



PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

February 7, 2024; 2:00PM

AGENDA

- I. **Call to Order:**
- II. **Roll Call:**
- III. **Approval of Minutes:**
 - A. Planning Commission Meeting Minutes of October 19, 2019 [Tab 1]
 - B. Planning Commission Meeting Minutes of December 6, 2023
 - C. Planning Commission Meeting Minutes of January 10, 2024
- IV. **Public Comments**
(Agenda Items Only)
- V. **Old Business:**
 - A. **Rules of Procedure 2024** [Tab 2]
 - B. **KiawahNext Update** [Tab 3]
- VI. **New Business:**
 - A. **Executive Session**
 - 1) Executive Session pursuant to South Carolina Code Section 30-4-70(a)(2) to receive legal advice regarding filed rezoning complaints subsequent to the expiration of the 2013 Amended and Restated Development Agreement.
 - B. **Zoning Text Amendment Request** [Tab 4]
 - 1) **#AZO24-000001** | Request to amend Section 12-23. Planning Commission. and Section 12-24. Board of Zoning Appeals. to modify term of office of members.
 - C. **Comprehensive Plan Amendment Request** [Tab 5]
 - 1) **#ACP24-000001** | Request to Amend the Comprehensive Plan – Comprehensive Plan Map IX.2, Future Land Use to change the future land use designation for the subject property TMS# 207-05-00-00-0011 from Low Density Residential to Active Recreation and Open Space. (Captain Sam's Spit); and for the subject property TMS# 207-

05-00-00-001 from Medium Density Residential to Active Recreation and Open Space.

D. Zoning Map Amendment Request

[Tab 6]

- 1) **#REZ24-000001** | Request to amend Chapter 12- Land Use Planning and Zoning Ordinance Article II. – Zoning, Division 2. – Zoning Map/Districts, Section 12.62. Zoning Map to rezone the subject property TMS# 207-05-00-0011 from R-1, Residential to PR, Parks and Recreation; and to rezone the subject property TMS#207-05-00-001 from R-2, Residential to PR, Parks and Recreation.

VII. Correspondence/Staff Comments:

VIII. Public Comments:

IX. Commissioner Comments:

X. Adjournment:

FOIA: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island. Meeting materials available for public view online at: <https://www.kiawahisland.org/meetings-minutes/planning-commission/>

**SPECIAL CALLED
PLANNING COMMISSION MEETING
Kiawah Island Municipal Center
October 19, 2023; 10:30 AM**

Minutes

I. Call to Order: *Mr. Dowdy called the meeting to order at 12:16 pm.*

II. Roll Call:

Present:
Bill Dowdy
Andy Capelli
Ronald Curran
Luke Farrell
Joanne Hennessy
Larry Iwan
Madeleine Kaye

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

III. Approval of Minutes:

A. Planning Commission Meeting Minutes of September 6, 2023

B. Planning Commission Meeting Minutes of October 4, 2023

Approval of the minutes was deferred until the next regular Planning Commission meeting.

IV. Public Comments (Agenda Items Only)
None

V. Executive Session:

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

VI. Old Business:

A. Comprehensive Plan Amendment - Future Land Use Map

- 1) #ACP23-000003 | Request to Amend the Comprehensive Plan – Comprehensive Plan Map IX.2, Future Land Use; To change the Future Land Use designation for specific parcels within the 2013 Amended and Restated Development Agreement

B. Zoning Map Amendment

- 1) #REZ23-000003 | Request to Amend Chapter 12 - Land Use Planning And Zoning, Article II. - Zoning, Division 2. - Zoning Map/Districts, Section 12-62. – Zoning Map by rezoning specific parcels within the 2013 Amended and Restated Development Agreement

Mr. Taylor stated that December 4th is the expiration date of the 2013 Amended and Restated Development Agreement, and there have been a number of workshops, including one just prior to this meeting, to provide recommendations on the zoning of those impacted parcels after the expiration. The Planning Commission has already approved the recommended zoning for some of the parcels, and today's focus will be the remaining parcels, including parcels adjacent to Beachwalker Drive.

Mr. Taylor stated that he would provide a detailed review of each of the parcels, including the proposed Future Land Use and Zoning recommendations, followed by a motion for recommendation if it is desired.

Mr. Taylor stated that the Upper Beachwalker area includes Parcel 8, Parcel 9, parcel 10, and Parcel 11, which is the Beachwalker Lagoon. He noted that Parcels 8 and 10, identified in the ARDA as separate parcels, share the same TMS number. Parcel 9, which is adjacent to the General Store, is the former Beach Walker Office Park, and the two parcels to the south are undeveloped and currently under site plan review for multi-family developments.

Upper Beachwalker

- Parcels 8 and 10
 - **Recommended Future Land Use:** Mixed-Use
 - **Recommended Zoning:** BW-1

The recommendation is to establish BW-1, which is a mixed-use zoning category that would allow both commercial and residential uses.

- Parcels 11
 - **Recommended Future Land Use:** High-Density Residential
 - **Recommended Zoning:** R-3, Residential
- Parcels 9
 - **Recommended Future Land Use:** Medium-Density Residential
 - **Recommended Zoning:** R-2, Residential

The recommendations, as stated, are based on the initial staff recommendation that has been modified slightly based on feedback from the Commissioners.

- Former Church Parcel
 - **Recommended Future Land Use:** Medium-Density Residential
 - **Recommended Zoning:** R-2, Residential

Parcel 11 and the former Church parcel are currently under site plan review, and the proposed zoning would not impact those site plans; however, based on what is being proposed would create non-conformities if those plans are approved.

Mr. Taylor stated that the Lower Beachwalker area includes Parcel 13 (Lot 1), which is under site plan review; The Cape, which is under construction; and The Timers, which is already built.

Lower Beachwalker

Parcel 13 (lot 1) is undeveloped and currently under site plan review; the Cape is currently under construction, and the Timbers already built have two proposed categories.

- Parcel 13 (lot 1)
 - **Recommended Future Land Use:** High-Density Residential
 - **Recommended Zoning:** R-3, Residential
- The Cape
 - **Recommended Future Land Use:** Mixed-Use
 - **Recommended Zoning:** BW-2
- The Timbers
 - **Recommended Future Land Use:** Mixed-Use
 - **Recommended Zoning:** BW-2

The recommendation is to establish BW-2, a mixed-use category that would allow three stories in height, a 50 ft maximum allowance, and seven dwelling units per building with the caveat that structures within 30 ft of any property line would be subject to a 40 ft maximum height standard.

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

The proposed zoning for Parcel 16 would remove the specific commercial allowance based on the development agreement. Staff is recommending clarifying with a Text Amendment the conditional uses within the PR category for spa and improvement services.

- Parcel 41 – Osprey Beach
 - **Recommended Future Land Use:** Low-Density Residential/Active Recreational and Open Space
 - **Recommended Zoning:** R-1 – PR

Mr. Taylor provided a review of each of the two new zoning district categories that were recommended by staff. The proposed Beachwalker 1 and Beachwalker 2 zoning district categories were recommended to provide for the unique circumstances based on the location of the particular parcels and establish a mixed-use category that would allow residential of all densities along with limited commercial uses.

Mr. Capelli made a motion to approve the amendment of the zoning map to include the BW-1 and BW-2 categories. Mr. Iwan seconded the motion.

Commissioners engaged in an in-depth discussion of their views on establishing the BW-1 and BW-2 categories, posing questions to Mr. Taylor and Mr. Wilson. Mr. Taylor clarified that the motion would be to establish these zoning categories where Commissioners could then recommend the uses and standards within the proposed categories.

Mr. Capelli made a motion to call the question. Ms. Hennessy seconded the motion, and it was unanimously passed.

The motion to approve the amendment of the zoning map to include the BW-1 and BW-2 categories failed by a 4 to 3 vote.

Andy Capelli	Yes
Luke Farrell	No
Larry Iwan	Yes
Bill Dowdy	Yes
Madeleine Kaye	No
Joanne Hennessy	No
Ronald Curran	No

Mr. Farrell made a motion to go through these Parcels using the existing codes R-1, R-2, R-3, and designate them as such, and include a discussion of the parameters that are included in what R-1, R-2, and R-3 mean. Mr. Iwan seconded the motion, and it was unanimously approved.

Commissioners reviewed each parcel and discussed their recommended Future Land Use and Zoning designations.

Upper Beachwalker

Ms. Kaye made a motion for Parcels 8 and 10 to be zoned Parks and Recreation. Ms. Hennessey seconded the motion.

Commissioners discussed their views on changing the zoning category to Parks and Recreation.

Ms. Kaye withdrew her motion, and Ms. Hennessy withdrew her second.

Mr. Farrell made a motion that the Future Land Use and Zoning for Parcels 8 and 10 be Commercial. Mr. Iwan seconded the motion.

Commissioners discussed their views on the recommended Future Land Use and Zoning change to Commercial, along with additional suggestions.

Mr. Farrell withdrew his motion.

Mr. Farrell made a motion to designate Parcels 8, 9, and 10 to the R-2 zoning category. Mr. Iwan seconded the motion.

Commissioners discussed their views on changing the zoning category to R-2, along with a comparison of the R-1 and R-2 categories.

Following the discussion, the motion was unanimously passed. (4:04:26)

Ms. Hennessy made a motion to designate the Future Land Use of Parcels 8, 9, and 10 to the Medium Density category. Ms. Kaye seconded the motion, and it was unanimously passed.

Mr. Taylor stated that Parcel 11, Beachwalker Lagoon, is currently under site plan review. The proposed Zoning District is R-3, and the proposed Future Land Use Designation is high-density residential.

Mr. Iwan made a motion to designate Parcel 11 as High-Density Residential/R3. Dr. Curran seconded the motion.

Commissioners discussed the standards for the R-3 category, and if the site plan is approved, the proposed zoning would create non-conformities.

Following the discussion, the motion was unanimously passed.

Mr. Taylor stated the former Church parcel is currently under site plan review and is being recommended as High-Density Residential/R-3.

Commissioners discussed setbacks from the roadway, as well as current R-3 standards.

Mr. Capelli made a motion to designate the former Church parcel as High-Density Residential/R-3. Dr. Curran seconded the motion.

Following discussion, the motion was unanimously passed.

Lower Beachwalker

Mr. Taylor stated that Parcel 13 (lot 1) is currently under site plan review, and the proposed recommendation is High-Density Residential/R-3.

Mr. Farrell made a motion to follow the staff recommendation to designate Parcel 13 (Lot 1) as High-Density Residential/R-3. Dr. Curran seconded the motion.

Commissioners engaged in an in-depth discussion regarding the current standards of the R-3 zoning district and the potential impacts of a new zoning category with modified standards specifically for this parcel, which could be accomplished with the creation of a new zoning category. Mr. Taylor and Mr. Wilson clarified with the parcel being under site plan review, the standards allowed under the Development Agreement would apply to the parcel and that approval of the recommended zoning is for the future.

Following the discussion, the motion was passed by a 6 to 1 vote, with Mr. Capelli not voting. (4:26:46)

Mr. Taylor stated that the subtract of Parcel 13, where the Cape is developed, has a mixed-use Future Land Use designation and a current Zoning designation of R-3/C under the ARDA. It was requested that the Timbers, also a subtract of Parcel 13, be included in the consideration.

Ms. Hennessy made a motion to designate The Cape and The Timbers parcels as High-Density Residential/R-3. Mr. Farrell seconded the motion.

Commissioners discussed the recommendation made by staff for the parcels and considered developing a new zoning category, deferring the current recommendation.

Following the discussion, the motion was passed by a 6 to 1 vote, with Mr. Capelli not voting. (4:34:23)

Mr. Taylor stated that Parcel 12A, leased by the property owner to Charleston County as Beachwalker Park, currently has an R-3/C zoning designation and mixed-use Future Land Use designation. The recommendation is R-2 residential zoning and Active Recreation and Open Space Future Land Use designation.

Commissioners discussed the recommendation of the Active Recreation and Open Space Future Land Use designation for what is currently a public beach and the Medium-Density Residential, which is more appropriate to the R-2 zoning being recommended.

Dr. Curran made a motion to follow the staff recommendation to designate Parcel 12A as Medium-Density Residential/R-2. Mr. Iwan seconded the motion. The motion passed by a 5 to 2 vote, with Mr. Farrell and Ms. Kaye voting "No."

Mr. Taylor stated that Parcel 12B is the entire area of Captain Sam's, including the area adjacent to the County Park entrance. The staff recommendation is R-1 Residential zoning and Low-Density Residential Future Land Use designation.

Commissioners discussed using the KC Zoning district and Conservation Future Land Use designation to protect the area, the concern that the Commission is perceived as in any way encouraging the development of the parcel, and using the Active Recreation and Open Space designation for both.

Dr. Curran made a motion to designate Parcel 12B as Low-Density Residential/R-1. Mr. Capelli seconded the motion. The motion passed by a 4 to 3 vote, with Mr. Farrell, Ms. Hennessy, and Ms. Kaye voting "No."

Mr. Taylor stated that Parcel 16, The Settlement, had a staff recommendation for the R-2/PR designation. The R-1 designation was discussed in the workshop and recommended. Staff included an asterisk for a proposed text amendment to the use table and conditions of uses that would clarify the existing club facilities and spa.

Ms. Kaye made a motion to follow the workshop recommendation to designate Parcel 16 as Low-Density Residential/Active Recreational and Open Space R-1 and PR with conditions of use text amendment to the PR category. Ms. Hennessy seconded the motion.

Commissioners discussed the text amendment language.

Following the discussion, the motion was unanimously passed.

Mr. Taylor stated that Parcel 41, Osprey Beach, is currently designated Low-Density Residential/Active Recreation Open Space, and the current zoning is R1/PR.

Dr. Curran asked for clarification on what was included in the parcel. Mr. Permar stated that it included not only the Beach Club but also the lots on both sides of the road that lead to the Club.

Dr. Curran made a motion to designate Parcel 41 as Low-Density Residential/Active Recreational and Open Space/R1 and PR. Ms. Hennessy seconded the motion, and it was unanimously passed.

VII. New Business:

A. Zoning Text Amendment

- 1) #AZO23-000002 | Request to amend Sec. 12-61. Establishment of Zoning Districts.
- 2) Request to establish new zoning category BW-1, Beachwalker Zoning District.
- 3) Request to establish new zoning category BW-2, Beachwalker Zoning District.
- 4) Request to amend Sec. 12-102. Principal Uses and Use Regulations.

B. Zoning Text Amendment

- 1) #AZO23-000003 | Request to amend Ordinance 2013-14 relating to the 2013 Amended and Restated Development Agreement.

Mr. Taylor stated that based on what has been recommended by the Planning Commission for the Future Land Use destinations and zoning categories for all the subject parcels, they will move on to the Council for the first reading. The recommendation will also include some modifications to make sure the language is consistent.

Mr. Taylor stated that the draft of Ordinance 2023-23 references the current Ordinance 2013-14, which made the Development Agreement a part of our zoning code as an appendix. He stated that

the staff recommendation is that the Development Agreement be removed from the zoning code as the Town moves toward its expiration. He reviewed the points covered and the changes and updates to be made in the ordinance draft.

Ms. Henessy made a motion to recommend to the Town Council to accept Ordinance 2023-23 subject to the edits that Mr. Taylor is going to make. Mr. Farrell seconded the motion, and the motion was unanimously passed. (5:14:14)

VIII. Correspondence/Staff Comments:

Mr. Taylor stated that he had a conversation with Blake and had some revised working documents that he would send to the Commission to review and then would work on scheduling the next meeting.

IX. Council Liaison Comments:

None

X. Public Comments:

Mark Permar – 81 Dungannon Hall

Mr. Permar commented about the non-conforming, stating it would be a burden borne by the property owners and an unnecessary action. He commented on the action taken on the various parcels adjacent to the General Store and the action taken on parcels 8 and 9, stating there was no fundamental explanation of why the use was changed, removing the most suitable land use type by history, existing conditions, and anticipated conditions.

Lance

Mr. Lance commented on what he felt was a presumption being made by the Town with the development agreement ending in December, the concern about the potentially developed units being short-term rentals, and the impact on traffic, infrastructure, and use of the properties in the surrounding communities and the beach. He also stated that the scope of what was going to be discussed was a surprise, and there would have been much better participation had there been much more notice of perhaps the most consequential decision being made by the Town since the decision to develop Kiawah.

XI. Commissioner Comments:

Ms. Kaye thanked Mr. Lance for his comments. In her estimation, there had been a lot of communication about these several workshops and this meeting. She was sorry if that word was not getting out and would do her best to increase the communication.

Ms. Kaye also thanked the members of the Inlet Cove Sparrow Pond Community for their intense involvement in this whole process.

Mr. Farrell thanked Mr. Wilson for his guidance in the executive session. Thanks again to Mr. Taylor for a ton of work on all this stuff and for dealing with us time and time again over the same issues. Thank you very much for your patience and your diligence.

Mr. Capelli commented on the emails that have been received directly as opposed to coming through the Town and the need to reply to everyone when getting boilerplate emails with an almost word-for-word recitation of their views. Nevertheless, we will continue to recognize the fact that we get them and will respond.

As for the second point, he wanted to correct the perception that it seemed that not much consideration had been given to what had been built on the island over the last number of years. Some may not be aware of the rights to this property having been talking about for the last eight months, but there have been numerous public hearings or open workshops that people have attended, so they know what is going on. The question that nobody seemed to recognize is that that property was permitted originally as a hotel. There would have been a lot more traffic, a lot more rooms, and a lot more concerns about a hotel being on that property than what was proposed initially. There was a lot of consideration given to the importance of the rights of property owners, the importance of the rights of the community and trying to balance those views. Hopefully, something was developed that most people will consider balanced.

XII. Adjournment:

Ms. Hennessy made a motion to adjourn the meeting at 2:25 pm. The motion was seconded and was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Bill Dowdy, Chairman

Date

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

December 6, 2023; 2:00 pm

Minutes

I. **Call to Order:** *Mr. Iwan called the meeting to order at 2:13 pm.*

II. **Roll Call:**

Present:

Bill Dowdy
Andy Capelli
Ronald Curran
Luke Farrell
Joanne Hennessy
Larry Iwan
Madeleine Kaye

Also Present:

John Taylor, Jr., *Planning Manager*
Joe Wilson, *Town Attorney*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of September 6, 2023

Mr. Capelli made a motion to approve the Planning Commission meeting minutes of September 6, 2023. Dr. Curren seconded the motion.

Ms. Kaye and Mr. Capelli noted typographical errors and minor changes that needed to be made.

Following the discussion, the minutes were unanimously approved.

B. Planning Commission Meeting Minutes of October 4, 2023

Ms. Kaye made a motion to approve the Planning Commission meeting minutes of October 4, 2023. Dr. Curren seconded the motion, and it was unanimously approved.

IV. **Public Comments:** *(Agenda Items Only)*

Alex Fernandez – 418 Snowy Egret

Mr. Fernandez stated that it was good to see tree preservation come to fruition after a long time and a lot of discussion. He congratulated the Commissioners on coming to the stage of presentation to the Council.

Mr. Fernandez stated that he liked the phased implementation and questioned if there would be permitting on any of the Beachwalker projects.

V. **Old Business:**

A. Zoning Ordinance Amendments

1) **#AZO23-000004** | Request to amend the Town of Kiawah Island's Land Use Planning and Zoning Ordinance to establish tree preservation and landscape standards.

- Establishes § 12-129 Tree Preservation and Landscaping Standards.
- Amends § 12-162. Site Plan Review.
- Amends § 12-165. Zoning Permits.

- Amends § 12-374. Definitions.
- Amends § 12-165. Zoning Permits.
- Establishes § 12-24.1 Tree Preservation Board.

Mr. Taylor indicated that he would provide an overview of the progression of the tree preservation ordinance, highlight takeaways of the draft ordinance, and then review any proposed amends or requested changes to the language.

