

Post & Courier

CHARLESTON COUNTY COUNCIL PUBLIC HEARINGS: KIAWAH RIVER PLANTATION DEVELOPMENT AGREEMENT AND PLANNED DEVELOPMENT AMENDMENTS

Charleston County Council will hold a second public hearing regarding the request to amend the Kiawah River Plantation Development Agreement and Planned Development (PD-143) to clarify development requirements for property located at 3883 Betsy Kerrison Parkway (TMS 212-00-00-001, -005, -006, -007, -008, -009, -010, -011, -012, -013, and -014; property size: 1,427.81 acres). The public hearing will be held on **Tuesday, October 9, 2018 at 6:30 p.m.** in Council Chambers at the Lonnie Hamilton III, Public Services Building, 4045 Bridge View Drive, North Charleston, South Carolina, 29405.

The proposed amendments can be found on-line at the Charleston County Web Site (www.charlestoncounty.org) or by contacting the Charleston County Planning Department at (843) 202-7200. This Public Notice is in accordance with Sections 6-29-760 and 6-31-50 of the Code of Laws of South Carolina.

Kristen L. Salisbury
Clerk of Council

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**DEVELOPMENT AGREEMENT
AMENDMENT REQUEST
ZDA-05-18-00100 AND
PLANNED DEVELOPMENT
AMENDMENT REQUEST
ZREZ-05-18-00081**

**KIAWAH RIVER PLANTATION DEVELOPMENT AGREEMENT AMENDMENT REQUEST
(ZDA-05-18-00100) & PLANNED DEVELOPMENT (PD-143) AMENDMENT REQUEST
(ZREZ-05-18-00081)
CASE HISTORY**

**Planning Commission: July 9, 2018
1st Public Hearing: August 21, 2018
Planning & Public Works Committee: September 6, 2018
1st Reading: September 20, 2018
2nd Reading: September 25, 2018
2nd Public Hearing: October 9, 2018
3rd Reading: October 9, 2018**

CASE INFORMATION

Location: 3883 Betsy Kerrison Parkway (Johns Island)

Parcel Identification (PID) Numbers: 212-00-00-001 and 212-00-00-005 through 212-00-00-014

Council Districts: 8 & 9

Property Size: 1,427.81 acres total; includes 1,083.2 acres of highland, 187.41 acres of freshwater wetlands, and 157.2 acres of OCRM Critical Line Area.

Application:

The applicant is requesting to amend the Kiawah River Plantation Development Agreement and Planned Development to clarify and update development requirements.

Comprehensive Plan and Zoning History:

Prior to 2009, the property was split zoned. The majority of the property, approximately 810.22 acres of highland and freshwater wetland, was located in the Rural Area (zoned AG-8) and approximately 460.39 acres of highland and freshwater wetland was located in the Urban/Suburban Area (zoned R-4). However, the November 18, 2008 *Comprehensive Plan* assigned the entire parcel to the Rural Agricultural Future Land Use designation.

On December 22, 2009, County Council approved the Kiawah River Plantation Development Agreement (“Agreement”) for PID# 212-00-00-001 (1,427.81 acres in size). The 25-year Agreement includes approval of a rezoning of the property from the Single Family Residential (R-4) District/Agricultural Preservation (AG-8) District to the Planned Development (PD-143) District. The Agreement, which was recorded on February 4, 2010, allows:

- A maximum of 1,285 dwelling units, of which up to 1,285 can be single family detached units (max. 227 on OCRM Critical Line), 320 can be single family attached units, and 320 can be multi-family units; up to 117 workforce housing units are required. Note that previous zoning would have allowed a gross density of up to 1,943 dwelling units.
- Up to 80,000 square feet of gross leasable area.
- Up to 450 guest rooms.
- A minimum of 635.31 acres of open space.
- Access to both Betsy Kerrison Pkwy and Mullet Hall Rd.

The Agreement requires annual reviews of the Agreement to ensure compliance, all of which have been completed since the 2009 adoption of the Agreement. It requires mitigation including paying “\$800,000 or the actual cost, whichever is lesser, towards the purchase of a ladder truck to service the *Real Property* for St. John’s Fire District on or before obtaining a building permit for the construction of any building on the *Real Property* requiring a ladder truck according to the National Fire Prevention Association.” The Agreement also requires dedication of “three (3) highland acres of the *Real Property* at a mutually agreeable

location(s)" for a substation(s) for the use of St. John's Fire District, the Charleston County Sheriff's Office, the Charleston County Magistrate's Office, Charleston County EMS, and/or any other police, fire or EMS service which may acquire jurisdiction over the *Real Property*.

On January 6, 2015, County Council approved the *Comprehensive Plan Five-Year Review*. The approval included adjusting the Urban Growth Boundary through the subject property to follow the division between the areas approved in the Agreement for rural development intensities and the areas approved for suburban development intensities and assigning the subject property to the Planned Development Future Land Use category.

