH HABIT/STRUCTURE. IN THE VARIOUS SEASONS. I DO NOT THINK THAT THE TYPICAL CREW WILL HAVE THE EXPERTISE. IT IS REALLY ASKING A LOT. I WOULD RECOMMEND 3" BEING 6" AND 6" BEING 8". THAT SHOULD OFFER THE BEST CHANCE OF A RELIABLE SURVEY.

UNDER (3)B.5.,

"5. The Tree Preservation Plan shall consider the grade quality of trees greater than 8" caliper DBH where all Grade A and Grade B trees should be prioritized for preservation."

MY BIGGEST CONCERN HERE IS THAT IF ALL OF THE TREES 8" AND SMALLER GROW UP TO MATURITY, THE RESULTING DENSITY WILL BE TOO GREAT, AND THE TREES WILL ACTUALLY BE

UNHEALTHY/SPINDLY. CAN THE THRESHOLD BE 10" OR 12"? I RECOGNIZE THAT A GROVE OF HEALTHY TREES IS STRONGER THAN A SINGLE HEALTHY TREE IN A STORM. BUT IF ALL OF THE TREES ARE WEAK BECAUSE OF TOO MUCH DENSITY, THIS MAY RESULT IN WORSE FUTURE PROBLEMS. OVER TIME, AFTER THE INITIAL DEVELOPMENT, ESPECIALLY IF CERTAIN AREAS ARE CREATED IN THE LANDSCAPE AS HABITAT AREAS, THEN YOUNGER TREES WILL GROW THROUGH NATURAL PROPAGATION WITH CAREFUL MANAGEMENT. ALSO, CAN "SHOULD" BE CHANGED TO "SHALL".

UNDER (4) C. 1.

"1. Any tree with a diameter breast height of eight (8) inches or greater."

Should 8" read 10" or 12"?

Under (7)a.1.ii. -

"ii. Pruning or thinning such as the removal of branches six inches or greater in diameter shall also be considered excessive."

CAN THIS READ:

// PRUNING OR THINNING SUCH AS THE REMOVAL OF BRANCHES SIX INCHES OR GREATER IN DIAMETER SHALL ALSO BE CONSIDERED EXCESSIVE UNLESS APPROVED BY AN ARBORIST THAT SUCH REMOVAL WILL NOT BE HARMFUL TO THE RESPECTIVE TREE."

MY THOUGHT HERE IS THAT VERY FEW OF OUR TREES GROW VERTICALLY. IN FACT, LARGE BRANCHES FROM TREES OUTSIDE THE BUILDABLE AREA OFTEN GROW INWARD TOWARDS THE BUILDABLE AREA AND CAN OFTEN MAKE DEVELOPMENT OF A PROPERTY VERY DIFFICULT.

THIS ALSO BRINGS UP TREES THAT ARE OUTSIDE OF THE BUILDABLE AREA AND THAT ACTUALLY LEAN TOWARDS THE CENTER OF THE BUILDABLE AREA. UNDER THE CURRENT GUIDELINES, THESE TREES ARE PROTECTED. CAN SOMETHING BE INSERTED INTO THE LANGUAGE THAT ALLOWS THESE LEANING TREES TO BE REMOVED IF 60%-70% AND ABOVE OF THE TREE'S STRUCTURE IS WITHIN THE BUILDABLE AREA. SUCH A TREE CAN RENDER A PROPERTY VIRTUALLY UNBUILDABLE. TYPICALLY, I LIKE TRYING TO WORK WITH THESE TREES, BUT IT CAN BECOME VIRTUALLY IMPOSSIBLE TO DESIGN A HOME THAT DOES NOT CREATE A PROBLEM WITH RE-SALE IN THE FUTURE.