Mr. Taylor's presentation included a review of:

1. Why establish a landscape and tree preservation ordinance
2. Who can establish the standards
3. Current Town standards
4. Resulting benefits of protecting trees
5. Elements that might be considered in a landscape and tree preservation ordinance

Mr. Taylor stated that a subcommittee of the Planning Commission was established to develop a recommendation full commission to study and then recommend to the Council for their consideration and approval. Some factors the subcommittee considered during the development process were:

- "Designing with Nature" Existing Standards and Guidelines
- Native Plants
- KiawahNext
- Applicability to Contrasting Neighborhoods
- Capacity Building for Enforcement
- Standards for Rights of Way

Mr. Taylor stated that the Tree Preservation subcommittee broke down the ordinance into two components: tree preservation standards and landscaping standards, setting a priority to focus on tree preservation standards for Phase One with the intent to develop landscape standards in the next phase.

The ordinance format, structure, and factors to consider were reviewed based on the following:

- Issues relevant to the Kiawah community
- Kiawah Context
- *Designing with Nature*
- Ordinance Implication Analysis
- Design Community Input

Mr. Taylor indicated that several public workshops were held in which design and tree care professionals were instrumental in providing substantive comments and feedback. He noted that the ordinance language was presented and revised after each of the workshops.

Mr. Taylor reviewed the current draft of the ordinance, discussing comments and questions provided by the Commissioners. Included in the current draft were:

- The purpose and intent of establishing the ordinance
- Key Factors
 - Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island
 - Applicable to all non-single-family residential developments.
 - Aims to be less restrictive than Kiawah Island ARB guidelines
 - Exempts normal tree maintenance/pruning
 - Introduces Tree Preservation Board for an additional layer of review and mechanism for relief from standards if needed
 - Aims to avoid duplication of process
 - Aims not to significantly impact the 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

Commissioners engaged in an in-depth discussion of the language included in the ordinance, the use of "all properties" and its application to signal-family homes or undeveloped properties, and the subcommittee decision to only apply the ordinance to non-single-family residential developments at this time.

Mr. Taylor reviewed the Next Steps, which included a proposed Planning Commission's recommendation to the Town Council, consideration for phased implementation, and preparation of Phase II of the ordinance focusing on landscape standards. During the review of a phased implementation, he addressed the earlier comment made on determining a grace, when the ordinance should take effect, the impact of new standards on projects going through the permitting process, and the communication of the new standards through scheduling Open House meetings.

Mr. Capelli suggested that prior to imposing a regulation, a legal opinion is obtained to provide clarity as to what is allowed with respect to regulating the landscaping of single-family homes.

Ms. Hennessy made a motion to accept the document and recommend to the Town Council the amendment of the Town of Kiawah Island's Land Use Planning and Zoning Ordinance to establish tree preservation and landscape standards. Ms. Kaye seconded the motion.

Commissioners reviewed their suggested amendments, edits, or modifications to the presented draft of the ordinance.

Mr. Capelli suggested adding or deleting language that is misleading in a number of places in the document with respect to its intent and the coverage with respect to properties on Kiawah.

Mr. Capelli made a motion for the amendment to eliminate the words "for all properties" in the first and second lines of the Purpose and Intent of the document. Ms. Kaye seconded the motion.

Commissioners, along with Mr. Wilson, engaged in an in-depth discussion of Mr. Capelli's suggested amendment.

Following the discussion, the motion failed by a 1 to 6 vote, with Mr. Farrell, Mr. Iwan, Ms. Kaye, Ms. Hennessy, Mr. Dowdy and Dr. Curran voting "No."

Commission Members discussed Mr. Farrell's recommendation that in the *Mitigation Standards* (1), the number of 20 trees per acre was too small. Ms. Hennessy noted the subcommittee's change from combined DBH (diameter breast height) to 70% of the number of trees was not reflected in the draft.

Mr. Iwan made a motion on page 2- Required Permit (a) read "abuse any protected or specimen tree." Ms. Kaye seconded the motion; it was approved by a 6 to 1 vote, with Mr. Capelli voting "No."

Mr. Capelli made a motion that on page 3 (c.)(1) to strike "and" and substitute "or." Mr. Farrell seconded the motion.

Commissioners agreed to the substitution and further discussed if an assessment should require both a certified arborist and Tree Risk Assessment Qualified Arborist, suggesting to strike "and Tree Risk Assessment Qualified Arborist."

Following the discussion, the motion was approved by a 5 to 2 vote, with Ms. Hennessy and Dr. Curran voting “No.”

Mr. Iwan made a motion to approve and recommend the ordinance to the Town Council as amended. Ms. Kaye seconded the motion, and it was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

Mr. Taylor stated that in addition to the actual framework of the ordinance, other sections of the Municipal Code are being amended to ensure consistency. In Section 12-162.-Site Review language was added in subsection (4) requiring a tree survey, tree preservation plan, and or landscape plan as part of the site plan review process.

Mr. Farrell made a motion to approve Section 12- 162. – Site Review as amended. Mr. Iwan seconded the motion.

Mr. Capelli made a motion to remove Section 12-162 (1)(b) if the intent is not to include single-family detached residential.

Mr. Taylor clarified that this section is part of the current site plan review process, and if (1)(b) was struck from this section, there would be nothing in the code that administers how single-family residential projects are reviewed.

Mr. Farrell seconded Mr. Capelli’s motion.

Following discussion, Mr. Capelli withdrew his motion, and Mr. Farrell withdrew his second.

Following the discussion, the motion to approve the amendment of Section 12- 162. – Site Review was unanimously. approved

In Section 12-165. - Zoning Permits language is added to include tree removal as one of the requirements to obtain a zoning permit.

Ms. Hennessy made a motion to accept Section 12-165. – Zoning Permits as amended. Ms. Kaye seconded the motion.

Mr. Capelli made a motion that the first line reads, “The purpose of the zoning permit is for non-single family residential to conform it with the intended fully use... ..”

Mr. Taylor again clarified that this was part of the existing Zoning Permits section, that the additional language would change the entire intent of this section, and that he would not recommend voting on the motion that had just been made.

Following discussion, Mr. Capelli withdrew his motion.

Following the discussion, the motion to approve the amendment of Section 12- 165. – Zoning Permits was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

In Section 12-374. – Definitions presented were the clarifications of existing definitions and the additional new definitions that, when approved, would be incorporated into all the definitions within Section 12-374.

Ms. Hennessy made a motion to accept the addition of new definitions to Section 12-374 – Definitions. Mr. Iwan seconded the motion.

Dr. Curran explained a noted inconsistency in the protected tree definition with the ordinance.

Dr. Curran made a motion to amend the definition of protected tree in Section 12-374 so that the diameter protected tree would be defined as any tree with a diameter breast height of eight (8) inches or greater, making it consistent with the ordinance. Ms. Hennessy seconded the motion, and it was unanimously approved.

Dr. Curran made a motion to add the additional language “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” the definition of Invasive Species in Section 12-374. – Definitions. Ms. Hennessy seconded the motion, and it was unanimously approved.

Following the discussion, the motion to accept Section 12-374. – Definitions, as amended, was unanimously approved.

Mr. Taylor stated that Section 12-24.1 – Tree Preservation Board was the framework that would establish a Tree Preservation Board for the Town. He reviewed the outlined administrative guidelines, rules of procedure, and the functions and powers of the Board. The board would model the structure of the Board of Zoning Appeals as being an independent body of approval decisions, so any applicant who may feel that the ordinance has been too strict in application can request that the Tree Preservation Board hear that case and make a determination.

Mr. Capelli suggested changing the heading to Landscape and Tree Preservation Board, assuming the intent of a future landscape ordinance.

Ms. Hennessy made a motion to accept Section 12-24.1 – Tree Preservation Board for approval. Mr. Farrell seconded the motion.

Mr. Capelli made a motion to change the title of Section 12-24.1 to Landscape and Tree Preservation Board. Mr. Iwan seconded the motion. Following discussion, the motion was passed by a 5 to 2 vote, with Ms. Kaye and Ms. Hennessy voting “No.”

Mr. Ferrall made a motion to include one Planning Commissioner as a permanent office holder on the Tree Preservation Board.

Commissioners asked for input from Mr. Taylor, who noted complications with being judicial versus being quasi-judicial versus being a legislative recommending body, with Mr. Wilson noting the rule against holding dual offices.

With no second, Mr. Ferrall’s motion failed.

Mr. Capelli made a motion to change the term ‘nonresident member’ in the last sentence of Section B, which is inconsistent with state law.

Mr. Taylor stated that the language comes directly from the current code, and the intent was to make sure that those are residents who are primarily on Kiawah most of the year. He suggested tabling this until further research can be done. Commission members further discussed the term and agreed that for purposes of this board, “resident member” means a person who resides on Kiawah at least eight months a year.

Following the discussion, the motion was approved unanimously.

VI. New Business:

VII. Correspondence/Staff Comments:

Mr. Taylor provided an update on the Comprehensive Plan, stating that he was redlining some working documents that were shared with him. These included specific element data points and would be shared with the Commissioners for review. More than likely, in the New Year, there will be a formal review of the next steps.

Mr. Taylor provided updates regarding area development:

- The Medical Village being proposed on Betsy Kerrison Parkway is going before Charleston County Council for a public hearing, and the Town will be providing information in its eBlasts.
- The two Beachwalker projects are still under site plan review, and the Town is engaging with its third-party consultant, going back and forth on some questions they have had as part of their review. The status of the projects will continue to be provided to update the community on those two particular projects.

Mr. Taylor stated that next year, the first order of business outside of the Comprehensive Plan may be to take a holistic look at the Town's zoning code to clean up different areas and sections.

VIII. Public Comments:

None

IX. Commissioner Comments:

Ms. Kaye requested that Mr. Taylor put an update on the Comprehensive Plan as part of the next Planning Commission working agenda. She noted that it had been a couple of months since the last update, and there had been other priorities, but it was time to focus attention on that again.

Ms. Kaye reported on an action at yesterday's Town Council meeting pertaining to the Marsh Management Plan. The subcommittee made a proposal to the Town Council on the Kiawah Island Parkway bridge, in which three various options were examined. The one that the full committee proposed was to consider at least the construction of a ramp that would come off to the right side of that and head down to the marsh with some platforms and perhaps some benches that would allow fishing and crabbing. Town Council put that on the back burner, feeling that there were a lot of safety and enforcement issues along with some concerns expressed by the Conservancy. The subcommittee will go back to the drawing board and plan to meet again soon.

Ms. Kaye stated that the new ARB (Architectural Review Board) plan has been released to the community, noting it is pretty intense, complicated, complex, and requires some reading by all of us. The committee would really appreciate the candid feedback, so she asked the Commissioners to take a look at it and please provide the committee with constructive feedback because they have a unique perspective that will be extremely helpful in helping the committee make further revisions.

Mr. Farrell thanked Mr. Taylor and the Tree Subcommittee for all the work done on the ordinance.

Mr. Capelli responded to Ms. Hennessy's earlier question in reference to caliper and DBH. He stated on page 11, footnote number seven, that the use of the caliper and DBH in the same sentence is the

same, and she may want to consider recommending Mr. Taylor change that before it is finalized.

Mr. Capelli also followed up on the comments regarding the Marsh Management Plan recommendation. He stated that option one was included because the money to widen the roadway and build the cut-off came from the Green Belt funds with the condition that we allowed fishing and crabbing. Option two is favored by the subcommittee so that there would be no access to the marsh or the river from the platform. The platform would be used for viewing but not allow for fishing, kayaking, or anything else in the marsh. In trying to preserve the marsh, right now, the problem that is going to be faced is keeping people off the marsh. He noted that another consideration is the terms of the original grant. There may have to be an extension out there to let people crab and fish, but the intent was to eliminate any activity on the marsh to maintain and preserve the marsh.

Ms. Hennessy added that she thought there was a movement by some in the Conservancy to eliminate the parking, redo the landscaping, and give the money the Green Belt money back so that there is no access.

X. Adjournment:

Mr. Iwan made a motion to adjourn the meeting at 4:01 pm. The motion was seconded and was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Bill Dowdy, Chairman

Date

Town of Kiawah Island

Planning Commission Rules of Procedure

Preamble

Principles of Serving and Standards of Integrity

Members of the Planning Commission should adhere to the following values when serving in the public interest:

- Remember that your role is first and foremost to serve the community;
- Be at all times truthful with my colleagues, the public and others;
- Avoid any actions that would cause the public to question whether my decisions are based on personal interests instead of the public's interest;
- Do not accept any gifts or other special considerations because of my public position;
- Do not knowingly use false, inaccurate, or biased information in support of my position;
- Do not use your public positions for personal gain; and
- Carefully consider any promises made and keep them

Article I – Organization

Section 1 Rules – These rules of procedure are adopted pursuant to S.C. Code § 6-29-360 for the Town of Kiawah Island Planning Commission

Section 2 Membership – The Commission is composed of 7 members appointed by Town Council, the Governing Body. Appointments are for four years duration, staggered in time so as to provide continuity.

Section 3 Officers – The officers of the Commission shall be a chair~~man~~ and vice-chair~~man~~ elected for one-year terms at the first meeting of the Commission in each calendar year. The Town Clerk will serve as the secretary for the Commission.

Section 4 Chair~~man~~ – The chair~~man~~ shall be a voting member of the Commission and shall:

- a) Call meetings of the Commission;
- b) Preside at meetings and hearings;
- c) Act as spokesperson for the Commission;
- d) Sign documents for the Commission;
- e) Transmit reports and recommendations to Council;
- f) Perform other duties approved by the Commission; and
- g) Provide a proper and detailed onboarding process for new commission members.

Section 5 Vice-Chair~~man~~ – The vice-chair~~man~~ shall exercise the duties of the chair~~man~~ in the absence, disability, or disqualification of the chair~~man~~. In the absence of the chair~~man~~ and vice-chair~~man~~, an acting chair~~man~~ shall be elected by the members present.

Section 6 Secretary – The secretary shall:

- a) Provide the notice of meetings;
- b) Assist the chair~~man~~ in preparation of agendas;

- c) Keep minutes of meetings and hearings;
- d) Maintain Commission records as public records;
- e) Attend to Commission correspondence;
- f) Perform other duties normally carried out by a secretary;
- g) Maintain a record of Commission members' attendance at meetings of the Commission; and
- h) Give or serve all notices required by statute or ordinances or by these Rules and Procedures or as directed by the Commission.

Section 7

Staff – Town of Kiawah Island Planning Department staff shall:

- a) Provide technical assistance to the Commission, where necessary, to conduct the business and fulfill the responsibilities of the Commission.
- b) Prepare analyses and recommendations for zoning, conditional use, and subdivision applications and other matters of business for consideration of the Commission.
- c) Provide members of the Commission with copies and updates of regulations, ordinances, rules, plans, and policies which govern or should be considered in the performance of their duties.
- d) Provide members of the Commission with publications and notices of seminars, presentations, and instructions on matters which may expand members' knowledge and understanding in areas that would promote the mission of the Planning Commission.
- e) Provide members of the Commission with copies of applications with support information, plats and maps, and staff analyses and recommendations.
 - 1. Regular meeting information is to be mailed or emailed to each member of the Commission at least seven (7) business days prior to the scheduled Commission meeting.
 - 2. Special meeting information shall be presented to each member of the Commission for review at least forty-eight (48) hours prior to the scheduled Commission meeting with the exception for those special or emergency meetings being called within less than 48 (forty-eight) hours.
- f) Mail notices to applicants on all zoning and Comprehensive Plan amendments and subdivision applications including a copy of staff's analyses and recommendations. This notice shall be mailed at least five (5) days prior to the scheduled Commission meeting. Notices and reports may also be emailed or picked up by applicants at the Planning Department office and, in these cases, would not be required to be mailed.
- g) Mail notices to area property owners on all zoning change applications in accordance with the procedures of the Town of Kiawah Island's Land Use Planning and Zoning Ordinance.

Article II – Meetings

Section 1 Time and Place –

- a) An annual schedule of regular meetings shall be adopted, published, and posted at the designated Town office in December of each year.
- b) The Planning Commission will meet regularly on the first Wednesday, following the regular Town Council Meeting of each month at the Town of Kiawah Island Municipal Center, 4475 Betsy Kerrison Parkway, Kiawah Island, SC at 3:00 PM in the Council

Chambers.

- c) Special meetings may be called by the chair~~man~~ upon 24 hours' notice, posted, and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

Section 2 **Agenda** – The chair~~man~~ shall set the agenda for all meetings of the Commission. The chair~~man~~ shall develop the agenda with Town staff. A written final agenda shall be furnished by the secretary to each member of the Commission and the news media and shall be posted at least seven (7) business days prior to each regular meeting, and at least forty-eight (48) hours prior to a special meeting, with the exception for those special or emergency meetings being called within less than 48 (forty-eight) hours. Items may be added to the agenda at a meeting.

Section 3 **Quorum** – A majority of the members of the Commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting, except for workshops where business and studies may be conducted without a quorum.

Section 4 **Rules of Order** – Robert's Rules of Order, newly revised (currently in 12th ed.), shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

Section 5 **Voting** – A member must be present to vote. A member attending virtually via video conferencing, teleconferencing, or web conferencing is considered present. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason of disqualification and refrain from deliberating or voting on the question. On a tie vote, the motion is lost, and in the case of a subdivision or zoning matter, the application is disapproved.

The chair shall request the Secretary to call the roll of each member and ask their vote on any items requiring a vote.

Section 6 **Conduct** – Except for public hearings and the public comment period, no person shall speak at a Commission meeting unless invited to do so by the Commission chair~~man~~.

Section 7 **Executive Sessions** – It is a violation of the Town's Code of Ordinances for a member of the Planning Commission or person in attendance to disclose to another person or make public any matter discussed in executive session. If the Commission enters executive session during a meeting, a member attending virtually shall adhere to executive session privileges, ensure that no other person can hear the executive session, and shall acknowledge upon request that there are no other persons present or able to hear the executive session. Failure to protect the privileged discussions of an executive session can result in the member's removal from the Commission.

Article III – Public Hearings

Section 1 **Notice** – The secretary shall give the notice required by statute or ordinance for all public hearings conducted by the Commission. Members of the public desiring to be heard shall give written notice to the secretary prior to commencement of the hearing.

Section 2 **Procedure** – In matters brought before the Commission for public hearing which were initiated by an applicant, the applicant, his agent or attorney shall be heard first, members of the public next, and staff next. The applicant shall have the right to reply last. No person may speak for more than five (5) minutes without consent of the Commission chair~~man~~. No person speaking at a public hearing shall be subject to cross-examination. All questions shall be posed by members of the Commission. In matters not initiated by an applicant, members of the public shall speak in the order in which requests were received, or in such order as the Commission chair~~man~~ shall determine.

Article IV – Records

Section 1 **Minutes** – The secretary shall record all meetings and hearings of the Commission. Recordings shall be preserved for a period of two years according to the South Carolina General Records Retention Schedules for Municipal Records; Sub article 4, Section 12-604.1. The secretary shall prepare minutes of each meeting for approval by the Commission at the next regular meeting. Minutes shall be maintained as public records.

Section 2 **Reports** – The secretary shall assist in the preparation and forwarding of all reports and recommendations of the Commission in appropriate form. Copies of all notices, correspondence, reports, and forms shall be maintained as public records.

Section 3 **Attendance** – Commissioners are expected to attend each meeting. Should a commissioner be unable to attend, the secretary shall be notified.

Article V – Review Procedure

Section 1 **Zoning Amendments** – Per adopted ordinance.

Section 2 **Plats** – Per adopted ordinance.

Section 3 **Comprehensive Plan** – Per adopted ordinance.

Section 4 **Reconsideration** – The Commission may reconsider any review when so requested by the governing body, or when an applicant brings to the attention of the Commission new facts, a mistake of fact in the original review, correction of clerical error, or matters not the fault of the applicant which affect the results of the review.

Article VI – Finances

Section 1 **Budget** – The Commission shall submit written recommendations to the governing body for funding in the annual budget. The recommendations shall include, when applicable, an explanation and justification for proposed expenditures.

Section 2 **Expenditures** – Budgeted funds shall be expended only for approved purposes in accordance with financial policies and procedures set by the governing body, including procurement rules. Upon adoption of a budget by the governing body, the Commission

may adopt an authorization for specified expenditures. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by the Commission shall be made to members of the Commission and staff upon submission of vouchers supported by receipts.

