



John Labriola
Mayor, Town of Kiawah Island
4475 Betsy Kerrison Parkway
Kiawah Island, SC

January 18, 2024

Re: Captain Sam's Spit - Amended and Restated Development Agreement between Town of Kiawah Island (Town) and KDP II, LLC (the "ARDA")

Dear Honorable Mayor John Labriola:

I am writing on behalf of the Board of Trustees of the Kiawah Island Natural Habitat Conservancy, Inc. (the "Kiawah Conservancy") to address the Kiawah Conservancy's position regarding the conveyance and conservation of property on Captain Sam's Spit. We have been monitoring the Town's and Kiawah Island Community Association's (KICA's) recent efforts to ensure that KDP II, LLC complies with its obligations under the ARDA to convey and conserve Captain Sam's Spit, and we thought it would be appropriate at this critical time to express our solidarity with and support for your efforts.

As you know, Section 16(f) of the ARDA identifies the Kiawah Conservancy as the potential holder of the conservation easement required to be placed on the undeveloped highlands. Because Section 16(f) does not obligate the Kiawah Conservancy to serve as the easement holder but instead gives us discretion as to whether to accept that role, we first want to make it clear that we are absolutely willing to be the holder of the easement. The Kiawah Conservancy views the conservation of Captain Sam's Spit as directly aligned with our mission of protecting the natural environment of Kiawah Island, and we believe that, based on our history and experience in conserving other sensitive lands of the island, we are uniquely positioned to undertake this role.

To that end, the Kiawah Conservancy, with the assistance of legal counsel, has independently analyzed the relevant provisions of the ARDA and the related correspondence from the Town, KICA, the property owner, and other third parties. This analysis has led us to the same conclusion that your organizations have reached, which is that KDP II, LLC is unequivocally obligated to convey and conserve the undeveloped highland on Captain Sam's Spit. While we understand why the property owner may be reluctant to comply with the clear language of Section 16(f) of the ARDA, we do not believe that the argument it has advanced justifies its refusal to do so. The Kiawah Conservancy certainly hopes for a non-litigious resolution, but we nevertheless stand ready to support the Town and KICA should litigation become necessary. Finally, we wanted to address the Town's potential rezoning of Captain Sam's Spit to limit future development. While we believe that this protective measure should be explored and likely

adopted, we want to state our belief that rezoning alone is insufficient for the permanent protection of Captain Sam's Spit. As you know, a zoning amendment can be enacted at any time, and there are no guarantees that future Town Councils will be as conservation-minded as the present Council. The only way to fully ensure that Captain Sam's Spit will be conserved in perpetuity is to enforce the property owner's obligation to inhibit development via restrictive covenant and conservation easement under Section 16(f).

In conclusion, the Kiawah Conservancy fully supports and appreciates both the Town's and KICA's efforts to conserve Captain Sam's Spit and enforce the ARDA. We look forward to collaborating in the future to achieve this important objective of helping preserve a unique natural asset for future generations.

Sincerely,



Roland Hoffman, Chairman
Kiawah Island Natural Habitat Conservancy, Inc.

cc: Jerry McGee, KICA Board of Directors Chair
Stephanie Tillerson, Town of Kiawah Island Administrator
Shannon White, KICA Chief Operating Officer
Ross Appel, JD
Tim Muller, JD
Laurel Florio, JD
Brandon Gaskins, JD