TABLE 4J

PROTECTED TREES (8" OR GREATER) CAN THIS BE 10" OR 12"? 8" OUTSIDE THE BUILDABLE AREA FEELS TOO SMALL TO BE A PROTECTED TREE. AN 8" MAGNOLIA COULD BE A MATURE TREE, BUT I DON'T THINK THAT AN 8" LIVE OAK WOULD BE CONSIDERED A PROTECTED TREE. AS AN EXAMPLE, AN INITIAL LANDSCAPE PLAN, IF PLANTED FOR LIFETIME MATURITY, COULD FEEL SPARE AT THE INITIAL PLANTING IF COMPARED TO A LUSH SEEMING LANDSCAPE PLANTING. THEN THE "LUSH" LANDSCAPE PLANTING MY NEED TO BE THINNED IN A FEW YEARS. EVEN TREE FARMS PLANT PINE TREES AT DIFFERENT SPACINGS DEPENDING UPON THE USE OF THE TREE — PULP OR LUMBER. I AM CONCERNED THAT FULL PRESERVATION OF ALL 8" TO 12" TREES OUTSIDE THE BUILDABLE AREA IS TOO STRICT. 12" AND ABOVE WOULD MAKE MORE SENSE AND COULD RESULT IN MORE HEALTHY TREES AS THE TREES MATURE. AND WOULD PROBABLY LOOK BETTER. I HAVE ALWAYS FELT THAT A HEALTHY GROVE OF TREES IS MUCH MORE ATTRACTIVE THAN A SPINDLY GROVE OF TREES THAT ARE FIGHTING EACH OTHER. OR CAN WE SOFTEN THE LANGUAGE HERE AND PUSH FOR "THE PRESERVATION OF 12" GRADE B AND ABOVE BUT ALSO INCLUDING THE PROTECTION OF SPECIMEN 8" GRADE A TREES AND ABOVE OUTSIDE THE BUILDABLE AREA EXCEPT AS APPROVED BY THE PLANNING DIRECTOR OR DESIGNEE". OR SOMETHING LIKE THIS.

AS I HAVE MENTIONED IN THE PAST, I DO THINK THERE IS AN ACHIEVABLE BALANCE BETWEEN TREE AND HABITAT PRESERVATION AND PROPERTY DEVELOPMENT. MY HOPE IS THAT THIS BALANCE IS ACHIEVABLE WHERE THE PROCESS IS NOT SO DIFFICULT THAT CLIENTS QUIT THE PROCESS. THEY ALREADY FACE A NUMBER OF OTHER HEADWINDS.

RESPECTFULLY,  
CHAD McDONALD

**McDONALD**  
ARCHITECTS L L C

CHAD D McDONALD, AIA

22 WESTEDGE ST  
SUITE 400  
CHARLESTON, SC 29403

PH: 843-576-9257

[WWW.McDONALDARCHITECTS.COM](http://WWW.McDONALDARCHITECTS.COM)



## John Taylor

---

**From:** John Taylor  
**Sent:** Wednesday, November 22, 2023 10:25 AM  
**To:** Jennifer Hayes; John Eysen  
**Subject:** RE: EXTERNAL: Town of Kiawah Island Tree Ordinance

John,

I left a voice message to gain better understanding in your question. If you are available for a call, I can be reached at 843-768-9979

---

**From:** Jennifer Hayes <[JHayes@Kiawah.com](mailto:JHayes@Kiawah.com)>  
**Sent:** Wednesday, November 22, 2023 10:22 AM  
**To:** John Eysen <[jeysen@ravenelassociates.com](mailto:jeysen@ravenelassociates.com)>; John Taylor <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>  
**Subject:** Re: EXTERNAL: Town of Kiawah Island Tree Ordinance

Hi John - Is he asking about setting up a separate ARB for Summer Islands or Kiawah overall? Either way, it seems like this question is best answered by KP legal department but let me know if I'm misunderstanding.

Jennifer V. Hayes

---

**From:** John Eysen <[jeysen@ravenelassociates.com](mailto:jeysen@ravenelassociates.com)>  
**Sent:** Wednesday, November 22, 2023 10:17 AM  
**To:** [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org) <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>; Jennifer Hayes <[JHayes@Kiawah.com](mailto:JHayes@Kiawah.com)>  
**Subject:** Re: EXTERNAL: Town of Kiawah Island Tree Ordinance

Good Morning,

I hope all is well! I'd like to follow up from this message last week for the Board. The Board Member contacted me again to confirm the approval process. Please see that message below, and please let me know if you have any questions. Thanks so much; have a nice day and a happy Thanksgiving!