Article VII – Adoption and Amendment

Section 1 Amendment – These rules may be amended at any regular meeting of the Commission by majority vote of the members of the Commission at least seven (7) days after the written amendment is delivered to all members.

Section 2 Adoption – These rules were adopted by a vote of a majority of the members of the Commission at a regular public meeting ~~February 8, 2023~~ February 7, 2024.

John Taylor, Jr, Planning Manager
Town of Kiawah Island

Bill Dowdy, Chair~~man~~
Kiawah Island Planning Commission

Town of Kiawah Island

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

February 7, 2024



1

1

Town of Kiawah Island Zoning Text Amendment Application

Case #AZO24-000001

Planning Commission Meeting: February 7, 2024

Public Hearing and First Reading: March 5, 2024

Second Reading: April 2, 2024

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

2

ZONING TEXT AMENDMENT

Case #AZO24-000001

3

3

Case #AZO24-000001 | Zoning Text Amendment Application

Zoning Text Amendment Application: Town of Kiawah Island

Request to amend Section 12-23. Planning Commission and Section 12-24. Board of Zoning Appeals to modify term of office of members.

The purpose of this text amendment request is to establish term limits for members of the Planning Commission and the Board of Zoning Appeals.

Chapter 12 - Land Use Planning and Zoning Ordinance, Article II. – Zoning, Division 1. – Generally, Section 12-23. – Planning Commission.

Chapter 12 - Land Use Planning and Zoning Ordinance, Article II. – Zoning, Division 1. – Generally, Section 12-24. – Board of Zoning Appeals.

4

4

Case #AZO24-000001 | Zoning Text Amendment Application

Planning Commission members currently serve a term of office for four years. The proposed text amendment introduces a three (3) consecutive term of office limit for the Planning Commission.

Draft Language:

"No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of twenty-four months."

Board of Zoning Appeals members currently serve a term of office for three years. The proposed text amendment introduces a three (3) consecutive term of office limit for the Board of Zoning Appeals.

Draft Language:

"No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of twenty-four months."

5

5

Approval Criteria

Planning staff finds the amendment request is consistent with 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.

6

6

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

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

7

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

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

8

APPROVAL CRITERIA

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

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

Staff Review:

- Planning staff finds the proposed amendment satisfies the approval criteria pursuant and recommends approval.

Sec. 12-23. Planning Commission.

- (a) *Creation.* The Town of Kiawah Island Planning Commission is hereby created as authorized by S.C. Code 1976, §§ 6-29-310—6-29-380.
- (b) *Composition; appointment and term of office of members.*
- (1) The Planning Commission shall consist of seven Kiawah Island property owners; members to be appointed by the Mayor with the consent of the Town Council. At least five of these property owners shall be resident members. 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 shall be for four years. Any vacancy shall be filled for the unexpired term by an individual appointed by the Mayor with the consent of the Council. A Secretary and Chairperson shall be elected at the first meeting of each year. 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 serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of twenty-four months.
 - (34) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - (45) Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.
- (c) *Organization and procedural rules governing the Planning Commission.*
- (1) The Planning Commission shall organize itself electing one of its members as Chairperson and one as Vice-Chairperson whose terms are for one year. The Planning Commission shall appoint a secretary who may be an officer or an employee of the Town or of the Planning Commission. The Planning Commission shall meet at the call of the Chairperson and at such times the Chairperson or Planning Commission may determine.
 - (2) The Planning Commission 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 Planning Commission 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.
- (d) *Functions and powers.* The Planning Commission shall have the functions and powers set forth in S.C. Code 1976, § 6-29-340 of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended. In the discharge of its responsibilities, the Planning Commission has the power and duty to:
- (1) Prepare and revise the comprehensive plan and programs for the development and redevelopment for the Town of Kiawah Island.
 - (2) 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.
- (3) Hear appeals of administrative decisions (by staff) related to subdivision regulations (S.C. Code 1976, § 6-29-1150(C)).
- a. Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the Planning Commission by a party in interest.
 - b. The Planning Commission shall act on the appeal within 60 days and the action of the Planning Commission is final.
 - c. An appeal from the decision of the Planning Commission may be taken to circuit court within 30 days after actual notice of the decision.
- (4) Approve street names (S.C. Code 1976, § 6-29-1200).
- a. The Planning Commission shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the Commission has jurisdiction. It is unlawful for a person in laying out a new street or road to name the street or road on a plat, by a marking or in a deed or instrument without first getting the approval of the Planning Commission. Any person violating this provision is guilty of a misdemeanor and, upon conviction must be punished in the discretion of the court.
 - b. The Planning Commission may, after reasonable notice through a newspaper having general circulation in which the Commission is created and exists, change the name of a street or road within the boundary of its territorial jurisdiction:
 - 1. When there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;
 - 2. When it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or
 - 3. Upon any other good and just reason that may appear to the Commission.
 - c. On the name being changed, after reasonable opportunity for a public hearing, the Planning Commission shall issue its certificate designating the change, which must be recorded in the Office of the Register of Mesne Conveyances or Clerk of Court, and the name changed and certified is the legal name of the street or road.

(Code 1993, § 12A-105; Ord. No. 94-12, § 2(12A-104.2), 9-26-1994; Ord. No. 2005-08, § 12A-105, 10-12-2005; Ord. No. 2006-14, § 2.A.1, 1-9-2007)

Sec. 12-24. Board of Zoning Appeals.

- (a) *Creation.* The Town of Kiawah Island Board of Zoning Appeals ("Board") has been created and is authorized to act pursuant to S.C. Code 1976, §§ 6-29-780—6-29-860.
- (b) *Composition and appointment of term of office of members.*
- (1) The Board of Zoning Appeals shall consist of seven Kiawah Island property owner resident members, each 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. A Secretary and Chairperson shall be elected at the first meeting of each year. 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 serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of twenty-four months.
 - ~~(24)~~ No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
 - ~~(35)~~ Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.
- (c) *Organizational and procedural rules governing the Board of Zoning Appeals.* The Board of Zoning Appeals has adopted the following rules and regulations:
- (1) *Administrative office.* The Office of the Board of Zoning Appeals shall be located in the Town Hall Office, and the meetings of the Board shall be held in the adjacent conference room unless otherwise designated by the Chairperson. All notices of appeal 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. The Planning Director shall prepare the documentation of the variance requested and the associated exhibits and forward these to the Board members no fewer than ten working days prior to the next Board meeting.
 - (2) *Officers.* The Board of Zoning Appeals shall elect one of its members as Chairperson and one as Vice-Chairperson whose terms are for one year. The Planning Director shall serve as Secretary of the Board. 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. 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.
 - (3) *Rules of procedures and records.* The Board of Zoning Appeals 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 of Zoning Appeals 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.
- (d) *Functions and powers.* The Board of Zoning Appeals shall have the following powers, pursuant to S.C. Code 1976, § 6-29-800:

-
- (1) *Administrative review.* To hear and decide appeals, subject to the procedure and standards set forth in this article, when it is alleged by the appellant that any administrative official has made an error in any order, requirement, decision, or determination. This requirement shall not apply to advisory or recommendatory actions of any such administrative official or agency.
 - (2) *Variances.* To hear and decide applications for variance from zoning standard requirements of this article, subject to the procedure and standards set forth in section 12-163.
 - (3) *Special exceptions.* To permit uses by special exception subject to the terms and conditions for those uses as identified in this article (section 12-161).
 - (4) *Filing of appeals to the Board of Zoning Appeals.*
 - a. Appeals from the acts of officials pursuant to the authority granted by this article shall be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, board or bureau of the Town, as well as by any person having a substantial interest in any decision of an administrative officer to enforce this article. An appeal shall be evidenced by filing with the Planning Director within five working days of the action appealed from, a written notice of appeal specifying the grounds thereof and the modifications being sought.
 - b. All appeals, applications and matters brought before the Board of Zoning Appeals shall be heard in the order of filing at the regular meeting of the Board of Zoning Appeal; provided, however, that the Board of Zoning Appeals shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Board of Zoning Appeals.
 - c. Appeals to consider any such appeal, application or matter. 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 Board of Zoning Appeals will be heard and considered at such special meeting.
 - d. Published notice for appeals shall be provided in accordance the notice provisions of this article.
 - (5) *Effect of appeal.* An appeal to the Board of Zoning Appeals stays all proceedings in furtherance of the action appealed. An exception is when the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, and notice to the officer from whom the appeal is taken, and on due cause shown.
 - (6) *Hearing on appeal.*
 - a. Hearings on appeals shall be completed within 60 calendar days of the appeal, however, failure to render a decision on an appeal within such time period shall not be deemed an approval of such appeal. At the hearing of an appeal, the parties thereto may offer affidavits, testimony, or other evidence in support of their claims; and the Board of Zoning Appeals, on its own motion, may call before it other witnesses. All persons giving any testimony or evidence whatsoever at a Board of Zoning Appeals meeting must be sworn in. To save time, the oath will be recited as a group prior to the review of cases to be presented. However, anyone not present or not participating in the group swearing in will be required to be separately sworn in prior to giving evidence or testimony.
 - b. At the hearing and consideration of appeals, reasonable time and opportunity shall be allowed to interested parties to introduce testimony and other evidence. Hearings may be continued from time to time by the Board of Zoning Appeals, in its discretion, upon good cause shown. Oral

arguments before the Board of Zoning Appeals shall not exceed 15 minutes to a side, unless upon application before the commencement of arguments, the time shall be enlarged by the Board of Zoning Appeals.

- c. Parties filing appeals may, after the application has been advertised as part of a meeting's agenda, request the application be deferred. A request for deferral must be in writing, signed by the applicant or agent, set forth the reason for requesting deferral, and set a forthcoming meeting date for the matter to be heard. Without an extraordinary and compelling reason, only one deferral will be permitted. Applicants filing petitions for rehearings where the Board of Zoning Appeals is being asked to reconsider a decision, order, requirement or determination shall not be permitted to request deferrals. Cases presented before the Board of Zoning Appeals may be deferred for a period of time specified by the Board of Zoning Appeals, provided that this time does not exceed a period of 30 working days.
 - d. In passing upon an appeal, the Board of Zoning Appeals shall not consider prospective financial loss or gain to the appellant, nor shall the Board of Zoning Appeals, by variance, permit to be established or carried on in any district an activity, business, or operation which is not otherwise allowed in such district by a specific provision of this article.
- (7) *Order of the Board of Zoning Appeals.*
- a. The Board of Zoning Appeals shall decide each appeal within 60 calendar days. In exercising its powers relating to appeals, the Board of Zoning Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made within the spirit and intent of this article.
 - b. When it shall appear to the Secretary of the Board of Zoning Appeals that an appeal presents substantially the same grounds which have been decided by the Board of Zoning Appeals within the previous one year, the Secretary shall notify the Board of Zoning Appeals thereof, but shall not advertise the appeal or give notice to interested parties until the Board of Zoning Appeals shall determine that an amendment of this article or other changed conditions requires reopening the issue.
- (8) *Minutes of the Board of Zoning Appeals.* The decisions of the Board of Zoning Appeals shall be in writing and signed by the Chairperson. The minutes of the Board of Zoning Appeals 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 Board of Zoning Appeals shall be filed in the offices of the Board of Zoning Appeals 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.
- (9) *Appeals from Board of Zoning Appeals decisions.* Any person who may have a substantial interest in any decision of the Board of Zoning Appeals or any officer, board, or bureau of the Town may appeal from any decision of the Board of Zoning Appeals 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 Board of Zoning Appeals is rendered.

(Code 1993, § 12A-106; Ord. No. 94-12, § 2(12A-104.3), 9-26-1994; Ord. No. 2005-08, § 12A-106, 10-12-2005; Ord. No. 2006-14, § 2.A.3, 1-9-2007)

Town of Kiawah Island Zoning Ordinance Amendment Request
ACP24-000001 & REZ24-000001 Case History

Planning Commission Meeting: February 7, 2024
Public Hearing and First Reading: March 5, 2024
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam's Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)
Approximately 126.75 acres Deeded Acreage per Charleston County GIS
Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Adjacent Properties:

The Town of Kiawah Island Zoning Map designates the subject property as "R-1". The adjacent properties to the north and west across the Kiawah Island River are located outside Kiawah Island's jurisdiction in Unincorporated Charleston County, and Seabrook Island. The adjacent properties to the east are located in the R-3 Zoning District also known as "The Cape" And "Ocean Pines." The Atlantic Ocean is located directly South of the parcel.

Application:

The applicant is requesting to amend the Town of Kiawah Island Comprehensive Plan Map IX.2, Future Land Use, to change the future land use designation for the subject property located at Beachwalker Drive (TMS# 207-05-00-0011) commonly known as Captain Sam's Spit from "Low Density Residential" to "Active Recreation and Open Space" and for the subject property located at Beachwalker Drive (Beachwalker County Park Lease Site) from "Medium Density Residential" to Active Recreation and Open Space".

The applicant is requesting to rezone the subject property Captain Sam's Spit (TMS# 207-05-00-0011) from R-1, Residential to PR, Parks and Recreation; and to rezone the subject property (Beachwalker County Park Lease Site) (TMS#207-05-00-001) from R-2, Residential to PR, Parks and Recreation.

The subject property was acquired by KDP II, LLC on May 29, 2013 (Deed Book 0335 Page 077)

The subject property is partially developed. Beachwalker County Park which is located on a portion of this parcel, operates park and recreation uses for beach public access. Charleston County and the property owner entered into a 99-year lease agreement on July 1, 1976. The park amenities include, boardwalk, snack bar, outdoor showers, dressing areas, picnic area, and parking. The west most part of Captain Sam's Spit is designated as a 'critical habitat area' where dogs are prohibited year-round.

The subject property also contains an emergency beach access adjacent to the Kiawah River. This emergency beach access is owned by the property owner with granted access to limited entities including the Town, Beach Patrol, CCPRC.

The remaining portions of this parcel remain undeveloped.

The subject property is a Dock Key Location pursuant to Sec. 12-78. Dock key Locations for a floating dock.

Previously executed development agreements provided the use types and development entitlements for the subject property. Prior to the Town's first development agreement, Charleston County approved the original planned development plan for Kiawah Island. The Town entered into the first development agreement in 1994, which established updated parameters for use, density, building height, setbacks, open space and related standards for select parcels owned by the developer. Consistent with the intent and goals of the original PDD and the 1994 DA, TOKI and the developer KIC entered a new DA in 2005 which updated development limits within new neighborhoods, reconfirmed standards for neighborhoods developed since the 1994 DA and adjusted select parcels based upon new survey information. The most significant revision from the 1994 DA was to eliminate the entitlement of 325 hotel rooms permitted in Parcels 13 and 12A.

Following this parcel history, the previously executed 2013 Amended and Restated Development Agreement By And Between Kiawah Resort Associates LP and the Town of Kiawah Island, provided development entitlements for this parcel. The 2013 ARDA designated Parcel 12A and 12 B where a portion of the subject property was R-3/C and a portion R-1, Residential.

A previously approved Preliminary Plat for the development of 50 residential lots was approved on July 8, 2015. This preliminary plat showing the proposed development of 50 residential lots expired July 6, 2023.

The subject property also has a long history of litigation regarding proposed installation of infrastructure proposed development of the site. The property owner applied for a permit to build an erosion control structure consisting of approximately 2,783-foot bulkhead and revetment along the Kiawah River on Captain Sam's Spit in order to facilitate residential development of the upland property development of the subject property.

With the expiration of the 2013 Amended and Restated Development Agreement, the subject property was rezoned in November 2023. The subject property is currently zoned R-1, Residential where its Future Land Use Designation is Low Density Residential.

Future Land Use Categories:

Active Recreation and Open Space: "This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned. Some examples include the Tennis Center, Night Heron Park, and the Property Owners Beach and Recreation Center."

Low Density Residential

This category is intended to promote, protect, and preserve lower density development of single family detached residential areas. In this designation, the maximum density must not exceed three dwelling units per acre. Infill lots or community re-development should be designed to be sensitive to the character of the surrounding area as well as have minimal impact to the density requirements set out in the Town's Land Use Planning and Zoning Ordinances. A typical area with a Low Density Residential designation would include Plantation Woods or The Settlement.

Zoning Classification:

The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single-family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The R-1 Zoning District has permitted use of single family detached and parks. Conditional uses of historical sites, and minor utility services which include electric or gas power distribution, and/or sewage collection service lines.

The purpose of the PR, Parks and Recreation District is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the parks/recreation use may be permitted as conditional or special exception uses.

The PR, Parks and Recreation Zoning District has permitted use of parks, historical sites, nature exhibitions, and botanical gardens or arboretums. Conditional or Special Exception uses include personal improvement education uses as golf or fine arts school; Recreation and entertainment as community recreation including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools), golf courses or country clubs, recreation or vacation camps, recreational equipment storage; utility services; food and beverage services as restaurant, general, including cafeterias, diners, delicatessens, or full-service restaurants or accessory uses to a golf course, clubhouse or recreational area (with and without alcoholic beverages)

References Documents:

Plat Book and Page: AH-073 (Recorded on March 17th, 1977)

Deed Book and Page: 0335-077 (Recorded on May 29th, 2013)

RECOMMENDATION BY THE PLANNING COMMISSION

Comprehensive Plan Amendment: Pursuant to §12-157 (4) of the *Land Use Planning and Zoning Ordinance* "The Planning Commission shall review the proposed amendment and adopt a resolution recommending that the Town Council approve, deny or approve with conditions the proposed amendment, based on the approval criteria of subsection (7) of this section. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment. Following an unfavorable finding on the application, the Planning Commission shall notify the applicant and report the reasons for the finding.

Zoning Map Amendment: 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 the Planning Commission members present and voting shall be required to approve the amendment.

DECISION ON AMENDMENT BY THE TOWN COUNCIL

Pursuant to §12-157 (6) of the *Land Use Planning and Zoning Ordinance* Following receipt of a copy of the proposed comprehensive plan text or land use diagram amendment from the Planning Commission, along with the Planning Commission's report and recommendation, the Town Council shall schedule one or more public hearings in accordance with State Law to decide whether to adopt the amendment. For amendments to the land use diagram, personal and posted notice also shall be given in the manner provided in section 12-156. Any time after the close of the public hearing, Town Council shall act to approve, approve with conditions, or deny the proposed comprehensive plan amendment, based on the approval criteria of subsection (7) of this section. A simple majority vote of Town Council members present and voting shall be

required to approve the amendment.

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

APPROVAL CRITERIA

Pursuant to §12-157 (7) of the *Land Use Planning and Zoning Ordinance*, Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the comprehensive plan. Any amendment to the land use diagram and/or other maps shall be consistent with the vision and goals in the text of the comprehensive plan.

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

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

Staff Review:

- **The proposed zoning and future land use designation align with the existing land use patterns for the subject property.**
- **The proposed rezoning supports the goal to “*Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.*” and to “*Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.*”**
- **The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.**

Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval. Planning staff recommends approval.

PLANNING COMMISSION MEETING February 7, 2024

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

Sec. 12-65. R-1, Residential District.

- (a) *Purpose and intent.* The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single-family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to all dwelling units in the R-1 zoning district:
- (1) The maximum density for this district is three dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2B following subsection (b)(6) of this section;
 - (5) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings not covered by subsection (b)(4) of this section are listed in table 2B following subsection (b)(6) of this section and table 2C following section 12-66(b)(8);
 - (6) Authorized uses are listed in table 3A in section 12-102(c).

Table 2B. Lot Standards for R-1 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (feet) ⁽¹⁾	Minimum Yard Setbacks (feet)			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾⁽⁵⁾	Rear ⁽⁴⁾	(stories)	(feet)
8,000—11,999	40 percent	100	60	25	10	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.								
⁽²⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								
⁽⁵⁾ Minimum setbacks in side yard for lots currently in existence and reflected on the current zoning map and fronting on Eugenia Avenue the side yard setback shall be ten feet.								