Parcel Information and Area Description:

Since the approval of the Agreement in 2009, the original parcel, PID# 212-00-00-001, has been subdivided into 11 lots. The spine road is under construction including improvements to the entrance onto Betsy Kerrison Pkwy required by the Agreement. The waste water treatment facility (to serve this development only) is under construction, and two pump stations have been approved. In addition, the preliminary plat for phase 1 has been approved, allowing for 76 lots on 29.85 acres (2.55 dwelling units per acre). Seven of these lots are for waterfront single-family detached homes, 57 are for non-waterfront single-family detached homes, and 12 are for townhouse development. Land clearing for phase 1 development has commenced; however, as of the writing of this report, no conditional or final plat applications have been submitted for phase 1.

Adjacent properties are zoned R-4, AG-8, AGR, and Planned Development. The subject property is surrounded by vacant parcels and parcels used for agriculture, residential, and institutional purposes. The southwestern portion of the subject property abuts the Kiawah River Estates subdivision (formerly known as Hope Plantation); the property to the north of the portion of the subject parcel that touches Betsy Kerrison Pkwy contains a church; and the property to the east of the subject property contains the Charleston County Equestrian Center. The Briar's Creek subdivision is located to the east of the subject parcel.

Requested Amendments:

The applicant is requesting to amend the Agreement and associated exhibits and appendices, including the Planned Development, to clarify and update development requirements. No changes to open space requirements or development densities/intensities are being requested, nor are any changes to approved land uses. Below is a summary of the requested amendments:

- Development Agreement Document – Update the following:
 - Owner information to reflect the acquisition of the property by Kiawah River Investment, LLC and the substitution of Kiawah River Investment, LLC as the Property owner as a result of the conveyance.
 - Community name to reflect the change to "Kiawah River."
 - Addresses for the Property Owner and attorney.
- Exhibit 1.1, Definitions (Development Agreement) – Revise the following definitions:
 - Guest Room: Clarify that a Guest Room may be located within a Villa.
 - Gross Leasable Area: Clarify that community amenity centers do not count towards Gross Leasable Area.
 - Hotel: Clarify that a hotel does not need to be located on a single development parcel.
 - Inn: Clarify that an inn does not need to be located on a single development parcel.
 - Lot Line, Front: Allow the Property Owner to designate the Front Lot Line when a property abuts Open Space on one side and a Thoroughfare on the other or when a property abuts more than one Thoroughfare.
 - Plan: Update the development name to "Kiawah River."
 - Property Owner: Update owner information.
- Appendix A, Planned Development:
 - Update the name to "Kiawah River".
 - Revise the same definitions as in Exhibit 1.1 described above (Guest Room, Gross Leasable Area, Hotel, Inn, Lot Line, Front, Plan, and Property Owner).
 - Section 6.1.C, Building Development Standards – Lot Access: Allow the Property Owner to designate the Front and Rear Lot Lines when properties abut Open Space on one side and

a Thoroughfare on the other and when properties have more than one Thoroughfare frontage. Also requires setbacks to allow appropriate vision clearance and states the Planning Director may require a 5' easement to restrict access from all Thoroughfares other than that designated as the primary access. Proposed Exhibit 6.3, Lot Fronting on Open Space, illustrates this concept.

- Table 6.1, Building Development Standards: Revise the minimum front setbacks for accessory structures to change the requirement of “20’ + building setback” to “building setback” and correct table note reference numbers.
- Section 8.2, Buffers and Screening:
 - Allow one intrusion into the OCRM Critical Line setback and buffer (not to exceed 50’ in width) for an Open Space area as shown on proposed Exhibit 8.3, Village Green Conceptual Plan.
 - Allow the Property Owner to disturb and conduct activity within the OCRM Critical Line Buffer only as necessary to accomplish the saltwater wetlands mitigation approved by the US Army Corps of Engineers (USACOE) in the letter attached as proposed Exhibit 8.4. The USACOE approved impacting 0.79 acres of saltwater impoundments to facilitate necessary road footprints with a 2:1 ratio of mitigation (requires creation of 1.58 acres of saltwater resources by expanding an area within one of the on-site impoundment – Critical Pond 4).
- Table 8.2, Internal Buffers:
 - Clarify how the table applies to development.
 - Refine land use buffer requirements including differentiating between Hotel and Bed & Breakfast Lodging buffer requirements and Villa Lodging buffer requirements.
- Table 10.1, Parking Standards: Include off-street parking requirements for “All Other Uses” (ARB to make the determination based upon the proposed criteria including, but not limited to, availability of on-street parking, non-vehicular access, etc.).
- Update Exhibit 4.1, Framework Plan, to reflect revised conceptual plan.
- Appendix B, ZLDR Redlines: Delete Section 5.3.3.3, which requires Special Exception approval for Community Docks.

Municipalities Notified/Response: The City of Charleston, Town of James Island, Town of Kiawah Island, City of North Charleston, and Town of Seabrook were notified of the request, but have not responded.

Public Input: No public input has been received at this stage.