Summer Islands is one community, and one of the Board Members had a question about the email Jennifer Hayes sent out concerning the tree ordinance.

Their question is: "If we establish a separate ARB, will the partners and their contractors be required to get our ARB approval in addition to their ARB ?"

My understanding is he wants to confirm if their ARB will require approval in addition to Kiawah Island ARB. Any information is greatly appreciated. Have a great day!

Best Regards,



**John Eysen, CMCA**

Association Manager

960 Morrison Drive, Suite 100, Charleston, SC 29403

Office: 843.768.9480 ext. 3943 | Fax: 843.768.5047 | Direct: 843.266.8443

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**From:** John Eysen

**Sent:** Thursday, November 16, 2023 2:35 PM

**To:** [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org) <[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)>

**Subject:** EXTERNAL: Town of Kiawah Island Tree Ordinance

Good Afternoon,

I hope you're doing well!

My name is John Eysen, and I am an Association Manager with Ravenel Associates, who manages multiple communities on Kiawah Island.

Summer Islands is one community, and one of the Board Members had a question about the email Jennifer Hayes sent out concerning the tree ordinance.

Their question is: "If we establish a separate ARB, will the partners and their contractors be required to get our ARB approval in addition to their ARB?"

My understanding is he wants to confirm if their ARB will require approval in addition to Kiawah Island ARB. Any information is greatly appreciated. Have a great day!

Best Regards,



**John Eysen, CMCA**

Association Manager

960 Morrison Drive, Suite 100, Charleston, SC 29403

Office: 843.768.9480 ext. 3943 | Fax: 843.768.5047 | Direct: 843.266.8443

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**TAB 7**

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# **TOWN COUNCIL**

## **Agenda Item**

TOWN OF KIAWAH ISLAND

**ORDINANCE 2024-02**

**AN ORDINANCE TO AMEND THE FISCAL YEAR 2023-2024 BUDGET FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA (7/1/23 THROUGH 6/30/24)**

**WHEREAS**, the Town of Kiawah Island adopted Ordinance 2023-07 on June 6, 2023, in accordance with Section 5-7-260 of the South Carolina Code of Laws, 1976, as amended; and

**WHEREAS**, Ordinance 2023-07 established the 2023-2024 Fiscal Year Budget (FY 23-24 Budget) so as to guide and direct the Town's receipt and expenditure of revenues during this time period; and

**WHEREAS**, certain adjustments in expenditures now necessitate amendments to the FY 23-24 Budget; and

**WHEREAS**, South Carolina law requires that a duly noticed public hearing be held prior to the adoption of an amendment of a municipal budget; and

**WHEREAS** this duly noticed public hearing was held on the \_\_\_\_\_ of \_\_\_\_\_ 2024, providing the public an opportunity to comment on the proposed budget amendments.

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

**Section 1.     Purpose.**

This Ordinance is adopted to amend the Town of Kiawah Island's FY 23-24 Budget with respect to the General Fund as established in Ordinance 2023-07.

**Section 2.     Amendment of the Fiscal Year 2023-2024 Budget for the Town of Kiawah Island, South Carolina.**

By passage of this Ordinance, the Town of Kiawah Island amends its FY 14-15 Budget with respect to General Fund revenues and expenditures as established in Ordinance 2023-07 in the manner set forth in **"Exhibit A"** incorporated fully herein by reference, said amendments are subject to all terms and restrictions set forth in the Kiawah Island Municipal Code.

**Section 3.     Severability.**

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

not affect the applicability thereof to any other persons, property, or circumstances.

**Section 4. Effective Date and Duration.**

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

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

\_\_\_\_\_  
John D. Labriola, Mayor

\_\_\_\_\_  
Petra Reynolds, Town Clerk

First Reading:

Public Hearing:

Second Reading:

# FY2024 Budget-Mid Year Review - Discussion Items

## **Budgeted Revenues:**

- **Adopted: \$14,595,007**
- **Proposed Amended: \$15,579,189\***
- **Change: 6%, or \$984,182**

\*An increase in Building Permits revenue from one-time special projects and Interest Income

## **Budgeted Expenditures:**

- **Adopted: \$16,842,074**
- **Proposed Amended: \$16,909,561\*\***
- **Change: -0.4%, or -\$67,487**

\*\* The detailed approved and proposed changes are listed below.