(Code 1993, § 12A-205; Ord. No. 2005-08, § 12A-205, 10-12-2005; Ord. No. 2006-10, § 2, 2-6-2007; Ord. No. 2007-05, § 2(12A-205), 7-10-2007)

Sec. 12-66. R-2, Residential District.

- (a) *Purpose and intent.* The purpose of the R-2 zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.
- (b) *District regulations.* The following apply to the R-2 zoning district:
- (1) The maximum density for this district is six dwelling units per acre;
 - (2) All required parking shall be enclosed;
 - (3) Open storage is prohibited;
 - (4) There shall be no more than four dwelling units in any building within this district;
 - (5) Lot standards (setbacks, lot coverage, etc.) for single-family detached dwellings on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2C following subsection (b)(8) of this section;
 - (6) Lot standards (setbacks, lot coverage, etc.) for patio homes, on existing platted lots that are included in article VII of this chapter, the Kiawah Island Property Setback Requirements Appendix, dated 7-10-2007, incorporated herein by reference and adopted hereto as said article VII shall apply in lieu of the setback requirements in table 2D following subsection (b)(8) of this section;
 - (7) Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by subsection (b)(6) of this section are listed in table 2D following subsection (b)(8) of this section;
 - (8) Authorized uses are listed in table 3A in section 12-102(c).

Table 2C. Lot Standards for R-2 Single-Family Detached Dwellings								
Lot Size (square feet)	Maximum Lot Coverage	Depth (feet)	Width (Feet) ⁽¹⁾	Minimum Yard Setbacks ⁽²⁾ (feet)			Maximum Height	
				Front ⁽²⁾	Side ⁽³⁾	Rear ⁽⁴⁾	(stories)	(feet)
6,000—7,999	50 percent	85	55	20	7	20	2.5	40
8,000—11,999	40 percent	100	60	25	15	25	2.5	40
12,000+	33 percent	100	75	25	20	25	2.5	40
⁽¹⁾ For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.								
⁽²⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.								
⁽³⁾ A minimum of 15 feet must be provided between structures.								
⁽⁴⁾ The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.								

Table 2D. Lot Standards for R-2 (Patio Homes, Duplexes and Townhouses)				
Housing Type	Minimum Lot Size (sq. ft.)	Minimum Yard Setbacks (feet)	Maximum Height	Maximum Lot Coverage

		Front	Side ⁽¹⁾	Rear	(stories)	(feet)	
Patio homes, zero lot line homes	4,000	20	0/10 ⁽²⁾	20	2.5	35	50 percent
Duplex	6,500	15	7	20	2.5	40	40 percent
Townhouse	2,000	10	See note ⁽³⁾	20	2.5	40	60 percent
⁽¹⁾ On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining sides.							
⁽²⁾ A total distance of 15 feet is required between buildings with ten feet minimum setback being required on one side of each lot.							
⁽³⁾ Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.							

(Code 1993, § 12A-206; Ord. No. 2005-08, § 12A-206, 10-12-2005; Ord. No. 2007-05, § 2(12A-206), 7-10-2007)

Sec. 12-72. PR, Parks and Recreation District.

- (a) *Purpose and intent.* The purpose of the PR, Parks and Recreation District is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the parks/recreation use may be permitted as conditional or special exception uses.
- (b) *District regulations.* The following apply to the PR zoning district:
- (1) Lot standards (setbacks, lot coverage, etc.) for accessory structures in this district are listed in table 2L in this subsection (b);
 - (2) Authorized uses for this district are listed in table 3A in section 12-102(c);
 - (3) Parking standards are given in section 12-128.

Table 2L. Lot Standards for Accessory Structures in the PR, Parks and Recreation Zoning District		
Minimum area (square feet) ⁽¹⁾		20,000
Minimum lot depth (feet)		120
Minimum width (feet)		150
Maximum floor area ratio		0.2
Maximum lot coverage		70 percent
Maximum height		
	Stories	2
	Feet	35
Minimum setbacks (feet) ⁽²⁾		
	Front	25
	Side	25
	Rear	25
⁽¹⁾ Smaller lots for accessory structures may be permitted by the TownCouncil as part of a planned development.		
⁽²⁾ Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.		

(Code 1993, § 12A-212; Ord. No. 2005-08, § 12A-212, 10-12-2005)

Town of Kiawah Island Planning Commission

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

February 7, 2024



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COMPREHENSIVE PLAN AMENDMENT REQUEST

#ACP24-000001

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Town of Kiawah Island Comprehensive Plan Amendment Application

Planning Commission Recommendation: February 7, 2024
Public Hearing and First Reading: March 5, 2024
Second Reading: TBD

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.

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Application Information

Comprehensive Plan - Future Land Use Map Amendment Application

Case # ACP24-000001:

Request to change the Future Land Use designation for the subject property located at Beachwalker Drive (TMS# 207-05-00-001 & TMS# 207-05-00-0011) from Low Density Residential and Medium Density Residential to Active Recreation and Open Space.

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Comprehensive Plan Amendment Application

Future Land Use is intended to provide guidance for the location and types of proposed future land uses to support the Town of Kiawah Island’s Land Use Planning and Zoning Ordinance.

The aspects of the Land Use Element establish a flexible yet predictable method for determining the appropriateness of proposed development to share the future of the Town.

#ACP24-000001 Case Information

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam’s Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

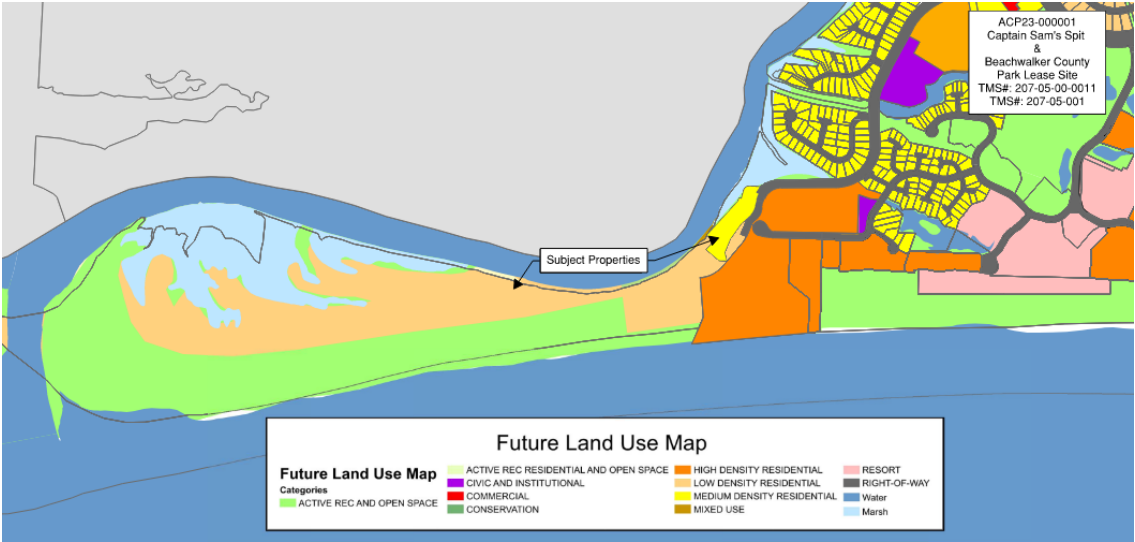
Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)

Approximately 126.75 acres Deeded Acreage per Charleston County GIS; Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Future Land Use Designation:

Low Density Residential (TMS# 207-05-00-0011)

Medium Density Residential (TMS# 207-05-00-001)



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Comprehensive Plan Amendment Application

The Town’s Future Land Use Map, designates the subject property as Low and Medium Density Residential.

- The Comprehensive Plan defines **Low Density Residential** Future Land Use Category as “This category is intended to promote, protect, and preserve lower density development of single family detached residential areas.”
- Typical development with Low Density Residential designations include Plantation Woods or The Settlement.
- The Comprehensive Plan defines **Medium Density Residential** Future Land Use Category as “This category is intended to provide and promote medium density development of single family detached and attached residential areas.”
- Typical Development with medium density Residential designations include Inlet Cove or Night Heron Cottages.

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Comprehensive Plan Amendment Application

- The Comprehensive Plan defines Active Recreation and Open Space Future Land Use Category as “This category provides and is intended to promote the development of community parks and recreational facilities including parks, golf courses, and tennis courts. This category also provides for lands that are intended to remain in their natural state; this includes land that have been protected through conservation easements or that are publicly or privately owned.”
- Typical development with an Active Recreation and Open Space designation: Tennis Center, Night Heron Park, and the Property Owners Beach and Recreation Center.

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Case # ACP24-000001:

Comprehensive Plan Amendment Applications: Recommendation by the Planning Commission

Pursuant to §12-157 (4) of the *Land Use Planning and Zoning Ordinance* “The Planning Commission shall review the proposed amendment and adopt a resolution **recommending that the Town Council approve, deny or approve with conditions the proposed amendment, based on the approval criteria of subsection (7) of this section.** The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. **A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment.** Following an unfavorable finding on the application, the Planning Commission shall notify the applicant and report the reasons for the finding.”

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Case # ACP24-000001:

Comprehensive Plan Amendment Applications: Decision on Amendment by the Town Council

Pursuant to §12-157(6) of the Land Use Planning and Zoning Ordinance “Following receipt of a copy of the proposed comprehensive plan text or land use diagram amendment from the Planning Commission, along with the Planning Commission's report and recommendation, **the Town Council shall schedule one or more public hearings** in accordance with State Law to decide whether to adopt the amendment. For amendments to the land use diagram, personal and posted notice also shall be given in the manner provided in section 12-156. Any time after the close of the public hearing, **Town Council shall act to approve, approve with conditions, or deny the proposed comprehensive plan amendment, based on the approval criteria of subsection (7) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment.**”

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APPROVAL CRITERIA

Pursuant to §12-157 (7) of the *Land Use Planning and Zoning Ordinance*, (7) Approval criteria. Approval criteria. Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the comprehensive plan. Any amendment to the land use diagram and/or other maps shall be consistent with the vision and goals in the text of the comprehensive plan

Staff Review:

- The proposed zoning and future land use designation align with the existing land use patterns for the subject property.
- The proposed rezoning supports the goal to *“Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.”* and to *“Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.”*
- The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.

Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval.

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**Town of Kiawah Island
Zoning Map
Amendment Application**

Planning Commission Recommendation: February 7, 2024
Public Hearing and First Reading: March 5, 2024
Second Reading: TBD

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.

Application Information

Zoning Map Amendment Application

Case # REZ24-000001:

Request to rezone the property located off Beachwalker Road (TMS # 207-05-00-0011& TMS# 207-05-00-001) from R-1, Residential Zoning District and R-2, Residential Zoning District to the Parks and Recreation (PR) Zoning District.

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REZ24-000001 Case Information

Applicant: Town of Kiawah Island

Property Owner: KDP II LLC

Location: Captain Sam’s Spit (Beachwalker Drive)

Parcel Identification: TMS# 207-05-00-0011 (TMS# 207-05-00-001 Beachwalker County Park Lease Site)

The subject property is one parcel; however Charleston County has recognized the Beachwalker County Park Lease Site with a unique TMS number.

Property Size: TMS# 207-05-00-0011 (Approximately 173 acres)

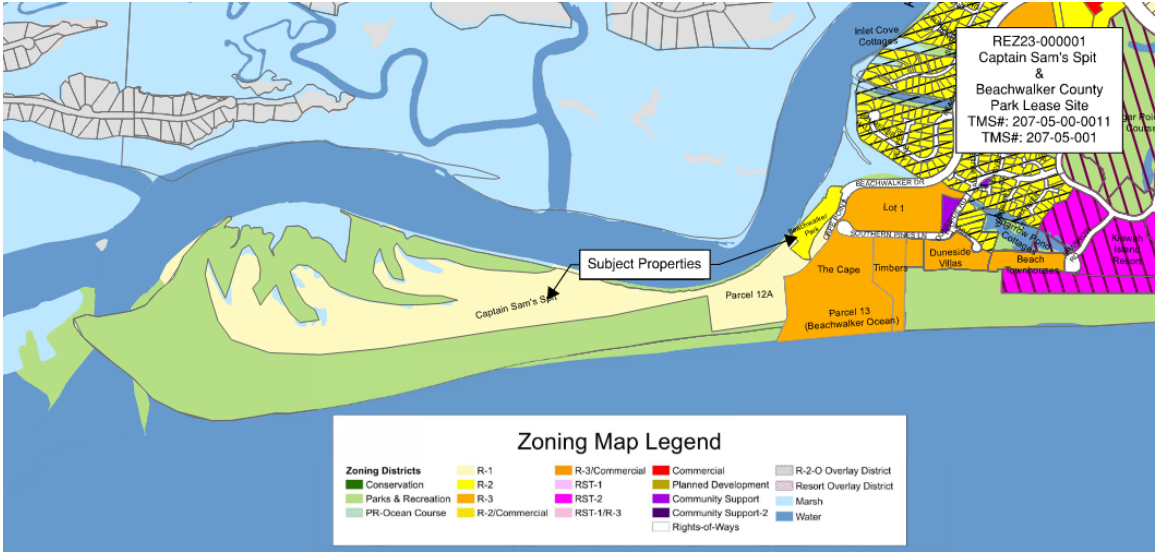
Approximately 126.75 acres Deeded Acreage per Charleston County GIS; Beachwalker County Park Lease Site: Approximately 2.14 acres per Charleston County GIS

Future Land Use Designation:

Low Density Residential (TMS# 207-05-00-0011)

Medium Density Residential (TMS# 207-05-00-001)

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Case # REZ24-000001:

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

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

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Case # REZ24-000001:

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

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

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APPROVAL CRITERIA

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

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

Staff Review:

- The proposed zoning and future land use designation align with the existing land use patterns for the subject property.
- The proposed rezoning supports the goal to “*Complete the Island’s development in a way that maintains the Island’s environmental integrity and natural beauty and is consistent with the Vision of the Town.*” and to “*Develop and maintain an environmentally sustainable system of parks and open spaces which provide access to the beach and river; preserves, protects and enhances natural resources; and meets the diverse recreational needs of the Town’s population.*”
- The proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan.

Planning staff finds the proposed amendment satisfies the approval criteria and recommends approval.

32

Deed Prepared by:
Matthew J. Norton, Esq.
K&L Gates, LLP
134 Meeting Street, Suite 200
Charleston, South Carolina 29401
(Deed Preparation Only)



BP0335077

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

SPECIAL WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, that KIAWAH DEVELOPMENT PARTNERS II, INC., a South Carolina corporation (hereinafter, "Grantor"), in consideration of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration to Grantor in hand paid by KDP II LLC, a South Carolina limited liability company (hereinafter, "Grantee"), the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release, unto Grantee, its successors and assigns forever, the following described real estate:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE (HEREINAFTER, THE “PREMISES” AND/OR THE “PROPERTY”).

Grantee's Address: P.O. Box 12001
Charleston, South Carolina 29422

TOGETHER with, all and singular, the rights, members, hereditaments and appurtenances to the Premises belonging or in anywise incident or appertaining.

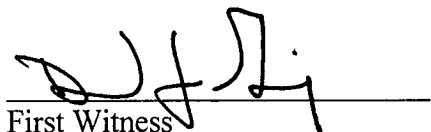
TO HAVE AND TO HOLD, all and singular, the Premises unto Grantee, its successors and assigns, forever.

And, except for that portion of the Property described in that certain Quit-Claim Deed dated December 29, 1995, recorded in the RMC Office for Charleston County in Book N265, page 406, as to which Grantor makes no warranty, Grantor does hereby bind itself and its successors and assigns to warrant and forever defend, all and singular, the Premises unto Grantee, its successors and assigns, forever, against Grantor, its successors and assigns, and against all persons lawfully claiming or to claim the same, or any part thereof, by, under or through Grantor and no others.

WITNESS the Grantor's hand and seal this 31st day of May, 2013.

SIGNED, sealed and delivered
in the presence of:

KIAWAH DEVELOPMENT PARTNERS II, INC.,
a South Carolina corporation
(L.S.)


First Witness

By: 
Charles P. Darby, III, President


Second Witness

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, the undersigned notary public for the State of South Carolina, hereby certify that Charles P. Darby, III, as President of Kiawah Development Partners II, Inc., a South Carolina corporation, personally came before me this day and acknowledged the execution of the foregoing instrument as Grantor's act and deed.

WITNESS my hand and notarial stamp or seal (if required by law) this 31st day of May, 2013.

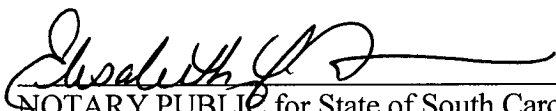

NOTARY PUBLIC for State of South Carolina
My Commission Expires: 12-10-2020

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Kiawah Undeveloped Lots

Cape Charles
(f/k/a Captain Sam's)
TMS #207-05-00-001 and 001-1

All that certain piece, parcel, or tract of land situate, lying and being at the west end of Kiawah Island proper, in the Town of Kiawah Island, Charleston County, South Carolina, containing **133.490 acres**, more or less, known generally as the "Beachwalker Park" and "Captain Sam's" Parcels and shown on a plat prepared by Southeastern Surveying of Charleston, Inc., entitled "A BOUNDARY SURVEY OF CAPTAIN SAM'S SPIT CONTAINING A TOTAL OF 133.490 ACRES OWNED BY KIAWAH LAND DEVELOPMENT, LLC LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated July 17, 2006, last revised on August 9, 2006, and recorded in Plat Book EK at pages 031-034 in the RMC Office for Charleston County, South Carolina (the "RMC Office"), said tracts having such location, butts and bounds, metes, courses, and distances as will by reference to said plat more fully appear.

TOGETHER WITH, all that certain piece, parcel, or tract of land situate, lying and being at the southern terminus of Beachwalker Road, in the Town of Kiawah Island, Charleston County, South Carolina, containing **.811 acres** more or less, and shown on a plat prepared by Southeastern Surveying of Charleston, Inc., entitled "A BOUNDARY LINE ADJUSTMENT PLAT OF TMS #207-05-00-001, TMS #207-05-00-115 AND TMS #207-05-00-118 OWNED BY KIAWAH DEVELOPMENT PARTNERS II, INC. & KIAWAH RESORT ASSOCIATES LP LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated July 11, 2011, last revised on July 19, 2011, and recorded in Plat Book L11 at page 0226, in the RMC Office for Charleston County, South Carolina, said tract having such location, butts and bounds, metes, courses, and distances as will by reference to said plat more fully appear.

This is the same property conveyed to Kiawah Development Partners II, Inc., by deed of conveyance of Kiawah Resort Associates, L.P., dated August 3, 2011, and recorded August 5, 2011, in Book 0201, page 081, and by deed of Kiawah Resort Associates, L.P. and Kiawah Land Development, LLC, dated December 28, 2007, and recorded December 28, 2007, in Book L647, page 293, in the RMC Office.

This conveyance is made subject to all matters of record and the following, to the extent applicable:

(a) Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company, Inc. dated February 19, 1976, and recorded February 19, 1976, in Book T108, page 338 in the RMC Office, as from time to time may be amended by instruments of record.

(b) Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company Limited dated December 21, 1977, and recorded December 29, 1977, in Book M114, page 406 in the RMC Office.

(c) Declaration of Covenants and Restrictions of The Kiawah Island Community Association, Inc., executed by Kiawah Island Community Association, Inc. and by Kiawah Island Company, Inc. dated February 19, 1976, and recorded February 19, 1976, in Book T108, page 337 in the RMC Office as may from time to time be amended by instruments of record.

(d) Declaration of Covenants and Restrictions of The Kiawah Island Community Association, Inc. executed by Kiawah Island Community Association, Inc. and Kiawah Island Company Limited dated December 21, 1977, and recorded December 29, 1977, in Book M114, page 407 in the RMC Office.

(e) Addendum to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated March 28, 1981, and recorded in Book O125, page 163 in the RMC Office.

(f) Second Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated July 30, 1984, and recorded August 14, 1984, in Book K139, page 58 in the RMC Office.

(g) Third Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated January 30, 1992, and recorded in Book R210, page 748 in the RMC Office.