STAFF RECOMMENDATION **APPROVAL**

The proposed amendments to the Agreement comply with the requirements of the South Carolina Local Government Development Agreement Act and all development thus far is in compliance with the approved Agreement. The proposed amendments also comply with ZLDR Section §4.23.9 E (9), PD Development Plan Approval Criteria (may be approved only if County Council determines that the following criteria are met):

- A. The PD Development Plan complies with the standards contained in this Article;
The proposed amendments are consistent with the standards of the Planned Development Zoning District article. Therefore, this criterion is met.
- B. The development is consistent with the intent of the *Comprehensive Plan* and other adopted policy documents; and
The proposed amendments are consistent with the intent of the Comprehensive Plan and other adopted policy documents. No changes in open space requirements or density/intensity standards are being proposed, and no land use changes are proposed. The amendments update and clarify the development standards to enable the Traditional Neighborhood Design always envisioned by the Property Owner. Therefore, this criterion is met.

- C. The County and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed.
The proposed amendments do not change level of public services, facilities or programs required by the original Agreement, which included letters of coordination from applicable service providers. In addition, the Property Owner must provide updated letters of coordination at the time of development of each phase. Therefore, this criterion is met.

PLANNING COMMISSION MEETING: JULY 9, 2018

Recommendation: Approval with conditions (vote: 8-0).

- Page 37 of the PD Plan, Table 10.1, Off-Street Parking Table: Change the first sentence to read “In establishing the required minimum of off-street parking, the ARB shall may consider the following...”
- Prior to August 3rd, the applicant must hold a community meeting with area property owners/residents. *The applicant held a community meeting on July 25th; therefore, this condition has been met.*

Speakers: 3 people spoke in support of the requests and 3 people spoke in opposition to the application.

Notifications:

1,051 notification letters were sent to owners of property located within 4,000 feet of the boundaries of the subject parcel, and individuals on the Johns Island Interested Parties List on June 22, 2018. Additionally, this request was noticed in the *Post & Courier* on June 22, 2018.

PUBLIC HEARING: AUGUST 21, 2018

Speakers: One person spoke in support; two people spoke regarding community needs and their discussion with the applicant/developer. Please see the attached Public Hearing Comment summary for details. Also attached is a letter from the Concerned Residents Committee of John’s Island to County Council.

Notifications:

Both the August 21 and September 11 Public Hearings were noticed in the *Post & Courier* on July 20, 2018. Additionally, on August 3, signs were posted on the property and 1,051 notification letters regarding both public hearings were sent to owners of property located within 4,000 feet of the boundaries of the subject parcel, and individuals on the Johns Island Interested Parties List.

PLANNING AND PUBLIC WORKS COMMITTEE: SEPTEMBER 6, 2018

Recommendation: Approval with conditions (Vote: 5-3):

- Page 37 of the PD Plan, Table 10.1, Off-Street Parking Table: Change the first sentence to read “In establishing the required minimum of off-street parking, the ARB shall may consider the following...”
- Prohibit gated neighborhoods/communities;
- Prohibit/delete golf course uses;
- Require that the development include at least 10% Workforce Housing Units;
- Preserve and maintain the three grave sites with historical markers and ensure public access to them no later than approval of the final plat for the current phase, Phase 1; and
- Allow amendments up to third reading.

PUBLIC HEARING: SEPTEMBER 11, 2018

Due to the impact of the potential hurricane, this public hearing was rescheduled to October 9, 2018.

Notifications:

Both the August 21 and September 11 Public Hearings were noticed in the *Post & Courier* on July 20, 2018. Additionally, on August 3, signs were posted on the property and 1,051 notification letters regarding both public hearings were sent to owners of property located within 4,000 feet of the boundaries of the subject parcel, and individuals on the Johns Island Interested Parties List.

FIRST READING: SEPTEMBER 20, 2018

Vote: Approve the recommendation of the Planning and Public Works Committee. (Vote: 7-2)

SECOND READING: SEPTEMBER 25, 2018

Vote: Approve the recommendation of the Planning and Public Works Committee. (Vote: 7-0)

Public Hearing – 8-21-18 Kiawah River Amendments
Public Comments

Name	Comments
Elizabeth Coaxum	<ul style="list-style-type: none"> • Appreciated the additional community meeting • Is in talks with the developer regarding being “Good Neighborhood” • Stated that there is still much work to be done
Rev. Charles Heyward	<ul style="list-style-type: none"> • Stated the African American community often suffers with these developments • Stated the community wants an ongoing conversation between the community and developer for years to come
Trenholm Walker (Representing developer)	<ul style="list-style-type: none"> • Stated the requested amendments are technical – no changes to number of units, density, or open space • Stated the applicant intends to be a good neighbor and wants to help with economic development opportunities for the community • Ms. Johnson asked if they received the wish list from the community on economic development opportunities; Mr. Walker responded that they have and are working with community on the list • Ms. Johnson encouraged the community to submit their list to Planning Department so when they return for 2nd PH these things can be addressed.