## **Items approved after budget adoption:**

1. 2 new positions: wildlife outreach specialist and community services officer, and a salary increase for the town administrator.
2. An increase in the town's attorney retainer and hourly rate.
3. Engagement of additional consulting services for site reviews, Beachwalker survey, Kiawah River bridge public access feasibility study, and HR services.
4. Purchase of recycling educational stickers.

## **New Requests:**

1. One new position for the Communication Department - Video production specialist
  - Compensation \$52K (\$65K with taxes and benefits)
    - Responsibilities:
      - Coordinates, edits, produces, and provides video/audio support for the Town's podcast.
      - Responsible for livestreaming various Town meetings, which can involve some after-hours.
      - Produces and edits various videos for the Town's efforts and campaigns.
      - Interviews and shoots non-professional talent on camera and edits video for digital platforms
      - Develops video concepts, messages, scripts, and video production schedules and collaborates closely with internal clients and external stakeholders to facilitate the creation of multimedia visual content.
      - Suggests content ideas to assist staff in achieving desired outcomes from video projects.
      - Maintains the Town's YouTube Channel
      - Photographs internal and external Town events and maintains a photo archive.
      - Attends special events as needed and films footage for videos.
      - Creates, writes, and posts digital content consistent with the Town's branding and mission.
      - Assists with posting videos and photography to social media pages and the Town's website as needed.
      - Assists with graphic design projects as needed.
      - Provides flexible support to the Communications Department as required, assisting with various tasks and initiatives to ensure the team's overall success.
2. Planner with landscape architect/arborist credentials
  - Compensation \$60 to 74K (\$75K to \$93.5K with taxes and benefits)
    - Responsibilities:
      - Reviews landscape and related plans in conjunction with permits and planned developments for compliance with code and required conditions of approval.
      - Reviews Tree Surveys and Mitigation plans and calculates mitigation in conjunction with construction permits, mass grading, subdivision, and planned development submittals.
      - Conducts field inspections for permits in relation to landscape installation and all tree removal/clearing violation notices.
      - Answers tree removal and landscaping code questions for developers, contractors, and the general public.
      - Assists the Planning Manager and other staff in providing technical expertise.
      - Presents violations of tree removals, land clearing activities, and landscape code violations.
      - Process Tree Preservation Board applications.
      - Assists with zoning administration of applicable codes.
      - Assist with Planning Department environmental planning-related initiatives.

3. Third-party commercial building inspector
  - Compensation range - \$58.5K to \$65K
    - Responsibilities:
      - Performs daily field inspections on various commercial and residential projects.
      - Ability to communicate all technical aspects of the inspection process clearly and concisely to the public in a way that can be comprehended by both the professional and the layperson.
      - Ability to interpret the various building codes, town ordinances, and state statutes and apply them equitably.
      - Maintain inspection reports by performing daily entries into permitting software systems.
      - Will be a participating member of the town's damage assessment team.
4. Work with Evergreen to complete our 2024 classification, compensation, and benefits study - \$22K. Through a competitive bid, Evergreen was awarded the RFP in early 2021. They completed the last study in 2021.
5. Equipment and supplies for new hires - \$10K.
6. Reduction in public safety/deputies cost to adjust for the actual level of coverage -\$387K.
7. Construction of dumpster pad at the Town Hall - \$37K.