(h) Fourth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated May 20, 1994, and recorded June 3, 1994, in Book W243, page 258, in the RMC Office.

(i) Fifth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 29, 1997, recorded May 13, 1997, in Book A284, page 914, in the RMC Office, and re-recorded in Book S287, page 404 in the RMC Office.

(j) Sixth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated May 18, 2000, and recorded May 26, 2000, in Book H348, page 383, in the RMC Office.

(k) Seventh Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated March 31, 2003, and recorded April 15, 2003, in Book W444, page 552, in the RMC Office.

(l) Eighth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 12, 2004, and recorded April 10, 2004, in Book F491, page 514, in the RMC Office.

(m) Ninth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., dated April 28, 2006, and recorded May 12, 2006, in Book F583, page 354, in the RMC Office.

(n) Tenth Addendum to Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. dated May 21, 2007, recorded May 25, 2007, in Book Y626, page 768, in the RMC Office.

(o) First Amendment to the By-Laws of the Kiawah Island Community Association, Inc., dated January 30, 1992, and recorded in Book R210, page 759 in the RMC Office.

(p) Amendment to By-Laws of the Kiawah Island Community Association, Inc., dated July 9, 2002 and recorded July 25, 2002 in Book G413, page 10, in the RMC Office.

(q) Amendment to By-Laws of the Kiawah Island Community Association, Inc. dated July 14, 2008, and recorded September 11, 2008, in Book 0009, page 166, in the RMC Office.

(r) Amendment to By-Laws of the Kiawah Island Community Association, Inc. dated August 4, 2011, and recorded August 17, 2011 in Book 0202, page 933, in the RMC Office.

(s) Supplementary Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., and Supplementary Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Kiawah Island executed by Kiawah Island Company Limited dated March 23, 1981, and recorded March 26, 1981, in Book Z124, page 305 in the RMC Office.

(t) Second Supplementary Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., executed by the Kiawah Island Community Association, Inc., dated May 20, 1994, and recorded June 3, 1994, in Book W243, page 271, in the RMC Office.

(u) Assignment and Assumption of Developer's Rights and Easements executed by Kiawah Island Company Limited in favor of Kiawah Resort Associates, dated June 28, 1988, and recorded June 29, 1988 in Book Z175, page 561 in the RMC Office, assigning certain rights under the restrictions set forth in the documents referred to herein, as certain rights have been further assigned by that certain Agreement and Assignment of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property on Kiawah Island, SC," dated March 31, 1989, a Memorandum of which Agreement is recorded in Book F183, page 307 in the RMC Office, as amended by that certain Amendment to Memorandum for Recording recorded in Book J198, page 623, and as further amended by that certain Second Amendment to Memorandum for Recording recorded in Book X204, page 601 in the RMC Office.

(v) Assignment and Assumption of Developer's Rights and Easements executed by Kiawah Resort Associates in favor of Kiawah Resort Associates, L.P., dated June 26, 1992, and recorded June 26, 1992, in Book N215, page 11, in the RMC Office, assigning the rights referred to in the preceding subparagraph to Kiawah Resort Associates, L.P.

(w) Easements, construction/improvement setbacks, and other building/use criteria as shown on plats of record, and the DHEC-OCRM Critical Line, Setback Line and Baseline as the same may vary from time to time.

(x) "10' Vehicular Access Area", "Existing 10' Access Easement", and "Existing 50' Road Easement" or "Existing 50' Access Easement" as shown on the aforesaid plats.

(y) Rights, if any, of the Kiawah Island Community Association, Inc. as to that portion of the Property described in that certain deed recorded in Book N265, page 406 in the RMC Office, which land is the subject of Case No. 2013-CP-10-1225 styled Kiawah Resort Associates, L.P., v. Kiawah Island Community Association, Inc., filed with the Clerk of Court in the Charleston County Court of Common Pleas.

(z) Any lawful, constitutional interest in either the State of South Carolina or Federal Government created, or limitations on use imposed, by the Federal Coastal Management Act or other Federal law or by S.C. Code Sections 48-39-10 through 48-39-220, as amended, and Sections 48-39-250 through 48-39-360, as amended, or any regulations promulgated pursuant to said State or Federal laws, inclusive of DHEC – Office of Ocean and Coastal Resource Management and U.S. Army Corps of Engineers regulations, and such rights as the public may enjoy to the use of the Property, if any, lying below the mean high water mark.

(aa) Declaration of Special Covenants and Restrictions (Non-Competition) executed by Kiawah Resort Associates, dated March 31, 1989, and recorded in Book E183, page 345 in the RMC Office, as amended by instrument dated May 10, 1989, and recorded in Book H184, page 338 in the RMC Office, as further amended by instrument dated September 8, 1989, and recorded in Book M191, page 671 in the RMC Office, and as further amended by instrument dated November 26, 1997, and recorded in Book R293, page 445, in the RMC Office.

(bb) Development Agreement executed by and between Kiawah Resort Associates, L.P. and the Town of Kiawah Island dated as of October 12, 2005, and recorded October 20, 2005, in Book Z558, page 004, in the RMC Office, as amended.

(cc) Memorandum of Utility Service Agreement executed by and between Kiawah Resort Associates, L.P. and Kiawah Island Utility, Inc., recorded July 8, 1997, in Book U286, page 740, in the RMC Office, as amended.

(dd) Mineral Rights as more fully set forth in the "Saving and Excepting Also" clause on page 6 in the deed of conveyance from Ronald D. Royal, Dennison A. Royal, Alice Royal Smith, formerly Pamela Alice Royal, a/k/a Pamela Royal Smith, Michael F. Royal, Sandra Royal Olsberg, Nancy Royal Schomaker, formerly Nancy Royal Mims, and Kiawah Development

Company to Coastal Shores, Inc., dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office.

(ee) Rights reserved unto Ronald D. Royal, a/k/a Ronald David Royal, Dennison A. Royal, Alice Royal Smith, formerly Pamela Alice Royal, a/k/a Pamela Royal Smith, Michael F. Royal, Sandra Royal Olsberg and Nancy Royal Schomaker, formerly Nancy Royal Mims, and their respective assigns, and obtained through and tied to the ownership of a lot or lots subdivided from the property described in the "Saving and Excepting Also" clause found on pages 4 and 5 of the deed hereinafter referred to, to become a member of any association of Kiawah property owners or other such organization; the right of ingress and egress over any platted public and private streets, roads and ways; the right to connect and use utility and other services on the same basis as those services are offered to other lot owners on Kiawah Island and the right to use recreational facilities on the same basis as those facilities are offered to other such lot owners, said rights being more fully set forth in subparagraph "(d)" on page 5 of the deed of conveyance from Ronald D. Royal, et al. to Coastal Shores, Inc. dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office.

(ff) Unrecorded easements, if any, for utility lines and facilities existing at the time of the conveyance from Ronald D. Royal, et al. to Coastal Shores, Inc. dated February 15, 1974, and recorded in Book U103, page 265 in the RMC Office, as set forth in paragraph "(c)" on page 7 thereof.

(gg) No warranty is given as to title to that portion of the Property lying below the mean high water mark and the navigable waters of the Kiawah River, Captain Sam's Creek, Captain Sam's Inlet (also known as the Kiawah River Inlet) and the Atlantic Ocean and marshes.

(hh) Rights, if any, of the public to the use as a public beach or recreation area, any part of the land lying between the body of water abutting the Property and the mean high water line, separating the publicly used area from the inland private area.

(ii) The limitation on use seaward from the forty year line defined by and pursuant to the act of the Legislature commonly known as the Beach Management Act which amends the South Carolina Code of Laws, 1976, by adding Sections 48-39-250 through 48-39-360 and amends Sections 48-39-10 and 48-39-130 thereof.

(jj) Grant of Exclusive License dated April 15, 1997, and recorded in Book Z282, page 737 in the RMC Office.

(kk) Rights of tenants, as tenants only, under the unrecorded Lease Agreement by and between Kiawah Island Company, Inc. and Charleston County dated July 1, 1976.

(ll) Indenture Grant of Non-Exclusive Easement for Access, Ingress and Egress dated December 8, 2000 and recorded in Book A360, page 489 in the RMC Office.

• (mm) Easement and Beachfront Property Agreement by and between Kiawah Resort Associates, a South Carolina joint venture, and Landmark Land Company of Carolina, Inc. dated March 31, 1989, and recorded in Book E183, page 686, as amended.

(nn) Zoning ordinance of the Town of Kiawah Island.

(oo) Assessments as may become due and payable.

(pp) Charleston County, S.C. ad valorem taxes for 2013, a lien not yet due and payable, and ad valorem taxes for all subsequent years.

(qq) All matters listed as exceptions on Schedule B, Part II in ALTA Title Commitment No. 69315.0001.3(M) dated May 31, 2013 issued by Chicago Title Insurance Company.

STATE OF SOUTH CAROLINA }
COUNTY OF Charleston } AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property was transferred by Kiawah Development Partners II, Inc.
to KDP II LLC on May 29 2013.

3. Check one of the following: The deed is

- (A) ☐ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (B) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
- (C) ☒ exempt from the deed recording fee because (See Information section of affidavit): Exemption #8 - Transferring realty in order to become a member of Grantee (Explanation required)
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?

Check Yes ☐ or No ☐

4. Check one of the following if either item 3(a) or item 3(b) above has been checked. (See Information section of this affidavit):

- (A) ☐ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____.
- (B) ☐ The fee is computed on the fair market value of the realty which is _____.
- (C) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check YES ☐ or NO ☐ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is _____.

6. The deed recording fee is computed as follows:

- (A) Place the amount listed in item 4 above here: _____
- (B) Place the amount listed in item 5 above here: _____
- (If no amount is listed, place zero here.)
- (C) Subtract Line 6(b) from Line 6(a) and place the result here: _____

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.

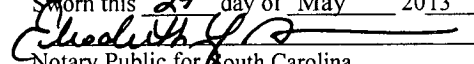
8. As required by Code Section '12-24-70, I state that I am a responsible person who was connected with the transaction as:
Legal Representative of Purchaser

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


Responsible Person Connected with the Transaction

David F. Greg
Print or Type Name Here

Sworn this 29th day of May 2013


Notary Public for South Carolina

My Commission Expires: 12-10, 2020

RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

WOMBLE CARLYLE SANDRIDGE & RICE
5 EXCHANGE STREET
PO BOX 999
CHARLESTON SC 29401

RECORDED

Date: May 31, 2013

Time: 4:25:47 PM

<u>Book</u>	<u>Page</u>	<u>DocType</u>
0335	077	Deed

Charlie Lybrand, Register
Charleston County, SC

MAKER:

KIAWAH DEV PARTNERS ETC

RECIPIENT:

KDP II LLC

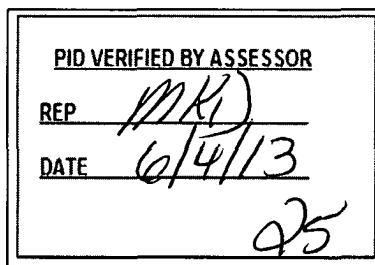
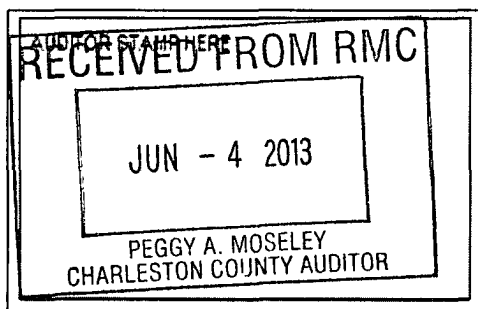
Note:

of Pages: 10

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ 5.00
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 15.00

Original Book:

Original Page:



DRAWER Drawer 1
CLERK TPS



0335
Book



077
Page



05/31/2013
Recorded Date



10
Pgs



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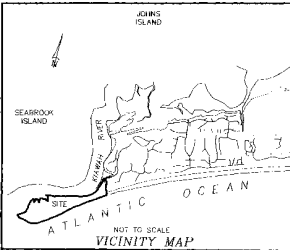
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16:25:47
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FOR PLANNING AND MAP USE ONLY

APPROVED FINAL PLAT

DIRECTOR OF PLANNING
Town of Kiawah Island

20549
Application # 24 AUG 06
Date

Charleston, South Carolina
Office of Register Meane Conveyance
Plat recorded on 25th day of August, 2006, at
2:46, o'clock in the afternoon, in Book 333, Page 333, and tracing cloth
copy filed in the Register Meane Conveyance Office, Charleston County, South Carolina.
(Original this Chain Plan) delivered to Charleston County
Planning Board, Sheet 1 of 4
Register Meane Conveyance

ACREAGES
HIGHLAND 40.645 ACRES
BELOW HIGHLAND 92.845 ACRES
TOTAL 133.490 ACRES

KIAWAH RIVER

MA 596PG156

AREA BETWEEN
DHEC-CORM AND MHW
88.484 AC

HIGHLAND
0.344 AC

TMS 207-00-00-002
KIAWAH LAND
DEVELOPMENT, LLC
5557/226
HIGHLAND
40.301 AC
TOTAL
133.490 AC

REFERENCES

1. PLAT A-85
2. PLAT B-50
3. PLAT C-88
4. PLAT D-2273
5. PLAT E-60
6. PLAT F-05
7. DEED 5557/226
8. DEED 1282/751

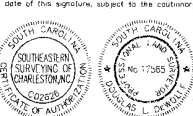
NOTES

1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DESCRIPTIVE PURPOSES ONLY.
2. AREA DETERMINED BY LONGWATER (DHEC) METHOD.
3. THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
4. ALL ELEVATIONS ARE BASED ON NGVD 1929.
5. COORDINATES ARE BASED ON SC STATE PLANE GRID NAD 1983.
6. ALL PROPERTY SHOWN IS IN A CORP. ZONE, CORP. VZ (A) 1A-1B AS SHOWN ON FIRM COMMUNITY PLAN NO. 4509C 0785 J, REVISED NOV. 17, 2004.
7. ALL LOTS SHOWN WILL BE SERVED BY PUBLIC SEWER AND WATER.
8. PUBLIC SEWER AND WATER IS AVAILABLE AT THE END OF BEACHMAKER DRIVE.

THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT MEAN HIGH WATER (MHW) CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY DELINEATING THE PERMANENT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

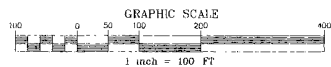
SIGNATURE: [Signature] DATE: 08.08.06

THE CRITICAL LINE SHOWN ON THIS PLAT IS VALID FOR FIVE YEARS FROM THE DATE OF THIS SIGNATURE, SUBJECT TO THE STATUTORY LANGUAGE ABOVE.



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY, AS SPECIFIED THEREIN.

DOUGLAS L. DOWDLE S.C.P.L.S. 17565



ATLANTIC OCEAN

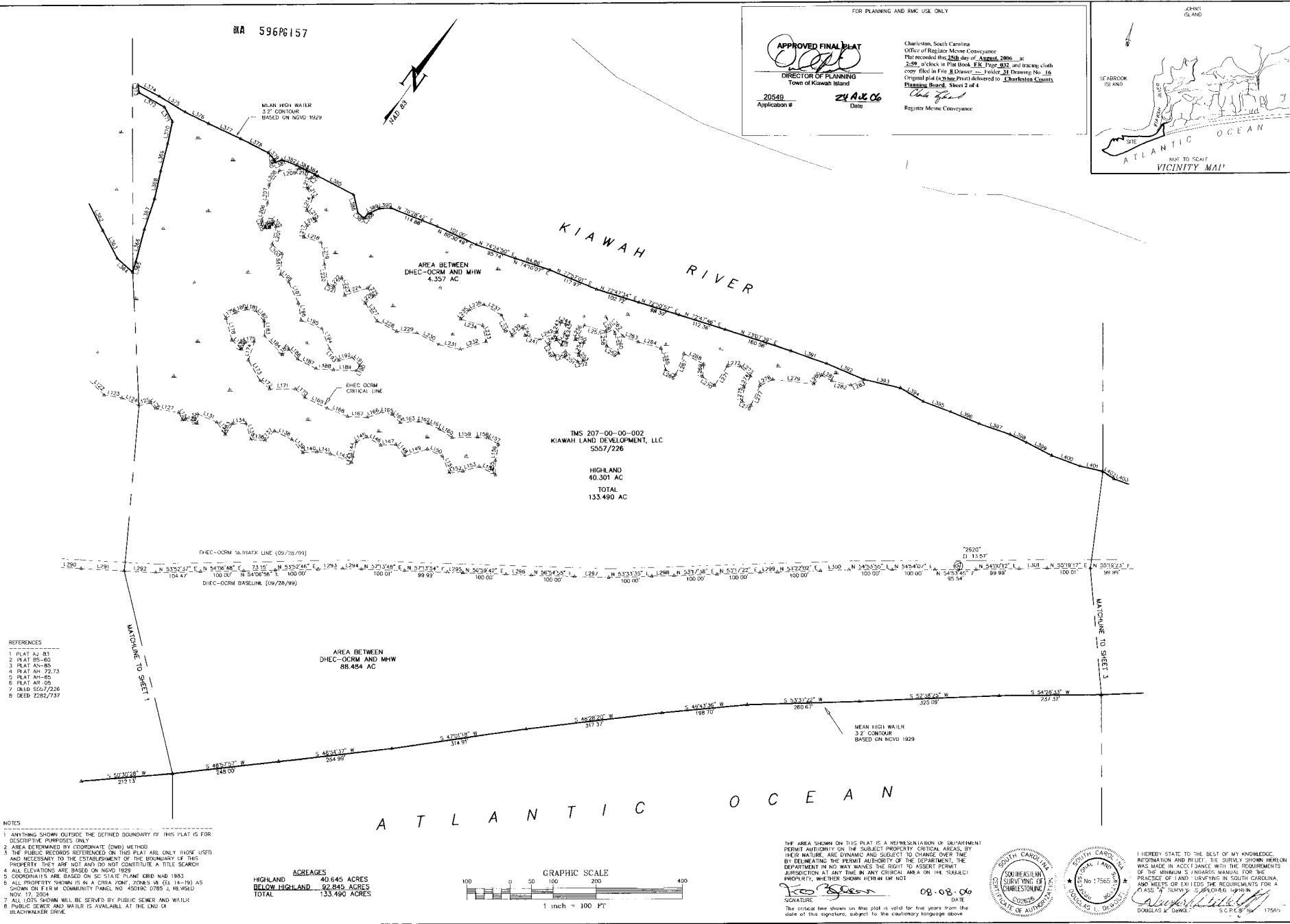
DATE	BY
6/27/06	SAVING THE MAP # 1154
DATE	DESCRIPTION

Southeastern Surveying of Charleston, Inc.
147 Wappoo Creek Drive - Suite 102
Charleston, South Carolina 29412
843-795-9130 FAX 795-9007 www.sss-inc.com

A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
CONTAINING 133.490 ACRES
OWNED BY KIAWAH LAND DEVELOPMENT, LLC
LOCATED IN THE TOWN OF KIAWAH ISLAND,
CHARLESTON COUNTY, SOUTH CAROLINA

DRAWN	DLO
CHECKED	PLD
DATE	08/08/06
DWG	02159.dwg
SHEET	1 OF 4

Copyright (c) Southeastern Surveys of Charleston, Inc. 11:32:58 AM EDT



SE
of Charleston, Inc.
147 Wappoo Creek Drive - State 102
Charleston, South Carolina 29412
843-785-8330 FAX 785-2007 www.sss-jc.com

**A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
CONTAINING 133.490 ACRES
OWNED BY KIawah LAND DEVELOPMENT, LLC
LOCATED IN THE TOWN OF KIawah ISLAND,
CHARLESTON COUNTY, SOUTH CAROLINA**

DATE: JULY 17, 2006
DRAWN: DLD
CHECK: DLD
JOB: 02159
DWG: 02159.boun
SHEET 2 OF 4

FOY IN ANNUAL AND BASIC LOG - ONLY

APPROVED FINAL PLAT

Charlotte, South Carolina
Office of Registrar Messrs. Conveyance
File recorded on 28th day of August, 2006, at _____
o'clock in the P.M. at _____, Volume 883 of tracing book
of _____, B. B. Brown, - Volume 31 of tracing book
of _____, at _____, in _____, to Charlotte County,
North Carolina, Sheet 1 of 4.