CONCERNED RESIDENTS COMMITTEE OF JOHN'S ISLAND

c/o Mrs. Elizabeth F. Coaxum
3788 Betsy Kerrison Parkway
John's Island, South Carolina 29455

August 19, 2018

Charleston County Council
c/o Clerk of County Council
4045 Bridgeview Drive
North Charleston, South Carolina 29405

RE: KIAWAH RIVER PLANTATION DEVELOPMENT AGREEMENT
AND PLANNED DEVELOPMENT (PD-143)

Dear Members of Council:

On Wednesday, August 15, 2018 at 6:30 PM a group of 20 concerned residents of John's Island met with Mr. Kevin O'Neill, Vice President, Development; Carter C. Redd, Managing Director; and other staff persons of the Kiawah River Plantation Development (KRPD). Our purpose was to view a presentation by Mr. O'Neill of the present status of the Agreement and Planned Development (PD-143); and to discuss what it will mean for the parent company to be a "Good Neighbor," to this Historic African American Community as the development takes shape and move into the future.

We want to affirm the open and frank nature of our conversation and the responses to our questions by Mr. O'Neill and his staff.

The following are the results and understanding of some of the issues discussed, with Mr. Kevin O'Neill, representing the parent company the KRPD.

- Within the carbon imprint- nothing will be released in the environment that will be damaging or create health related problems, because a traditional neighborhood design is being used.
- This will not be a gated neighborhood/community, nor will there be a golf course.
- The KRPD will include 10% Workforce Housing Units as required by Charleston County.
- A written covenant will be developed and signed with the community on what it means for the parent company to be a "Good Neighbor."

- The company will encourage the engagement of African American sub-contractors. The Concerned Residents Committee (CRC) will provide a listing of African American contractors.
- The CRC will have representatives on the KRPD Advisory Board and develop a relationship with the Kiawah River Trust.
- Retail space for African American businesses and vendors will be made available in the shopping area.
- Develop a system to address traffic safety complaints on Mullet Hall Road.
- Ongoing discussions will take place on the need for public access to the Kiawah River.
- The three grave sites will be preserved and maintained with historical markers and accessible to the public.

We are glad to report an agreement that a tax exempt, community development organization will be established, and will serve as the official communicator between the KRPD and the Concerned Residents of John's Island.

Please accept this letter as our understanding as we move forward in becoming "Good Neighbors."

Finally, please expect that some of our Concerned Residents will have comments at each of your pending hearings.

Thank You.

Sincerely,

Mrs. Elizabeth F. Coaxum,
Lead Organizer, Concerned Residents Committee

EFC/SLH:cch



**Kiawah River Plantation Development
Agreement Amendment
(ZDA-05-18-00100) & Planned
Development (PD-143) Amendment
Request
(ZREZ-05-18-00081)**

Planning Commission: July 9, 2018

1st Public Hearing: August 21, 2018

Planning & Public Works Committee: September 6, 2018

1st Reading: September 20, 2018

2nd Reading: September 25, 2018

2nd Public Hearing & 3rd Reading: October 9, 2018

Letter sent to Council following the Public Hearing

CONCERNED RESIDENTS COMMITTEE OF JOHN'S ISLAND

c/o Mrs. Elizabeth F. Coaxum
3788 Betsy Kerrison Parkway
John's Island, South Carolina 29455

August 19, 2018

Charleston County Council
c/o Clerk of County Council
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- • The KRPD will include 10% Workforce Housing Units as required by Charleston County.
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Letter sent to Council following the Public Hearing

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- The CRC will have representatives on the KRPD Advisory Board and develop a relationship with the Kiawah River Trust.
- Retail space for African American businesses and vendors will be made available in the shopping area.
- Develop a system to address traffic safety complaints on Mullet Hall Road.
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Thank You.