Fiscal 2024									
Revenue:	TOTAL BUDGET	Y-T-D ACTUALS	\$ VARIANCE	% OF BUDGET	APPROVED AFTER BUDGET ADOPTION	ADDITIONAL REQUESTS	ORIGINAL BUDGET TO		
							TOTAL AMENDED BUDGET	AMENDED VARIANCE	% VARIANCE
Building Permits	\$ 1,200,000	\$ 764,047	\$ (435,953)	64%	\$ -	\$ -	\$ 1,200,000	\$ -	0%
Building Permits-Special Projects	300,000	959,182	659,182	320%	-	659,182	959,182	659,182	69%
Business Licenses	3,100,000	292,504	(2,807,496)	9%	-	-	3,100,000	-	0%
STR Application Fees	400,000	29,700	(370,300)	7%	-	-	400,000	-	0%
Franchisee Fees	970,000	235,495	(734,505)	24%	-	-	970,000	-	0%
Local Option Tax	891,347	460,159	(431,188)	52%	-	-	891,347	-	0%
State ATAX	2,936,510	1,148,591	(1,787,919)	39%	-	-	2,936,510	-	0%
Local ATAX	1,477,158	798,259	(678,899)	54%	-	-	1,477,158	-	0%
County ATAX	450,000	-	(450,000)	0%	-	-	450,000	-	0%
Hospitality Tax	829,177	350,363	(478,814)	42%	-	-	829,177	-	0%
Environmental Services	640,000	615,584	(24,416)	96%	-	-	640,000	-	0%
Interest	1,176,281	930,182	(246,099)	79%	-	325,000	1,501,281	325,000	22%
Other	224,536	85,365	(139,171)	38%	-	-	224,536	-	0%
Total Revenue	14,595,007	6,669,431	(7,925,576)	46%	-	984,182	15,579,189	984,182	6%
Expenses:									
Salaries/Regular Employees	2,030,719	958,638	(1,072,081)	47%	73,000	48,750	2,152,469	(121,750)	-6%
Overtime	8,000	3,854	(4,146)	48%	-	-	8,000	-	0%
Benefits	714,590	307,051	(407,539)	43%	28,161	15,342	758,093	(43,503)	-6%
Payroll Tax	169,592	97,873	(71,719)	58%	10,292	3,729	183,613	(14,022)	-8%
Employee Subtotal	2,922,901	1,367,416	(1,555,485)	47%	111,453	67,821	3,102,176	(179,275)	-6%
Public Safety/Payroll and Related/ Off Duty Deputies	736,569	148,394	(588,175)	20%	-	(386,569)	350,000	386,569	110%
STR Code Enforcement	389,376	196,688	(192,688)	51%	-	-	389,376	-	0%
Beach Patrol	584,000	291,999	(292,001)	50%	-	-	584,000	-	0%
Utilities & Supplies	237,440	112,317	(125,123)	47%	-	10,000	247,440	(10,000)	-4%
Communications	77,460	45,657	(31,803)	59%	-	-	77,460	-	0%
Waste Management	1,278,000	686,316	(591,684)	54%	-	-	1,278,000	-	0%
Insurance	190,176	194,005	3,829	102%	-	-	190,176	-	0%
Professional Services	176,900	183,128	6,228	104%	75,000	-	251,900	(75,000)	-30%
Consultants	488,000	205,129	(282,871)	42%	81,720	49,083	618,803	(130,803)	-21%
Maintenance	556,000	266,425	(289,575)	48%	-	-	556,000	-	0%
Travel	74,300	15,399	(58,901)	21%	-	-	74,300	-	0%
Rentals	46,000	21,134	(24,866)	46%	-	-	46,000	-	0%
Tourism & Recreations	2,516,032	1,035,999	(1,480,033)	41%	-	-	2,516,032	-	0%
Contributions	200,000	-	(200,000)	0%	-	-	200,000	-	0%
Other	353,920	88,226	(265,694)	25%	21,608	-	375,528	(21,608)	-6%
Capital Outlay:									
Building	5,000,000	-	(5,000,000)	0%	-	-	5,000,000	-	0%
Infrastructure	250,000	-	(250,000)	0%	-	-	250,000	-	0%
Vehicles	115,000	-	(115,000)	0%	-	-	115,000	-	0%
Other	450,000	-	(450,000)	0%	-	37,370	487,370	(37,370)	-8%
MUSC Pledge	200,000	200,000	-	100%	-	-	200,000	-	0%
Total Expenses	16,842,074	5,058,232	(11,783,842)	30%	289,781	(222,294)	16,909,561	(67,487)	-0.4%
Net Changes in Fund Balance	\$ (2,247,067)	\$ 1,611,199	\$ 3,858,266		\$ (289,781)	\$ 1,206,476	\$ (1,330,371)	\$ (916,695)	69%