20549
Application #

28 AUG 06
Date

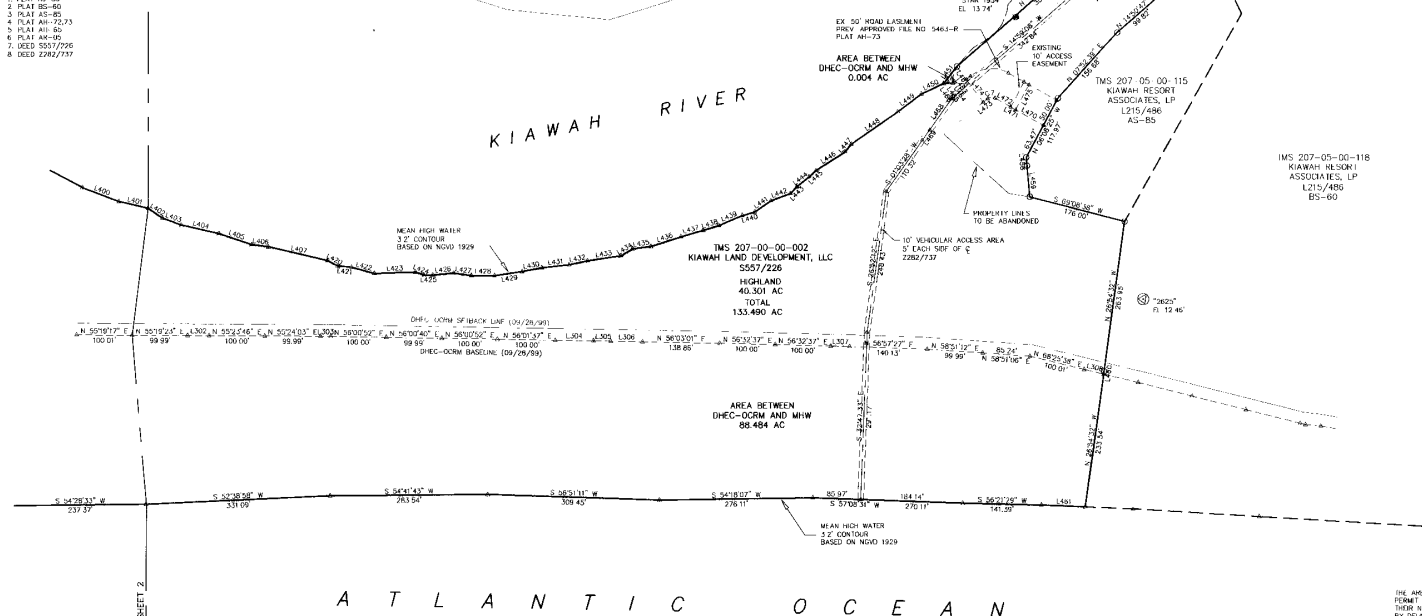
Registrar Messrs. Conveyance

NO IP %

1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DISCRETIONARY PURPOSES ONLY.
2. AREA DETERMINED BY COORDINATE (IND) METHOD.
3. THE PUBLIC RECORDS REFERENCED ON THIS PLAT AND ONLY THOSE USED AS A BASIS FOR THIS SURVEY ARE THE BOUNDARY OF THIS PROPERTY. TITLE AND NOTED DO NOT CONSTITUTE A TITLE SEARCH.
4. ELEVATIONS ARE BASED ON NCVD 1929.
5. COORDINATES ARE BASED ON THE STATE PLANE GRID NAD 1983.
6. ALL PROPERTY SHOWN IS IN A CIBOLA ZONE, ZONES VE (14-16) AS SHOWN ON A FIRM COMMUNITY PLAN NO. 4501032 07/95 J. REVISED AS OF 11/2004.
7. ALL LOT#S SHOWN WILL BE SERVED BY PUBLIC SEWER AND WATER.
8. PUBLIC SEWER AND WATER IS AVAILABLE AT THE END OF WATCHMAN.

REFERENCES

1. PLAT AJ-83
2. PLAT BS-60
3. PLAT AS-85
4. PLAT AH--72,73
5. PLAT AI--65
6. PLAT AK-05
7. DEED 5557/726
8. DEED 2282/737



THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT, THE DEPARTMENT IN NO WAY WAIVES THE RIGHT TO ASSURE PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

SIGNATURE _____ DATE 06-08-06

The critical line shows on this plot is valid for five years from the date of this signature, subject to the customary language above.

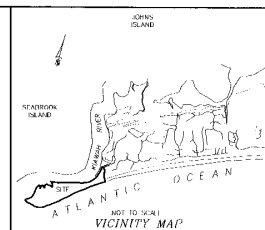
I HEREBY STATE TO THE BEST OF MY KNOWLEDGE,
INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON
WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS
OF THE MINIMUM STANDARDS MANUAL FOR THE
PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA,
AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A
CLASS "A" SURVEY AS SPECIFIED THEREIN.

Donald A. DeWolfe
DONALD A. DEWOLFE S.C.P.S. No. 17563

A BOUNDARY SURVEY OF
CAPTAIN SAM'S SPIT
CONTAINING 133.490 ACRES
OWNED BY KIAWAH LAND DEVELOPMENT, LLC
LOCATED IN THE TOWN OF KIAWAH ISLAND,
CHARLESTON COUNTY, SOUTH CAROLINA

**Southeastern Surveying
of Charleston, Inc.**
47 Wappoo Creek Drive - Suite 102
Charleston, South Carolina 29412
843-795-9530 FAX 795-2007 WWW.SES-SC.COM

DATE	JULY 17, 2008
DRAWN	DLD
CHECK	DLD
JOB	02159
DWG	02159 bound
SHEET	3 OF 4



LINE	BEARING	DISTANCE
L1	N 82°59'58" E	38.19
L2	N 87°00'31" E	30.44
L3	S 07°04'00" E	37.36
L4	S 54°51'58" E	36.48
L5	S 33°14'24" E	40.30
L6	S 03°00'26" W	22.38
L7	S 62°30'57" E	37.62
L8	S 18°42'31" E	46.01
L9	S 32°12'34" W	30.58
L10	S 72°52'18" W	14.70
L11	N 48°31'46" W	32.38
L12	N 50°50'54" W	34.74
L13	N 11°33'08" W	17.58
L14	N 44°10'18" W	27.41
L15	N 13°56'22" E	44.84
L16	S 88°05'51" W	26.20
L17	S 21°04'21" E	55.00
L18	N 61°56'57" W	3.64
L19	N 92°05'21" E	40.93
L20	N 11°54'41" E	28.75
L21	S 41°27'35" E	27.77
L22	S 88°04'13" E	28.00
L23	S 16°03'24" E	25.92
L24	S 03°06'11" E	42.81
L25	S 11°14'01" E	48.84
L26	S 41°58'42" E	45.70
L27	S 16°03'24" E	33.81
L28	S 70°02'21" E	32.42
L29	S 54°03'57" E	39.74
L30	N 88°01'25" E	26.82
L31	S 74°40'09" E	20.49
L32	S 21°22'21" E	57.40
L33	N 47°46'08" E	21.82
L34	N 30°07'31" E	31.54
L35	N 30°04'31" E	21.45
L36	N 31°12'11" E	21.29
L37	S 71°02'21" E	20.88
L38	S 24°12'11" E	22.54
L39	S 37°11'31" E	28.50
L40	S 57°09'59" E	23.87
L41	N 27°45'41" E	22.97
L42	N 68°48'45" E	36.86
L43	N 61°03'10" E	37.50
L44	N 71°03'11" E	31.87
L45	S 63°37'44" E	50.00
L46	S 70°04'11" E	39.86
L47	S 67°45'23" E	29.53
L48	N 42°02'26" E	30.81
L49	S 18°10'45" E	38.37
L50	N 38°33'30" E	53.89

LINE	BEARING	DISTANCE
L351	N 84°18'26" W	53.47
L352	N 59°22'04" E	48.02
L353	N 17°16'58" E	59.46
L354	N 84°54'08" E	68.9
L355	N 02°52'21" E	56.89
L356	N 92°06'36" E	97.22
L357	N 86°06'50" E	75.36
L358	S 34°16'20" E	78.45
L359	N 80°06'48" E	99.57
L360	N 86°47'32" E	57.75
L361	S 82°04'44" E	59.89
L362	S 81°36'36" E	73.85
L363	S 82°52'45" E	73.85
L364	S 82°34'42" E	47.12
L365	N 18°35'36" W	26.89
L366	N 20°31'30" W	77.71
L367	N 16°30'03" W	75.78
L368	N 22°22'27" W	67.40
L369	N 20°40'48" W	84.80
L370	N 22°01'26" W	53.62
L371	N 83°58'18" W	37.86
L372	S 84°54'54" E	67.82
L373	N 42°02'05" W	18.11
L374	N 82°35'58" E	35.72
L375	N 88°54'48" E	70.16
L376	N 81°02'49" E	61.12
L377	N 80°12'09" E	82.39
L378	N 80°12'09" E	71.35
L379	S 73°38'36" E	21.87
L380	S 73°20'07" E	18.25
L381	N 38°22'56" E	18.25
L382	N 73°20'07" E	26.28
L383	S 82°14'50" E	69.14
L384	N 82°33'29" E	7.44
L385	N 82°33'29" E	10.51
L386	S 47°37'01" E	44.27
L387	S 84°27'37" E	18.50
L388	N 84°54'29" E	58.61
L389	N 32°22'32" E	28.48
L390	N 52°44'21" E	27.83
L391	N 74°19'03" E	88.21
L392	N 78°18'48" E	94.84
L393	N 68°25'48" E	88.07
L394	N 82°44'18" E	62.24
L395	N 72°48'46" E	68.07
L396	N 77°35'41" E	71.97
L397	N 74°17'25" E	75.63
L398	N 80°47'02" E	42.07
L399	N 80°03'36" E	65.86
L400	N 75°13'41" E	70.32

LINE	BEARING	DISTANCE
L151	N 49°48'26" W	45.11
L152	N 16°27'58" W	10.36
L153	N 63°54'23" E	18.14
L154	S 71°29'48" E	18.78
L155	N 11°12'22" E	13.88
L156	N 58°41'05" E	61.31
L157	N 75°24'57" W	23.29
L158	N 17°37'18" E	27.36
L159	S 08°10'49" E	27.17
L160	S 24°23'07" E	33.34
L161	N 81°03'36" E	32.56
L162	N 48°17'48" W	33.02
L163	N 77°56'58" W	33.80
L164	S 62°08'46" W	56.67
L165	N 47°44'44" W	100.40
L166	N 81°15'54" W	74.80
L167	N 38°26'34" W	53.23
L168	S 26°19'11" W	35.39
L169	S 75°30'44" W	41.53
L170	S 50°34'21" W	39.88
L171	S 32°01'24" W	22.41
L172	N 02°08'56" W	49.53
L173	S 38°11'42" W	38.36
L174	S 28°14'16" W	42.81
L175	S 64°18'57" W	66.83
L176	S 47°20'02" W	28.61
L177	S 09°12'13" W	26.39
L178	S 63°41'58" W	32.42
L179	S 24°11'27" E	44.52
L180	S 41°21'17" E	26.82
L181	S 62°37'42" E	22.18
L182	N 68°11'15" E	54.30
L183	N 85°18'04" E	21.21
L184	N 72°42'11" E	41.66
L185	S 41°17'29" E	21.45
L186	S 63°06'32" E	56.46
L187	N 50°31'38" E	31.80
L188	N 34°11'58" E	34.16
L189	N 68°49'58" W	20.25
L190	N 88°21'05" W	40.71
L191	N 88°44'16" W	25.22
L192	N 28°30'18" E	15.44
L193	N 81°17'41" E	12.81
L194	S 84°59'31" E	65.52
L195	S 48°34'11" E	37.50
L196	S 43°40'46" E	46.46
L197	S 62°03'50" W	19.31
L198	N 24°11'54" W	24.44
L199	S 18°38'01" E	35.17
L200	S 32°41'10" E	41.97

LINE	BEARING	DISTANCE
L451	N 8°35'53" E	53.63
L452	N 68°11'20" E	31.12
L453	N 74°03'44" E	38.33
L454	N 57°10'40" E	69.77
L455	N 32°30'54" E	62.08
L456	S 61°31'07" E	30.65
L457	N 67°47'54" E	108.63
L458	N 81°37'38" E	20.41
L459	N 80°29'40" E	25.46
L460	N 68°48'37" E	42.30
L461	N 53°11'06" E	74.09
L462	N 74°12'52" E	66.14
L463	N 34°09'00" E	119.27
L464	N 48°26'00" E	36.80
L465	N 64°28'39" E	31.98
L466	N 36°04'56" E	41.38
L467	N 44°50'45" E	52.91
L468	N 44°59'24" E	36.09
L469	N 48°14'11" E	43.08
L470	N 47°02'14" E	33.13
L471	N 46°53'58" E	61.11
L472	N 28°08'18" E	23.72
L473	N 47°01'42" E	33.67
L474	N 37°58'12" E	54.28
L475	N 37°58'12" E	54.28
L476	N 38°24'58" E	26.36
L477	N 37°08'08" E	45.78
L478	N 40°10'14" E	34.13
L479	N 37°12'42" E	35.08
L480	N 34°48'24" E	32.89
L481	N 09°48'34" E	19.28
L482	N 17°02'00" E	28.02
L483	N 12°26'00" E	18.58
L484	N 23°58'50" E	61.63
L485	N 65°29'17" E	17.71
L486	N 60°52'45" E	101.00
L487	N 18°38'01" E	62.06
L488	N 03°07'07" E	40.07
L489	N 03°49'23" E	37.61
L490	N 11°37'53" E	15.99
L491	N 28°53'59" E	10.74
L492	N 17°59'51" E	73.65
L493	N 86°39'44" E	85.01
L494	N 88°08'53" E	33.80
L495	N 12°18'50" E	47.77
L496	N 40°12'22" E	47.71
L497	N 60°17'27" E	54.72
L498	N 26°54'26" E	5.97
L499	N 57°24'01" E	18.11
L500	S 17°58'28" E	22.21
L501	S 88°20'41" E	6.78

LINE	BEARING	DISTANCE
L101	S 87°00'47" E	33.72
L102	S 22°06'06" E	43.88
L103	S 08°01'01" E	33.93
L104	S 11°57'39" E	53.19
L105	N 13°33'53" W	50.91
L106	S 72°52'08" W	29.90
L107	S 19°03'51" W	44.62
L108	N 17°37'18" E	27.36
L109	N 41°18'47" W	43.40
L110	N 69°57'06" W	24.08
L111	N 61°15'54" W	32.56
L112	N 39°08'14" W	33.78
L113	S 08°07'37" W	22.54
L114	S 22°50'06" E	37.07
L115	N 78°24'57" W	26.73
L116	S 22°37'10" W	34.40
L117	N 41°18'47" W	34.82
L118	N 69°57'06" W	35.21
L119	N 70°04'13" W	36.78
L120	N 14°03'46" W	35.48
L121	N 81°06'06" W	39.75
L122	N 80°14'46" W	45.76
L123	S 64°42'07" E	42.43
L124	S 39°07'09" E	42.46
L125	S 41°46'16" W	26.50
L126	N 38°14'42" W	36.71
L127	S 64°50'38" W	55.11
L128	N 80°57'26" W	18.52
L129	S 08°18'55" W	35.06
L130	S 41°03'30" E	22.66
L131	S 78°30'56" W	48.35
L132	N 68°11'15" E	54.30
L133	S 04°04'18" E	29.46
L134	S 52°24'58" W	31.28
L135	N 31°54'40" E	39.34
L136	S 54°06'32" E	53.23
L137	S 02°02'57" W	36.72
L138	N 81°04'46" W	43.36
L139	N 72°04'11" E	49.23
L140	N 88°44'16" W	25.22
L141	N 28°30'18" E	15.44
L142	S 84°59'31" E	65.52
L143	S 48°34'11" E	37.50
L144	S 43°40'46" E	46.46
L145	S 62°03'50" W	19.31
L146	N 24°11'54" W	24.44
L147	S 18°38'01" E	35.17
L148	S 32°41'10" E	41.97

LINE	BEARING	DISTANCE
L501	S 10°10'04" W	1.58
L502	S 60°50'41" W	7.90
L503	S 49°02'43" W	6.79
L504	S 61°59'57" W	66.37
L505	S 61°03'28" W	61.60
L506	S 61°03'28" W	62.81
L507	N 80°20'52" E	17.00
L508	N 84°51'55" E	11.00
L509	N 81°30'15" E	50.00
L510	N 78°18'48" E	10.00
L511	N 72°33'46" W	30.00
L512	N 06°18'54" W	30.00

LINE	BEARING	DISTANCE
L151	S 48°05'51" E	33.72
L152	S 48°05'51" E	33.88
L153	N 8°32'12" E	31.93
L154	S 11°57'39" E	53.19
L155	N 34°48'31" E	32.78
L156	N 42°08'38" W	29.90
L157	S 19°03'51" W	44.62
L158	S 11°57'39" E	53.19
L159	N 62°43'31" E	29.30
L160	S 67°47'49" W	22.54
L161	S 11°57'39" E	53.19
L162	N 78°14'47" E	26.36
L163	S 22°37'10" W	34.40
L164	S 58°24'55" W	45.40
L165	S 26°19'11" W	35.39
L166	S 81°03'36" E	32.56
L167	N 81°03'36" E	32.56
L168	S 50°34'21" W	39.88
L169	S 32°01'24" W	22.41
L170	S 38°11'42" W	38.36
L171	S 28°14'16" W	42.81
L172	S 64°18'57" W	66.83
L173	S 47°20'02" W	28.61
L174	S 09°12'13" W	26.39
L175	S 63°41'58" W	32.42
L176	S 24°11'27" E	44.52
L177	S 41°21'17" E	26.82
L178	S 62°37'42" E	22.18
L179	N 68°11'15" E	54.30
L180	N 85°18'04" E	21.21
L181	N 72°42'11" E	41.66
L182	S 41°17'29" E	21.45
L183	S 63°06'32" E	56.46
L184	S 78°54'32" E	60.02
L185	S 78°54'32" E	60.02
L186	N 77°20'22" E	41.76
L187	N 77°20'22" E	41.76
L188	N 77°20'22" E	41.76
L189	N 58°35'14" E	52.65
L190	N 26°01'46" E	16.54
L191	N 26°01'46" E	16.54
L192	S 43°09'00" W	31.69
L193	N 43°09'00" W	31.69
L194	S 43°09'00" W	31.69
L195	S 77°26'34" E	51.46
L196	N 43°09'00" W	31.69
L197	N 43°09'00" W	31.69
L198	N 78°15'37" E	27.11
L199	S 82°06'28" E	48.49
L200	S 82°06'28" E	48.49

PLANNING AND RMC USE ONLY

RECORDED

DATE: August 5, 2011 TIME: 3:27:21 PM

Book: Page 111 of 0220 (See Note: Large Plat)

Director of Planning: CHARLIE LYBRAND, Register, Charleston County, SC

Record Fee: \$ 10.00

Plat Fee: \$ 10.00

Drawn: [Signature]

Check: [Signature]

Location: BEACH WALKER DR

LEGEND:

● IRON FOUND, AS DESCRIBED

○ S/O RESUR. SET

△ MEASURED POINT, NO CORNER SET

REFERENCES:

PLAT BOOK PAGE

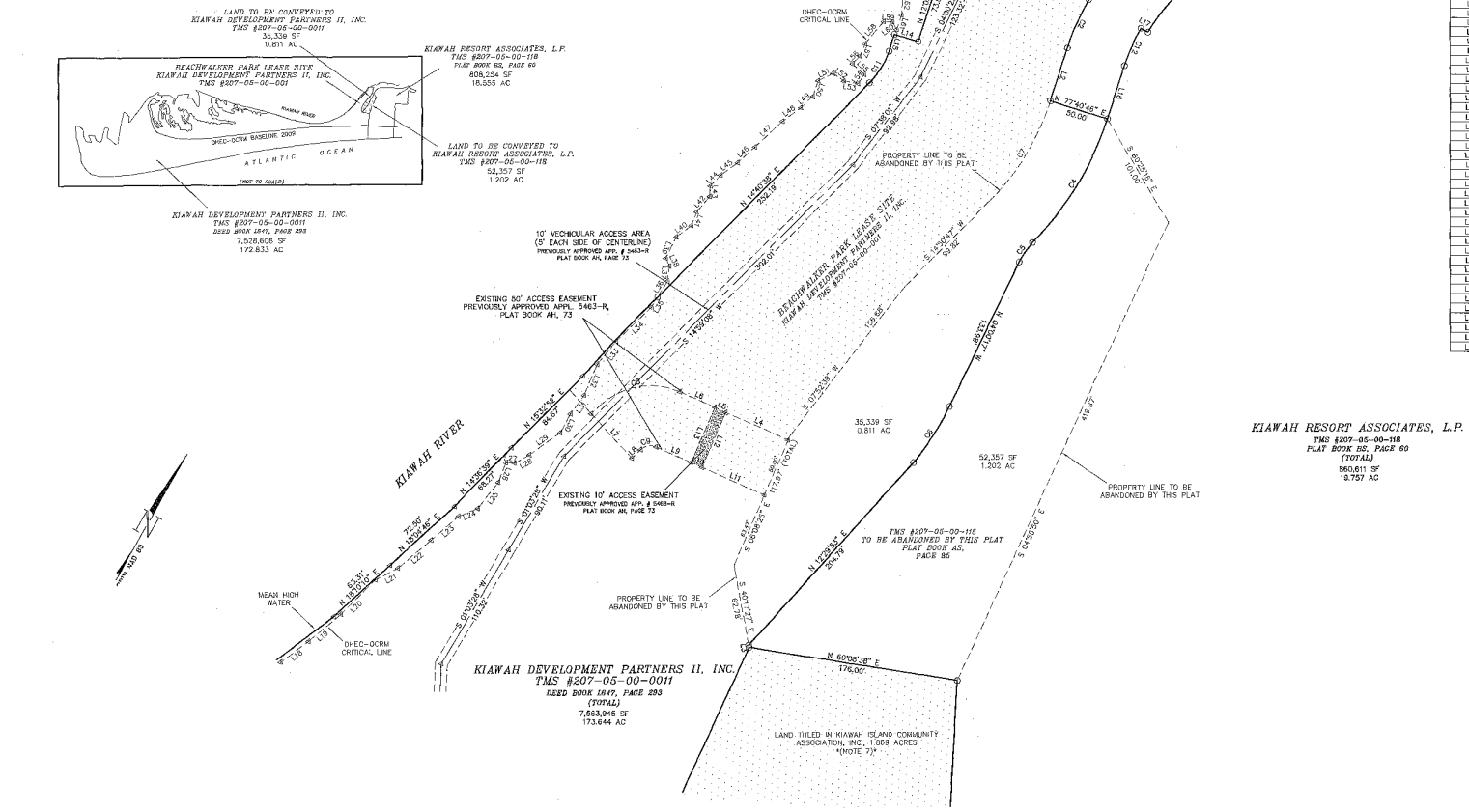
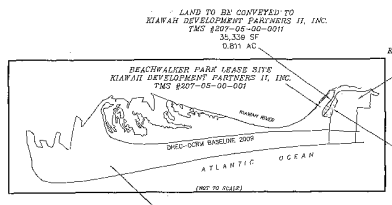
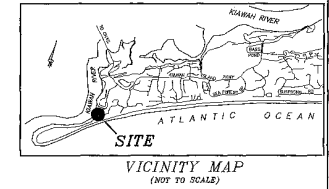
DEED BOOK PAGE

TMS #207-05-00-001

TMS #207-05-00-001

TMS #207-05-00-010

TMS #207-05-00-010



LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N 88°06'33" E	23.00	L41	N 08°46'45" W	12.10
L2	S 14°18'50" E	4.17	L42	N 08°46'20" E	18.81
L3	S 60°27'27" E	0.01	L43	N 26°27'11" W	8.76
L4	N 83°21'35" E	57.00	L44	N 17°31'47" E	12.25
L5	N 83°21'35" E	10.00	L45	N 24°21'46" E	17.33
L6	N 83°21'35" E	32.00	L46	N 18°34'23" E	19.72
L7	N 77°32'45" W	50.00	L47	N 10°24'45" E	24.53
L8	N 14°48'17" E	10.00	L48	N 34°24'22" E	10.09
L9	N 83°21'35" E	32.00	L49	N 18°46'27" E	13.22
L10	N 83°21'35" E	10.00	L50	N 14°46'27" E	14.92
L11	N 83°21'35" E	57.00	L51	N 33°36'24" E	14.10
L12	N 08°06'25" W	50.00	L52	N 84°58'44" E	11.20
L13	N 08°06'25" W	50.00	L53	N 80°20'51" E	10.92
L14	N 78°33'42" E	20.74	L54	N 03°03'38" E	8.29
L15	N 11°17'24" E	15.05	L55	N 27°28'20" E	14.49
L16	N 12°18'42" W	47.18	L56	N 14°30'10" E	5.16
L17	N 88°42'00" E	7.07	L57	N 06°53'47" W	10.02
L18	N 23°17'10" E	28.83	L58	N 10°26'30" E	24.14
L19	N 20°37'10" E	35.45	L59	N 52°18'07" E	7.41
L20	N 14°48'17" E	10.00	L60	N 50°28'56" E	12.41
L21	N 14°48'17" E	21.18	L61	N 11°57'07" W	12.35
L22	N 20°44'09" E	36.38	L62	N 28°52'02" W	20.36
L23	N 18°52'48" E	30.31	L63	N 09°23'15" E	11.30
L24	N 38°47'47" E	17.24	L64	N 08°48'01" W	15.38
L25	N 08°06'25" E	27.89	L65	N 02°28'16" E	24.40
L26	N 08°46'20" E	17.48	L66	N 10°26'30" E	14.52
L27	N 44°36'13" E	7.09	L67	N 49°22'21" E	11.75
L28	N 31°17'27" E	14.96	L68	N 02°28'56" E	12.41
L29	N 24°24'22" E	32.02	L69	N 18°16'55" E	14.49
L30	N 08°46'20" E	17.21	L70	N 17°22'13" E	10.02
L31	N 07°03'08" E	14.90	L71	N 40°11'37" E	24.14
L32	N 06°14'58" W	28.12	L72	N 14°46'27" E	10.42
L33	N 08°46'20" E	24.85	L73	N 32°44'13" E	13.53
L34	N 17°12'00" E	40.00	L74	N 40°23'02" E	20.35
L35	N 01°02'11" E	9.96	L75	N 84°18'21" E	10.78
L36	N 01°02'11" E	15.26	L76	N 84°18'21" E	15.52
L37	N 20°26'14" W	16.71	L77	N 87°30'45" E	17.27
L38	N 55°37'07" W	7.32	L78	N 08°15'58" E	25.04
L39	N 03°05'47" E	19.72	L79	N 42°05'24" E	46.30
L40	N 22°30'11" E	15.72	L80	N 08°39'42" W	18.00

NOTES:

1. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAT IS FOR DISCUSSION PURPOSES ONLY.
2. AREA DETERMINED BY COORDINATE (WMD) METHOD.
3. THE PUBLIC RECORDS REFERENCE ON THIS PLAT ARE ONLY THOSE USED AND NECESSARY TO THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
4. COORDINATES ARE BASED ON SC STATE PLANE GRID NAD 1983.
5. PROPERTY IS LOCATED IN FLOOD ZONE AS (EL. 13) AND VE (EL. 14-19) AS SCALED FROM F.I.E.M. PANEL NO. 45019C 0785 & REVISED. BEFORE ANY DESIGN OR CONSTRUCTION AN APPROPRIATE OFFICIAL SHOULD BE CONTACTED TO VERIFY FLOOD ZONES.
6. EXISTING IMPROVEMENTS ARE NOT SHOWN ON THIS PLAT.
7. LANDS TITLED IN KIAMAH ISLAND COMMUNITY ASSOCIATION, INC. 1,889 ACRES. THIS LAND WAS MISTAKENLY TITLED IN KIAMAH ISLAND COMMUNITY ASSOCIATION, INC. AS A RESULT OF AN ERRONEOUS PROPERTY DESCRIPTION IN A DEED CONVEYING OTHER LANDS TO IT RECORDED IN DEED BOOK N-265, PAGE 436, SUBJECT TO CLAIM BY GRANTEE FOR RESECTION AND REFORMATION.
8. PROPERTY SHOWN HEREON HAS BEEN PROVIDED PUBLIC SEWER AND WATER BY KIAMAH ISLAND UTILITY COMPANY, INC. THE WATER WILL BE SUPPLIED FROM THE TENUIS POINT AT AN EXISTING 12" WATER MAIN SET WITHIN THE BEACHWALKER DRIVE R/W AND LOCATED APPROXIMATELY 60 LF FROM THE SITE. THE WASTEWATER WILL BE COLLECTED VIA NEW GRUNTY MAINS WHICH IS 40 LF FROM THE EXISTING PUMP STATION IN SECTION 21.1 OF THE LEASE AGREEMENT BETWEEN THE KIAMAH ISLAND COMPANY, INC. AND CHARLESTON COUNTY DATED JULY 1, 1976.
9. THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME BY DELINEATING THE PERMIT AUTHORITY OF THE DEPARTMENT. THE DEPARTMENT IS IN NO WAY MAKING THE RIGHT TO ASSESS PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT.

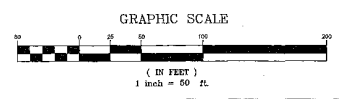
PREVIOUSLY SIGNED OFF BY WILLIAM C. RISER 6/15/11

SIGNATURE: [Signature]

DATE: [Date]

The critical line shown on this plat is valid for five years from the date of this signature, subject to the customary language above.

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	237.85	84.08	27.16	83.67	S 08°51'51" W	130°54'01"
C2	243.47	44.96	22.00	44.72	S 00°17'11" W	107°02'03"
C3	258.67	121.82	62.00	120.20	N 01°28'00" E	267°07'00"
C4	75.00	19.88	10.00	19.62	S 04°27'45" E	171°11'15"
C5	236.00	55.50	27.84	55.45	N 03°14'23" E	147°09'23"
C6	207.74	99.27	50.60	98.45	N 01°54'47" E	272°42'47"
C7	62.00	72.56	41.08	68.89	S 20°13'56" W	67°03'18"
C8	12.00	14.04	7.95	13.28	S 20°13'56" W	67°03'18"
C9	24.75	30.22	16.69	30.34	N 01°21'22" E	267°07'00"
C10	62.00	30.82	16.69	30.34	N 01°21'22" E	267°07'00"
C11	164.85	34.59	17.36	34.53	S 08°16'38" E	170°12'24"
C12	157.85	170.69	94.74	162.46	S 30°52'18" E	41°58'50"



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE KIAMAH ISLAND UTILITY COMPANY, INC. FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND THAT I HAVE EXCEEDED THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

JOHN T. BYRNES II S.C.P.L.S. No. 18115

DATE: 7/19/11	NITE: 5/10/11	AC
1. 7/19/11	AS PER APP. E 386-1032 7/19 SITE	AC
2. 7/19/11	AS PER APP. E 386-1032 7/19 SITE	AC
3. 7/19/11	AS PER APP. E 386-1032 7/19 SITE	AC

Southeastern Surveying

OF CHARLESTON, INC.

102-11, SUMMIT ROAD, CHARLESTON, SC 29407

PHONE: (803) 799-2000 FAX: (803) 799-2001

A BOUNDARY LINE ADJUSTMENT PLAT OF

TMS #207-05-00-001, TMS #207-05-00-115

AND TMS #207-05-00-118

OWNED BY KIAMAH DEVELOPMENT PARTNERS II, INC. & KIAMAH RESORT ASSOCIATES LP

LOCATED IN THE TOWN OF KIAMAH ISLAND

CHARLESTON COUNTY, SOUTH CAROLINA

DATE: 7/11/11

DRAWN: JTB

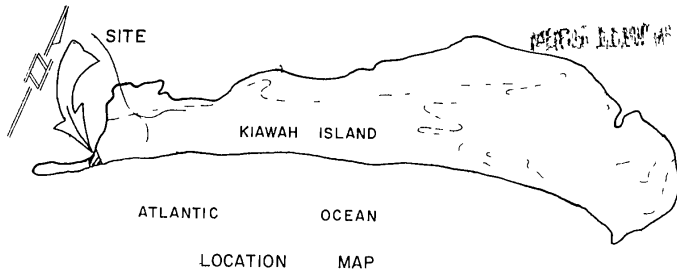
CHECK: JTB

CC: [Signature]

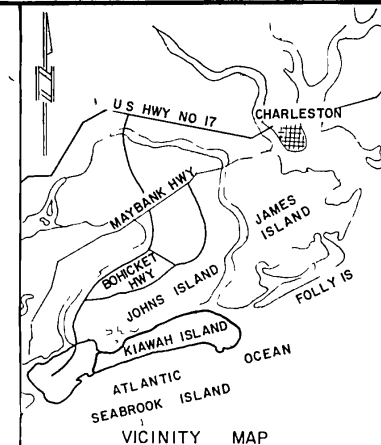
JOB: 11074

DWS: 11074 ABAN

SHEET: 1 OF 1



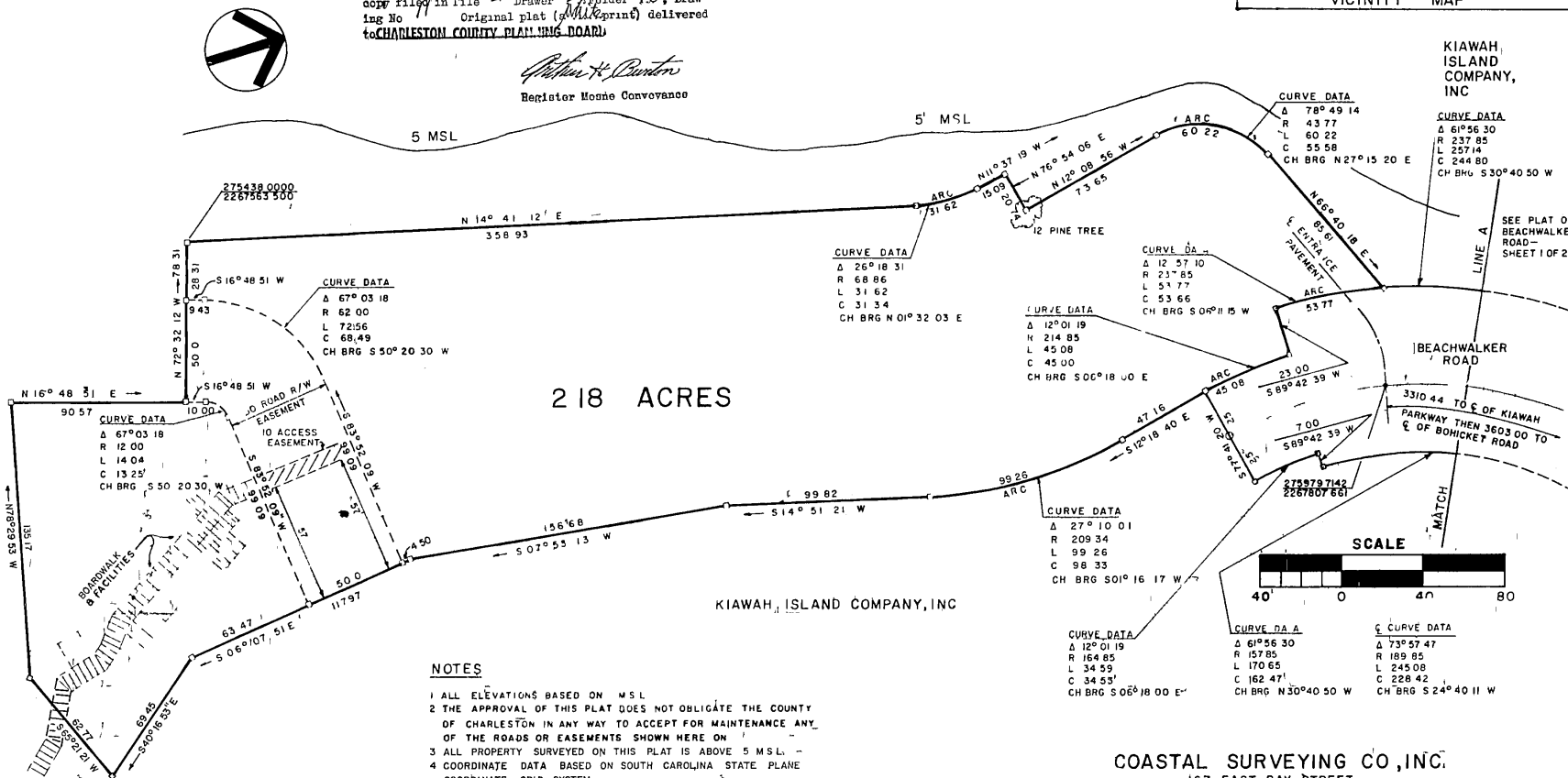
APPROVED FINAL PLAT
 CLARE CHARLSTON COUNTY COUNCIL
 DIRECTOR OF PLANNING
 CHARLSTON COUNTY PLANNING BOARD
 DATE March 15, 1977
 #5463-R (Sheet 2 of 2)



PLAT OF
 BEACHWALKER
 PARK
 LOCATED ON
 KIWAH ISLAND,
 CHARLSTON CO
 SOUTH CAROLINA
 OWNED BY
 KIWAH ISLAND
 COMPANY, INC
 67 BROAD STREET
 CHARLSTON, SC
 29401

Charleston, South Carolina
 Office of Register Means Conveyance
 4-28-77 Plat recorded this day of March 1977 at
 4 o'clock in Plat Book Page 73, and tracing cloth
 copy filed in File 2, Drawer 2, Folder 46, Drawing
 No. Original plat (Mikeprint) delivered
 to CHARLSTON COUNTY PLANNING BOARD

Arthur H. Cantor
 Register Means Conveyance



TOTAL ACREAGE	
REG LOTS	0.00 AC
PATIO LOTS	0.00 AC
ROADS	6.05 AC
OTHER	2.18 AC
TOTAL	8.23 AC

CD	PROJ	TYPE	NO	REV
----	------	------	----	-----

SCALE 1"=40'
 DATE FEBRUARY 12, 1976
 FIELD CK *[Signature]*
 OFFICE CK *[Signature]*
 JOB NO CH-233

REVISIONS

MARCH 17, 1976
 JULY 22, 1976

NOTES

- 1 ALL ELEVATIONS BASED ON M.S.L.
- 2 THE APPROVAL OF THIS PLAT DOES NOT OBLIGATE THE COUNTY OF CHARLSTON IN ANY WAY TO ACCEPT FOR MAINTENANCE ANY OF THE ROADS OR EASEMENTS SHOWN HERE ON.
- 3 ALL PROPERTY SURVEYED ON THIS PLAT IS ABOVE 5' M.S.L.
- 4 COORDINATE DATA BASED ON SOUTH CAROLINA STATE PLANE COORDINATE GRID SYSTEM.
- 5 STATE PLANE COORDINATES ARE BASED ON CONTROL MONUMENTS SET BY DAVIS & FLOYD ENGINEERS CHARLSTON SC

LEGEND

- 3 x 3 x 36 CONCRETE MONUMENT WITH BRASS PIN
- PROPERTY LINE
- ACCESS EASEMENT

COASTAL SURVEYING CO., INC.
 167 EAST BAY STREET
 CHARLSTON, SC

I JERRY LEE RICHARDSON A REGISTERED SURVEYOR OF THE STATE OF SOUTH CAROLINA DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN HEREON AND THAT THIS PLAT SHOWS THE TRUE DIMENSIONS OF THE PROPERTY AND THAT ALL NECESSARY MARKERS HAVE BEEN INSTALLED AND THE PRECISION IS 1/8000

Jerry Lee Richardson
 S.C. REG. NO. 4784
 P.O. BOX 5924
 HILTON HEAD ISLAND S.C. 29928

SHEET 2 OF 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

LEASE AGREEMENT

This Lease Agreement dated as of the 1st day of July, 1976, by and between Kiawah Island Company, Inc., a corporation organized and existing under the laws of the State of South Carolina (Lessor) and Charleston County, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council, which is the governing body of the County (Lessee),

W I T N E S S E T H :

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

REPRESENTATIONS AND UNDERTAKINGS

Section 1.1. Representations by the Lessor. The Lessor makes the following representations as to the basis for its undertakings on its part herein contained:

(a) The Lessor is a corporation duly incorporated under the laws of South Carolina, is in good standing under its charter and the laws of South Carolina, and has power to enter into this Agreement and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which the Lessor is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessor under the terms of any instrument or agreement.