Sincerely,

Mrs. Elizabeth F. Coaxum,
Lead Organizer, Concerned Residents Committee

EFC/SLH:cch

Kiawah River Plantation Amendment Requests

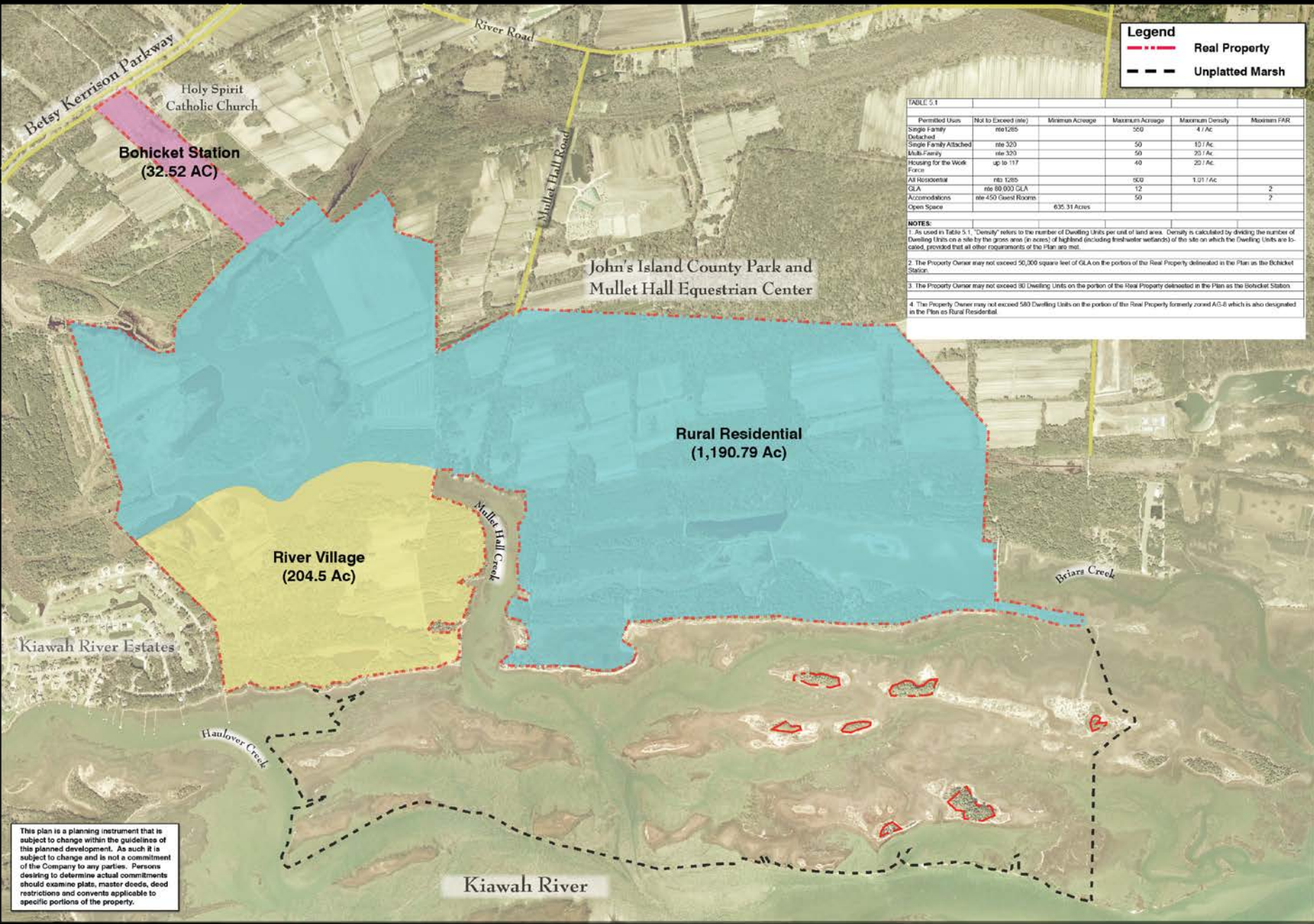
- Johns Island: 3883 Betsy Kerrison Parkway
- Parcel I.D.: 212-00-00-001 & 212-00-00-005 - 212-00-00-014
- Request to amend the Kiawah River Plantation Development Agreement and Planned Development to update and clarify development requirements
- Applicant: Kevin O'Neill, Beach Development
2505 Mullet Hall Rd, Johns Island, SC, 29455
- Owner: Kiawah River Investment, LLC
211 King St, Suite 300, Charleston, SC, 29401
- Acreage: 1,427.81 acres total (1,083.2 acres of highland, 187.41 acres of freshwater wetlands, 157.2 acres of OCRM Critical Line Area)
- Council Districts: 8 & 9

Comprehensive Plan & Zoning History

- Prior to 2009, the subject property was split zoned:
 - 810.22 acres of highland and freshwater wetland were located in the Rural Area (zoned AG-8)
 - 460.39 acres of highland and freshwater wetland were located in the Urban/Suburban Area (zoned R-4)
- December 22, 2009: County Council approved the Kiawah River Plantation Development Agreement (“Agreement”) for PID# 212-00-00-001 (1,427.81 acres in size)
 - 25-year Agreement
 - Includes rezoning the property from the Single Family Residential (R-4) District/Agricultural Preservation (AG-8) District to the Planned Development (PD-143) District

Kiawah River Plantation Development Agreement

- Recorded on February 4, 2010
- Maximum of 1,285 dwelling units (previous zoning would have allowed a maximum of 1,943 dwelling units)
 - Not to exceed 1,285 single family detached units (max. 227 on OCRM Crit. Line)
 - Not to exceed 320 can be single family attached units
 - Not to exceed 320 multi-family units
 - Up to 117 workforce housing units
- Up to 80,000 square feet of gross leasable area
- Up to 450 guest rooms
- A minimum of 635.31 acres of open space
- Access to both Betsy Kerrison Pkwy and Mullet Hall Rd
- Required mitigation:
 - Land for an EMS/CCSO/Fire/Magistrate's Office
 - \$800,000 or the actual cost, whichever is lesser, towards the purchase of a ladder truck St. John's Fire District on or before obtaining a building permit for the construction of any building on the Real Property requiring a ladder truck according to the National Fire Prevention Association



Legend

- - - - Real Property
- - - - Unplatted Marsh

TABLE 5.1

Permitted Uses	Not to Exceed (rate)	Minimum Acreage	Maximum Acreage	Maximum Density	Maximum FAR
Single Family Detached	rate 1285		50	4 / Ac	
Single Family Attached	rate 320		50	10 / Ac	
Multi-Family	rate 320		50	20 / Ac	
Housing for the Work Force	up to 117		40	20 / Ac	
All Residential	rate 1285		60	1.0 / Ac	
GLA	rate 80 000 GLA		12		2
Accommodations	rate 450 Guest Rooms		50		2
Open Space		635.31 Acres			