**TAB 8**

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# **TOWN COUNCIL**

## **Agenda Item**

TOWN OF KIAWAH ISLAND

**ORDINANCE 2024-02**

**AN ORDINANCE TO AMEND THE FISCAL YEAR 2023-2024 BUDGET FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA (7/1/23 THROUGH 6/30/24)**

**WHEREAS**, the Town of Kiawah Island adopted Ordinance 2023-07 on June 6, 2023, in accordance with Section 5-7-260 of the South Carolina Code of Laws, 1976, as amended; and

**WHEREAS**, Ordinance 2023-07 established the 2023-2024 Fiscal Year Budget (FY 23-24 Budget) so as to guide and direct the Town's receipt and expenditure of revenues during this time period; and

**WHEREAS**, certain adjustments in expenditures now necessitate amendments to the FY 23-24 Budget; and

**WHEREAS**, South Carolina law requires that a duly noticed public hearing be held prior to the adoption of an amendment of a municipal budget; and

**WHEREAS** this duly noticed public hearing was held on the \_\_\_\_\_ of \_\_\_\_\_ 2024, providing the public an opportunity to comment on the proposed budget amendments.

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

**Section 1.     Purpose.**

This Ordinance is adopted to amend the Town of Kiawah Island's FY 23-24 Budget with respect to the General Fund as established in Ordinance 2023-07.

**Section 2.     Amendment of the Fiscal Year 2023-2024 Budget for the Town of Kiawah Island, South Carolina.**

By passage of this Ordinance, the Town of Kiawah Island amends its FY 23-24 Budget with respect to General Fund revenues and expenditures as established in Ordinance 2023-07 in the manner set forth in **"Exhibit A"** incorporated fully herein by reference, said amendments are subject to all terms and restrictions set forth in the Kiawah Island Municipal Code.

**Section 3.     Severability.**

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

not affect the applicability thereof to any other persons, property, or circumstances.

**Section 4.     Effective Date and Duration.**

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

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

\_\_\_\_\_  
John D. Labriola, Mayor

\_\_\_\_\_  
Petra Reynolds, Town Clerk

First Reading:

Public Hearing:

Second Reading:



**TAB 9**

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# **TOWN COUNCIL**

## **Agenda Item**

## **CHARLESTON COUNTY SHERIFF'S OFFICE**

**EMPLOYER:** Town of Kiawah Island

**TELEPHONE NUMBER:** 843-768-9166

**ADDRESS:** 4475 Betsy Kerrison Parkway, Kiawah Island, SC 29455

**PERSON CONTRACTING SERVICES:** Mayor John Labriola

**TYPE OF BUSINESS:** Local Government

**DUTIES TO BE PERFORMED:** Police Protection, Traffic Control, Emergency Response

**DAYS AND HOURS OF EMPLOYMENT:** 24 Hour Coverage, 7 Days per Week, Year-Round

**CONTRACT TERM:** January 1, 2024 to December 31, 2024

**PERMANENT OR TEMPORARY:** Temporary

**NO. OF DEPUTIES NEEDED:** 2 deputies – 1<sup>st</sup> shift  
2 deputies – 2<sup>nd</sup> shift  
2 deputies – 3<sup>rd</sup> shift  
2 Additional Deputies from 8:00 a.m. to 4:00 p.m. weekends  
Commencing the Friday before Memorial Day through Labor Day

**COORDINATOR FOR CCSO:** Lt Christopher Brokaw

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### **STIPULATIONS OF CONTRACT**

1. Deputies are contracted at an hourly rate of **\$40.00 per hour**. The contract requires the number of Deputies as stated above per shift for two shifts per day, at a rate of \$40.00 per hour. The normal workweek for Deputies shall be equivalent to forty-three (43) hours per week. Additionally, a fee of \$10.00 per deputy per shift for vehicle and equipment usage will need to be made payable to Charleston County.