(c) Lessor owns certain real property in the County of Charleston, State of South Carolina, known as Kiawah Island together with a 100 foot access road thereto from Bohicket Road which is now known as Kiawah Parkway.

(d) Lessor is desirous of making a certain portion of said island and improvements thereto (henceforth referred to as the Leased Premises) and eleven miles of its beachfront area on the western and southern sides of the island from a line five feet above mean sea level seaward to the Atlantic Ocean and Captain Sam's Inlet (henceforth referred to as the "Beachfront Area") together with an area between the Leased Premises and the Beachfront Area to the east thereof containing bathhouses, picnic tables, walks and bicycle paths available to the public for the purposes and under the terms and conditions herein expressed, and is desirous of having its liability as the owner of such property to be used for recreational purposes by the public limited under the provisions of Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

Section 1.2. Representations by the Lessee. The Lessee makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Lessee is a body politic and corporate and a political subdivision of the State of South Carolina, and is authorized and empowered under the laws of the State of South Carolina to enter into the transactions contemplated by this Agreement and carry out its obligations hereunder.

(b) Lessee is desirous that the Leased Premises and Beachfront Area be made available to the public for recreational purposes and the liability of the Lessor limited under the provisions of Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

ARTICLE II

DEMISING CLAUSE, DESCRIPTION OF LEASED PREMISES, ACCESS AND BEACH AREA

Section 2.1. Demise and Description of the Leased Premises. In accordance with the provisions of this Leased Agreement, the Lessor demises and leases to the Lessee and the Lessee leases from the Lessor for one dollar per annum, the property shown as a parking lot containing 150 vehicular parking spaces on the plat attached hereto as Exhibit A, together with a non-exclusive easement for vehicular ingress and egress to and from Bohickett Road over, upon, and across Beachwalker Road and Kiawah Island Parkway for so long as no public access is available.

Section 2.2. Improvements. Landlord agrees to provide and maintain the parking spaces set out in Section 4.3; outside shower and change facilities; restroom facilities; shaded picnic area; boardwalk access to and from the beach; and a limited snack bar facility.

Section 2.3. Beachfront Access. Those members of the public permitted access to the Leased Premises shall also be permitted access to the Beachfront Area along walkways provided, and also to the aforesaid bathhouses, picnic tables, walks and bicycle paths within the said improved area. Only the Leased Premises, and the Beachfront Area, together with the aforesaid improved area, containing the bath houses, picnic tables, walks and bicycle paths, may be utilized by the members of the public under this Lease Agreement. Public access shall not extend to other portions of Lessor's property landward of a line five feet above mean sea level except to the extent that the Lessor may allow such access at designated points of its choosing. Neither the Leased Premises, nor any other area, may be used as a staging area for trespassing on other portions of the property of the Lessor or its assigns.

ARTICLE III

DURATION OF LEASE TERM AND RENEWALS

Section 3.1. Initial Term. This Lease Agreement shall become effective upon its delivery, and the leasehold estate created in this Lease Agreement shall then begin, and, subject to the provisions of Section 3.2., shall expire five (5) years from July 1, 1976, unless sooner terminated by an event of default as hereinafter defined.

Section 3.2. Renewals. This Lease Agreement may be renewed for eighteen (18) Successive terms of five (5) years each and a final term of four (4) years upon written notice by the Lessee to the Lessor six (6) months prior to the expiration of the initial term or the term of any renewal hereunder. The total term of this Lease Agreement shall not exceed ninety-nine (99) years from July 1, 1976, and in no way shall this Lease Agreement be construed as granting to the Lessee any option to purchase the Leased Premises from the Lessor. Provided, however, that should Lessee fail to give the renewal notice provided for above, but is still occupying and using the Leased Premises, the same shall constitute sufficient notice.

ARTICLE IV

READINESS AND USE OF THE LEASED PREMISES AND BEACH AREA

Section 4.1. Readiness. Lessor shall have the Leased Premises ready for use by the public under the conditions set forth herein on July 1, 1976, prior to which date the use of the Leased Premises shall be limited to the Lessor, its agents and servants, and such of Lessee's agents who may be engaged in inspecting the improvements to the same. The public shall not have access to the Beachfront Area until such time as the Leased Premises are ready.

Section 4.2. Hours of Use. The Leased Premises shall be open from sunrise to sunset.

Section 4.3. Limit on Number of Users - Parking Spaces. Only as many members of the public whose vehicles may be properly parked in the spaces provided in the parking lot may be permitted access to the Leased Premises, the Beachfront Area and the improved area. Lessor agrees it shall provide a minimum number of 150 vehicular parking spaces within the Leased Premises and should Lessor install a road within the easement therefor shown on Exhibit A, Lessor shall provide such additional parking spaces as may be necessary to maintain a minimum number of 150.

Section 4.4. Permissible Uses. Members of the public who have been permitted access to the Leased Premises shall park their vehicles in the spaces provided and shall have access to all improvements erected for their use, provided, however, the Leased Premises shall be used to provide access to the public for its personal recreation purposes as limited hereinafter. The Beachfront Area may be used for only such of the recreational purposes as that term is defined in Section 51-82 (c), Chapter 1.4., Title 51 of the S. C. Code of Laws (Supp. 1974) as are herein stated: swimming, sunbathing, fishing, crabbing, shell gathering, picnicking, and beach games.

Section 4.5. Impermissible Uses. Residential, office, manufacturing, and commercial uses are prohibited on the Leased Premises, the Beachfront Area and the improved area as are the following specific activities: hunting, oystering, overnight camping, fires, pleasure driving, nude bathing or sunbathing, the use of surfboards, sailboats, pleasure motor and pleasure crafts, motor bikes, dune buggies, and other similar mechanized vehicles, the consumption of alcoholic beverages, or any illegal narcotic, and the bringing of pets or animals of any kind with the exception of seeing eye dogs. Disorderly, boisterous, unruly conduct, and the use of profane language is prohibited as well as any activity which shall amount to a breach of the peace. Additionally, there shall not be permitted the erection of signs (except as necessary to inform the public of rules

concerning the use of the Leased premises) billboards, or other advertising devices, the excavation and removal of sand, topsoil, or any other minerals, the cutting and removal of trees and plants, whether as specimens or otherwise, or the dumping and burning of refuse.

Section 4.6. Rules. The Lessor shall adopt and promulgate such rules as may be necessary for the orderly maintenance and security of the Leased Premises, the Beachfront Area, and the said improved area to enforce the terms and provisions of this Lease Agreement.

ARTICLE V

POLICE PROTECTION AND LIFEGUARDS

Section 5.1. Police Protection. Lessee shall ensure that the necessary police protection be furnished to maintain order and shall also ensure that no impermissible uses as set forth in Section 4.5 are made of the Leased Premises, the Beachfront Area, and the said improved area by the general public.

Section 5.2. Lifeguards. The Lessee through the Charleston County Park, Recreation and Tourist District shall provide adequate lifeguards in order to make surf-bathing reasonably safe to the general public.

ARTICLE VI

CONSIDERATION TO BE RECEIVED BY LESSOR

Section 6.1. Admission Charge. The Lessor shall be permitted to collect a reasonable admission charge from those permitted access to the Leased Premises. The charge shall initially be set at \$2.00 per vehicle containing nine or less occupants (including the driver), otherwise fifty cents per person, which charge shall include any toll imposed by Lessor. Such charge shall amortize in part the costs of constructing the improvements to the Leased Premises and partly defray the costs of maintaining and operating the Leased Premises in good repair and in a clean, slightly, healthful, and orderly condition and manner as is hereinafter required of Lessor. This charge may be adjusted at the commencement of each renewal term in proportion to the change of operation and maintenance costs from the first year of the previous term to the most recent twelve month period for which accounting figures are available. It is the intention of Lessor to make the Leased Premises, the Beachfront Area and improved area available to the public on a subsidized basis so that the collection of the charge shall always be in a comparatively nominal amount as opposed to the value of the Leased Premises, improved area, and Beachfront Area, and the expense of the construction and

maintenance of the improvements so that the sums realized from said charge shall never be "burdensome" to the public, nor fully compensate Lessor for its aforesaid expenditures on the public's behalf. Such being the case, pursuant to the authority of Section 51-85 of the S. C. Code of Laws (Supp. 1974), it is covenanted and agreed by the parties hereto that such charge shall be deemed consideration received by Lessor from the Lessee under Section 51-86(b) of the S. C. Code of Laws (Supp. 1974) so that Lessor shall have the benefit of limited liability as a landowner making available its land to the public for recreational purpose as set forth in Chapter 1.4, Title 51, S. C. Code of Laws (Supp. 1974).

Section 6.2. Residential and Staff Users. No temporary or permanent resident of Kiawah Island shall be granted free use of the Leased Premises, and any such temporary or permanent resident of Kiawah Island shall use the Leased Premises for personal recreational purposes only, and no other. Only such of Lessor's staff or employees as are reasonably required to maintain and operate the Leased Premises, the Beachfront Area, and the said improved area may park within the Leased Premises without charge.

ARTICLE VII

MAINTENANCE OF PREMISES

Section 7.1. Maintenance of Premises. Lessor covenants that it shall maintain the Leased Premises, Beachfront Area and improved area in good repair, and in a clean, sightly, and healthful condition.

Section 7.2. Destruction of Premises. If the Leased Premises shall be damaged, Lessor shall repair or replace such damage. Lessor may by written notice delivered to Lessee suspend this Lease to allow reasonable time for the reconstruction and repair of such damage.

Section 7.3. The Lessor covenants and agrees to maintain in good repair during the term of this Lease the private access roads to the Leased Premises described in Section 2.3.

ARTICLE VIII

ABANDONMENT

Section 8.1. If public usage of the Leased Premises falls to a level which renders the continued operation and maintenance of the Leased Premises by the Lessor clearly unreasonable, taking into consideration the

value of the land and its potential for other uses, the Lessor shall be entitled to seek an order from a court of competent jurisdiction determining that the Lessee has abandoned the Leased Premises and terminating and making of no further force and effect this Lease Agreement.

ARTICLE IX

OTHER COVENANTS AND CONDITIONS

Section 9.1. Other Land of Lessor. The provisions of this Lease in no way restrict the lessor with respect to any use it may establish for land other than the Leased Premises owned by it.

Section 9.2. Assignment and Subletting. Lessee shall not voluntarily or involuntarily assign, transfer, or sell this Lease Agreement or any interest herein, or sublet the Leased Premises appurtenant, thereto, without first obtaining Lessor's written consent, provided, however, Lessee may, without Lessor's consent, assign this Lease to the Charleston County Park, Recreation and Tourist District, its successors and assigns, which has joined in this Lease Agreement to ensure the obligations of the Lessee contained in Article V hereof. Any unauthorized assignment or sublease shall be void and of no effect and may, at the Lessor's option, terminate this Lease.

Section 9.3. Encumbrances. The Lessee shall not mortgage, create a lien or security interest in, on, or against, or otherwise encumber all or any part of the Leased Premises. Any such encumbrance shall be void and of no effect, and may at the Lessor's option, terminate the Lease.

Section 9.4. Applicable Law. This agreement shall be governed by and interpreted and construed in accordance with the laws of the State of South Carolina.

Section 9.5. Whole Agreement. This Lease Agreement contains the entire agreement between the parties and cannot be changed except by written instrument executed by the parties.

Section 9.6. Binding Effect. The covenants and conditions of this Lease Agreement shall inure to the benefit of and shall, subject to the provisions of Section 9.2., be binding upon the Lessor, the Lessee, and their respective successors and assigns.

Section 9.7. Remedies Cumulative. All remedies conferred on Lessor by this Lease Agreement shall be deemed cumulative and no one exclusive of the other or of any other remedy conferred by law.

Section 9.8. Severability. If any provision of this Lease should be ruled wholly or partially invalid by any court or administrative agency, it may be deleted from the Lease. All the remaining terms and provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties by their duly authorized officers have executed this Lease Agreement at Charleston, South Carolina, this the 1st day of July, 1976.

IN THE PRESENCE OF:

Catherine G. Cromer
Geraldine M. Brown

Willie C. Frazier
Johnnie M. Frazier

John W. Green
Charles L. Cuzzell

KIAWAH ISLAND COMPANY, INC.

By: Frank W. Brumley
Frank W. Brumley, Vice President
and General Manager

COUNTY COUNCIL OF CHARLESTON COUNTY

By: James A. Stuckey, Jr.
James A. Stuckey, Jr., Chairman

THE CHARLESTON COUNTY PARK,
RECREATION AND TOURIST DISTRICT

By: Donald L. Lumb
Chairman

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me Catherine G. Cromer and
made oath that (s)he saw the within named Kiawah Island Company, Inc. by Frank
W. Brumley, its Vice President and General Manager, sign, seal, and as its act
and deed deliver the within written Lease Agreement, and that (s)he with
Geraldine M. Brown witnessed the execution thereof.

SWORN to before me this 1
day of July, 1976.

[Signature]
Notary Public for South Carolina
My Commission Expires: 1-27-81

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me T. Hunter McEaddy and
made oath that (s)he saw the within named County Council of Charleston County
by James A. Stuckey, Jr., its Chairman, sign, seal, and as its act and deed
deliver the within written Lease Agreement, and that (s)he with William
A. C. Furtwangler witnessed the execution thereof.

SWORN to before me this 1st
day of July, 1976.

[Signature]
Notary Public for South Carolina
My Commission Expires: 1-27-81

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me John W. Green and
made oath that (s)he saw the within named Charleston County Park, Recreation
and Tourist District by its Chairman, E. Donald Pounder
sign, seal, and as its act and deed deliver the within written Lease Agreement,
and that (s)he with Charles L. Cuzzell witnessed the execution
thereof.

SWORN to before me this 1
day of July, 1976.

[Signature]
Notary Public for South Carolina
My Commission Expires: May 1986

[Signature]

Beachwalker Park has been designed for your enjoyment and is open from 9:30 A.M. until 6:30 P.M. Season Schedule: Weekends only April, May, Sept., Oct.; Daily, June through Aug.

Three hundred feet of the front beach has been specifically designated for swimming. OUTSIDE OF THIS AREA LIFEGUARDS ARE NOT PROVIDED AND YOU ARE SWIMMING AT YOUR OWN RISK.

The two dollar parking fee collected as you enter the park is used to offset the operational and construction costs incurred in providing the existing facilities. Restrooms, dressing areas, outdoor showers, trails, a picnic area and a 150-car parking area have been provided for your convenience so please help us keep them presentable for your next visit.

A wide range of activities are available to visitors of Beachwalker Park, including swimming, fishing, sun-bathing, shell gathering, picnicking, hiking and just enjoying the quiet beauty that surrounds you.

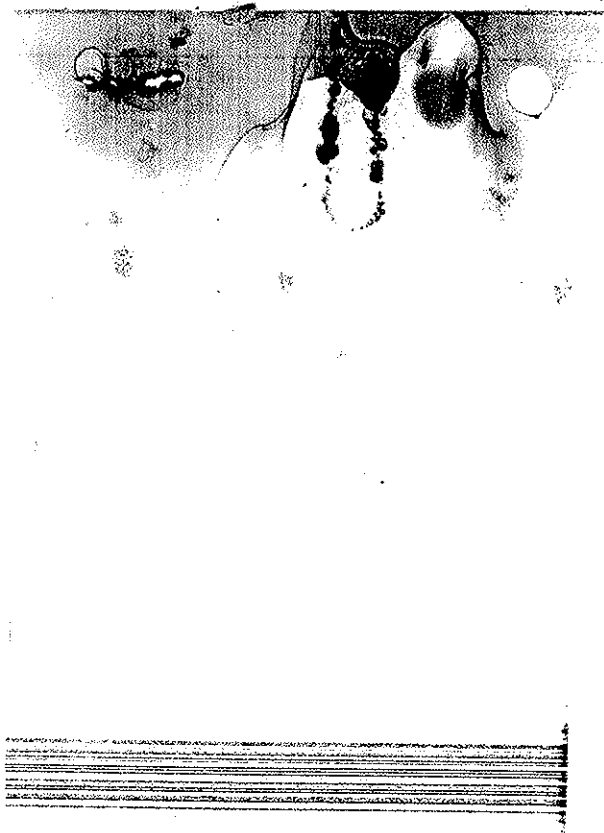
Food services and beach chair and

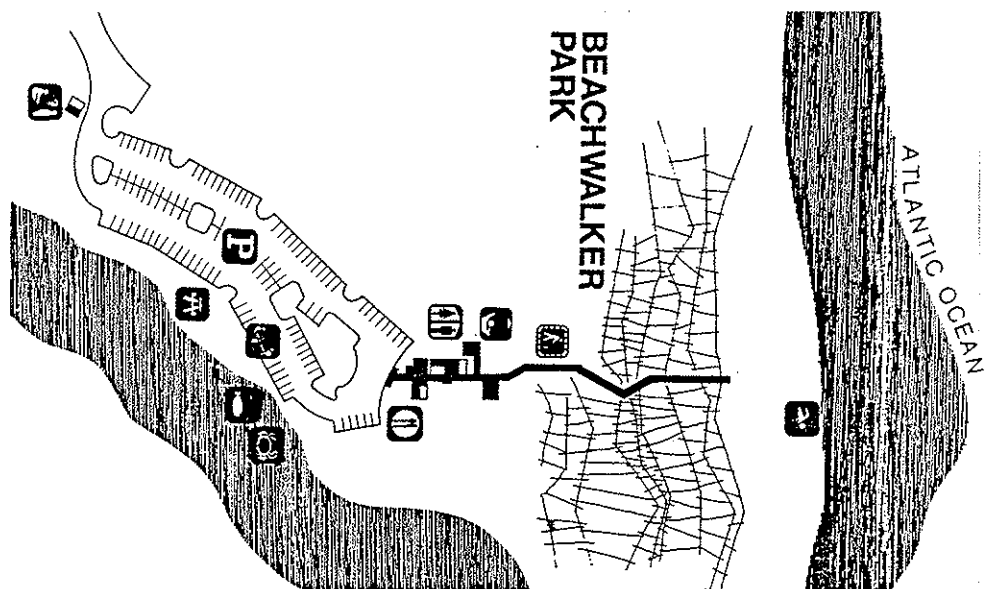
umbrella rentals are available for your convenience.

For your protection the use of surfboards, privately owned sail boats or motorized vehicles is prohibited. NO animals, except seeing eye dogs will be allowed in the park. Help us protect and preserve the area for public use by not removing any vegetation and not burning fires of any kind except charcoal grills in the picnic area. Alcoholic beverages are prohibited.

In order to avoid accidents we urge you to carefully watch small children as there is always the danger of currents and tides with which to contend. There is also the danger of bites or stings from certain species of marine life. If any first aid is needed, no matter how minor, a trained staff is available to be of assistance to you.

Visit Palmetto Islands County Park located in the Mt. Pleasant area off Long Point Road, and Folly Beach County Park located at the west end of Folly Beach.





Beachwalker Park

We invite you to enjoy Beachwalker Park which has been made available to the public through a cooperative arrangement with the Kiawah Island Company, Charleston County Council and the Charleston County Park, Recreation and Tourist Commission.

to Ch. Goldberg
9/23/83