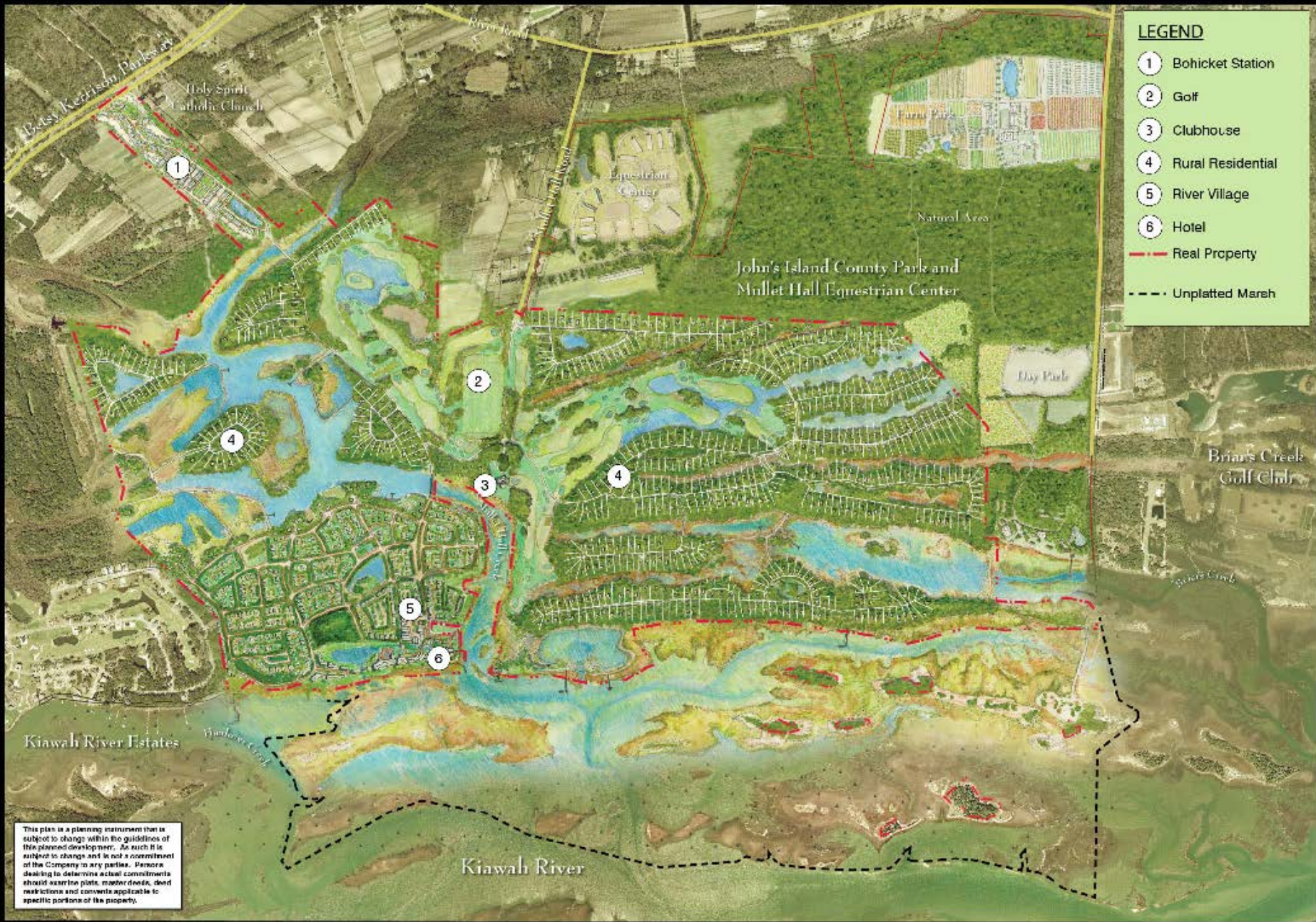
NOTES:

1. As used in Table 5.1, "Density" refers to the number of Dwelling Units per unit of land area. Density is calculated by dividing the number of Dwelling Units on a site by the gross area (in acres) of highland (including freshwater wetlands) of the site on which the Dwelling Units are located, provided that all other requirements of the Plan are met.
2. The Property Owner may not exceed 50,000 square feet of GLA on the portion of the Real Property delineated in the Plan as the Bohicket Station.
3. The Property Owner may not exceed 90 Dwelling Units on the portion of the Real Property delineated in the Plan as the Bohicket Station.
4. The Property Owner may not exceed 580 Dwelling Units on the portion of the Real Property formerly zoned AO-B which is also designated in the Plan as Rural Residential.

This plan is a planning instrument that is subject to change within the guidelines of this planned development. As such it is subject to change and is not a commitment of the Company to any parties. Persons desiring to determine actual commitments should examine plats, master deeds, deed restrictions and covenants applicable to specific portions of the property.