1 <sup>st</sup> Shift	8:00 am to 4:00 pm
2 <sup>nd</sup> Shift	4:00 pm to 12:00 am
3 <sup>rd</sup> Shift	12:00 am to 8:00 am

### **HOLIDAY PAY:**

During the following holidays: **New Year's Day, Easter, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving, Black Friday, Christmas Eve, Christmas, and New Year's Eve**. Deputies will receive pay based on time and a half, **\$60.00 per hour**.

- **Labor Day, Memorial Day** - beginning with the 1<sup>st</sup> shift on Saturday and ending with the 2<sup>nd</sup> shift on Monday.
  - **4<sup>th</sup> of July** - beginning with the 1<sup>st</sup> shift prior to the holiday and ending with the 2<sup>nd</sup> shift of the day following the holiday.
2. The Coordinator for the Town of Kiawah Island's off-duty employment detail will be paid at a rate of \$35.00 per hour, not to exceed \$18,200 in total during the term of this agreement. The Coordinator will work directly with the Town's Public Safety Director. The Town will receive prior notification (within 30 days) if the Coordinator is to be changed.
  3. Work performed by the Coordinator is to coordinate, manage, and oversee the activity of deputies assigned to the Town of Kiawah Island. In addition, the Coordinator will provide the Town's Clerk a monthly activity report to include crime statistics, number of calls (total and per unit), average response time, number of arrests, number of tickets issued, and other statistics as may be agreed upon or requested. These reports are due on or before the 5<sup>th</sup> of every month so that they can be included in the Public Safety Committee monthly meetings.
  4. All employers contracting with the Charleston County Sheriff's Office *must* provide Workers' Compensation coverage. A copy of the secondary employer Workers' Compensation Policy *must* accompany the contract when requesting deputies for off-duty employment. If the employer does not have Workers' Compensation Insurance, the Sheriff's Office will provide the coverage for the secondary employer at the rate of \$7.00 per one hundred dollars of salary. This amount will be

calculated by and payable to the Sheriff's Office prior to the commencement of the secondary employment.

5. Deputies of the Charleston County Sheriff's Office engaged in off-duty employment of a police nature may be employed only within the legal boundaries of Charleston County, may not perform tasks other than those of a police nature, and may not enforce any rule or order of an employer governing customer behavior of the employer's premises where the customer's conduct does not constitute a violation of the law. Additionally, deputies will not be permitted to engage in any employment that would violate any county, state, or federal law.
6. All deputies of the Charleston County Sheriff's Office must always be available to respond to police emergencies. The Sheriff's Office is the primary employer of this Department's sworn deputies, and the Department's requirements will take precedence over any secondary or private employment of an off-duty deputy. In an emergency, deputies will leave his/her private details at the direction of Charleston County Sheriff's Office Communications and respond whenever needed. However, deputies who are part of the Town's detail will not be working for any other entity during the times they are working for and billing the Town of Kiawah Island.
7. The Charleston County Sheriff's Office reserves the right to inspect payroll records of deputies employed by private contractors. The purpose of any such inspection will be to ascertain the hours a deputy is working to protect the best interest of the county and the deputy based on an evaluation of the total number of hours worked by the deputy. Failure to maintain proper payroll records will cause the contract to be canceled.
8. The Charleston County Sheriff's Office warrants that the deputies referred for part-time employment under this contract are in "good standing," as determined by the CCSO. The Town of Kiawah Island assumes no responsibility for any deputy misconduct outside his/her authorized scope of duties.
9. The Charleston County Sheriff has sole responsibility for their deputy; however, the Town will notify the Sheriff of any concerns we may have.

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I, the undersigned, understand all of the above requirements of the Charleston County Sheriff's Office as related to the employment of off-duty deputies by private employers and do hereby agree to abide by these regulations. I further understand that a minimum 24-hour notice of cancellation must be given to the Charleston County Sheriff's Office; otherwise, I will be responsible for the fees associated with a minimum four-hour contract.

**APPROVED:**

**TOWN OF KIAWAH ISLAND**

**CHARLESTON COUNTY SHERIFF'S OFFICE**

**John Labriola, Mayor**

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
AUTHORIZED SIGNATURE/EMPLOYER

\_\_\_\_\_  
OPERATIONS CHIEF/DESIGNEE

\_\_\_\_\_  
DATED

\_\_\_\_\_  
DATED



**TAB 10**

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# **TOWN COUNCIL**

## **Agenda Item**



**2024**  
**ARTS & CULTURAL EVENTS COUNCIL**

*Committee members are appointed by the Town Council and serve one-year terms.  
All terms expire on January 31.*

**Ruthie Foster**

**Coordinator & Chairman**

843-768-9976  
864-906-2060 cell  
[rfoster@kiawahisland.org](mailto:rfoster@kiawahisland.org)

**David Wohl, Vice Chairman**

157 Governors Drive  
Kiawah Island, SC 29455  
304-552-9060 cell  
[Dwohl23@gmail.com](mailto:Dwohl23@gmail.com)

**Bill Blizard**

736 B Virginia Rail Road  
Kiawah Island, SC 29455  
843-768-3303  
843-906-7666 cell  
[billblizard@gmail.com](mailto:billblizard@gmail.com)

**Judy Chitwood**

4817 Green Dolphin Way  
Kiawah Island, SC 29455  
843-693-4565 cell  
[j\\_e\\_chitwood@yahoo.com](mailto:j_e_chitwood@yahoo.com)

**Becky Hilstad**

33 Marsh Edge Lane  
Kiawah Island, SC 29455  
843-469-3271 cell  
[bthilstad@aol.com](mailto:bthilstad@aol.com)

**Jodi Rush**

143 Flyway Drive  
Kiawah Island, SC 29455  
843-641-0096  
703-966-5351 cell  
[jrush25@comcast.net](mailto:jrush25@comcast.net)

**Joan Collar**

194 Sanderling Court  
Kiawah Island, SC 29455  
843-768-0474  
843-224-9455 cell  
[jcfromsc@aol.com](mailto:jcfromsc@aol.com)

**Kristin Thompson**

101 Shoolbred Court  
Kiawah Island, SC 29455  
443-254-8616 cell  
[kristin@rhetttsbluff.com](mailto:kristin@rhetttsbluff.com)

**Dylan Keith**

4752 Tennis Club Lane  
Kiawah Island, SC 29455  
843-885-4077 cell  
[dylan@dylan-k.com](mailto:dylan@dylan-k.com)

**Kimberly Adele**

4752 Tennis Club Lane  
Kiawah Island, SC 29455  
843-885-4072 cell  
[info@cirqueduo.com](mailto:info@cirqueduo.com)



**TAB 11**

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# **TOWN COUNCIL**

## **Agenda Item**

# 2024 AUDIT COMMITTEE

*Members are appointed by the Mayor and Town Council and serve for one-year terms.  
Terms expire on January 31.*

**Michael Heidingsfelder, Chairman**

2 Shell Creek Landing  
Kiawah Island, SC 29455  
(248) 996-0704  
[mheidingsfelder@kiawahisland.org](mailto:mheidingsfelder@kiawahisland.org)

**Mark W. Reynolds**

434 Snowy Egret Lane  
Kiawah Island, SC 29455  
(980) 867-0052  
[reynoldsmw@aol.com](mailto:reynoldsmw@aol.com)

**Andrew J. Capelli**

160 Governor's Drive  
Kiawah Island, SC 29455  
(843) 768-9113  
[acapelli35@hotmail.com](mailto:acapelli35@hotmail.com)

**James A Williams**

37 Burroughs Hall  
Kiawah Island, SC 29455  
(843) 243-0423  
[jamesalbertwilliams@msn.com](mailto:jamesalbertwilliams@msn.com)

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**Dorota Szubert, Town Treasurer**

4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455  
(843) 768-9166  
[dszubert@kiawahisland.org](mailto:dszubert@kiawahisland.org)

**Pamela A. Pollitt**

78 Dungannon Hall  
Kiawah Island, SC 29455  
(843) 768-8619  
[papollitt@yahoo.com](mailto:papollitt@yahoo.com)