Kiawah River Plantation



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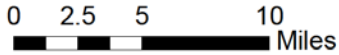


Kiawah River Plantation

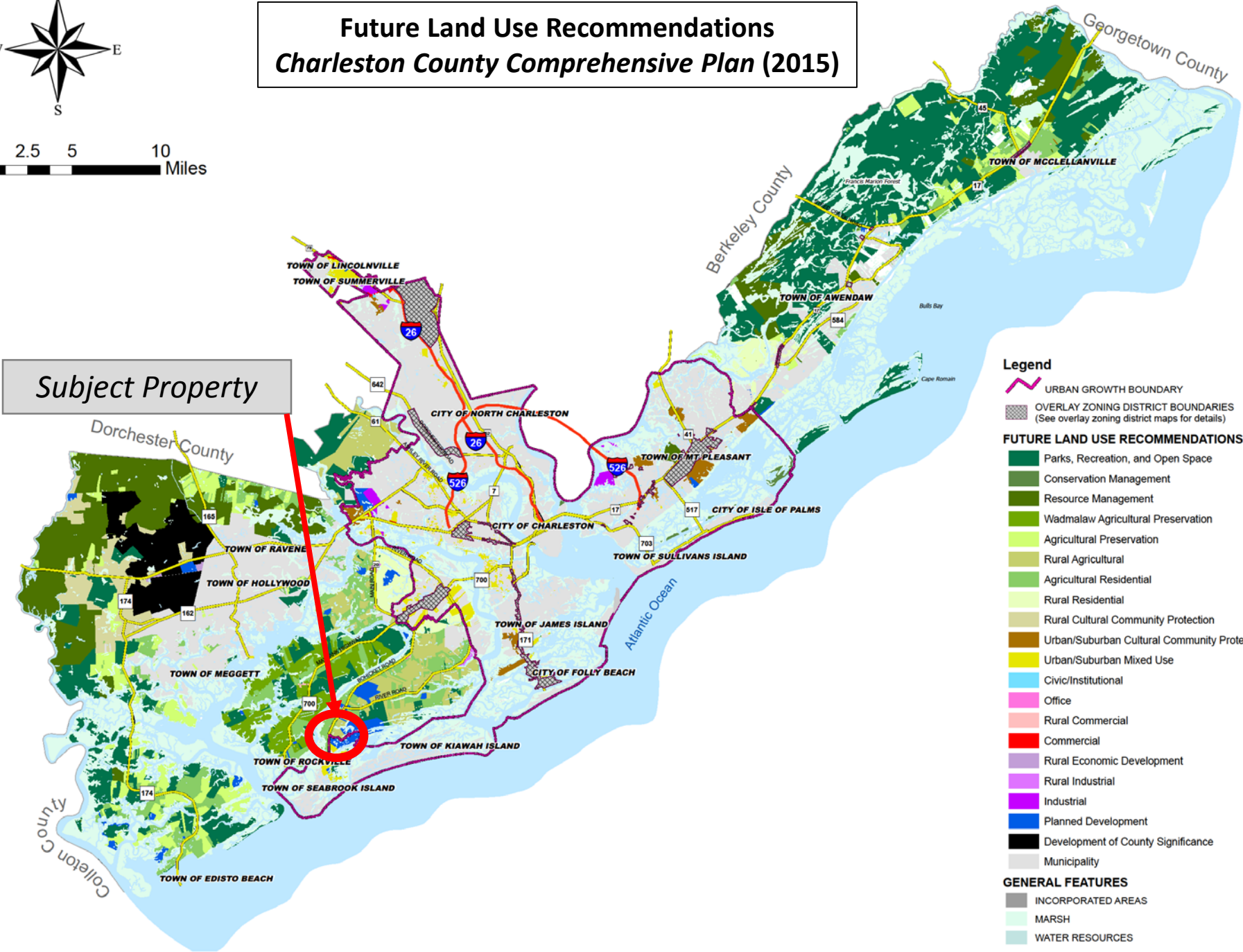
Comprehensive Plan & Zoning History

- On January 6, 2015, County Council approved the Comprehensive Plan Five-Year Review
 - Adjusted the Urban Growth Boundary through the subject property to follow the division between the areas approved for rural development intensities and the areas approved for suburban development intensities
 - Assigned the subject property to the Planned Development Future Land Use category

Future Land Use Recommendations Charleston County Comprehensive Plan (2015)



Subject Property



Legend

- URBAN GROWTH BOUNDARY
- OVERLAY ZONING DISTRICT BOUNDARIES
(See overlay zoning district maps for details)

FUTURE LAND USE RECOMMENDATIONS

- Parks, Recreation, and Open Space
- Conservation Management
- Resource Management
- Wadmalaw Agricultural Preservation
- Agricultural Preservation
- Rural Agricultural
- Agricultural Residential
- Rural Residential
- Rural Cultural Community Protection
- Urban/Suburban Cultural Community Protection
- Urban/Suburban Mixed Use
- Civic/Institutional
- Office
- Rural Commercial
- Commercial
- Rural Economic Development
- Rural Industrial
- Industrial
- Planned Development
- Development of County Significance
- Municipality

GENERAL FEATURES

- INCORPORATED AREAS
- MARSH
- WATER RESOURCES

Dorchester County

Berkeley County

Georgetown County

Colleton County

TOWN OF LINCOLNVILLE
TOWN OF SUMMERVILLE

TOWN OF AWENDAW

CITY OF NORTH CHARLESTON

TOWN OF MT. PLEASANT

CITY OF ISLE OF PALMS

CITY OF CHARLESTON

TOWN OF SULLIVANS ISLAND

TOWN OF JAMES ISLAND

CITY OF FOLLY BEACH

TOWN OF KIAWAH ISLAND

TOWN OF ROCKVILLE

TOWN OF SEABROOK ISLAND

TOWN OF EDISTO BEACH

TOWN OF RAVENE

TOWN OF HOLLYWOOD

TOWN OF MEGGETT

Atlantic Ocean

Bulls Bay

Wadmalaw Forest

Cape Romann

ROVER ROAD

ROVER ROAD

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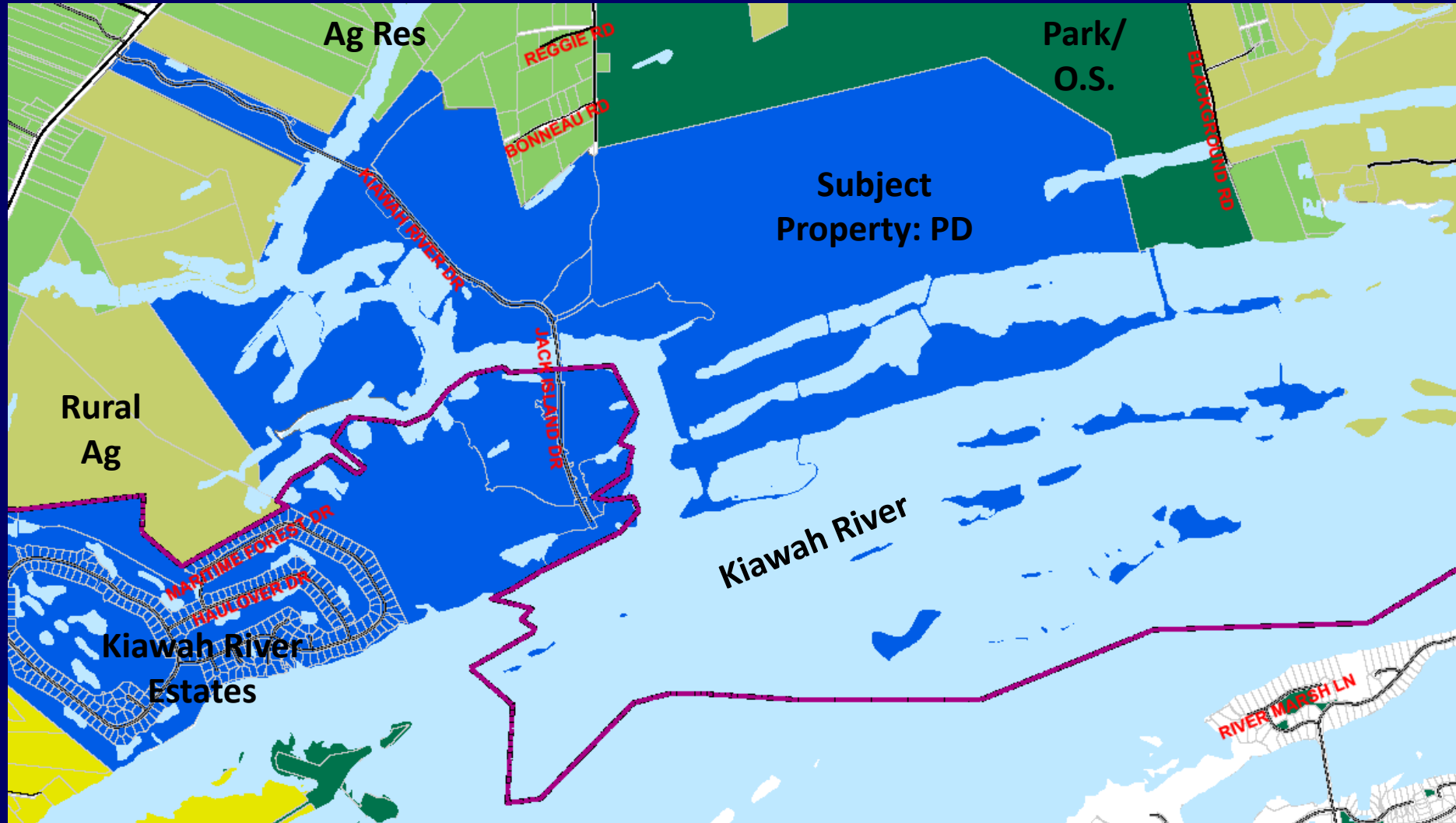
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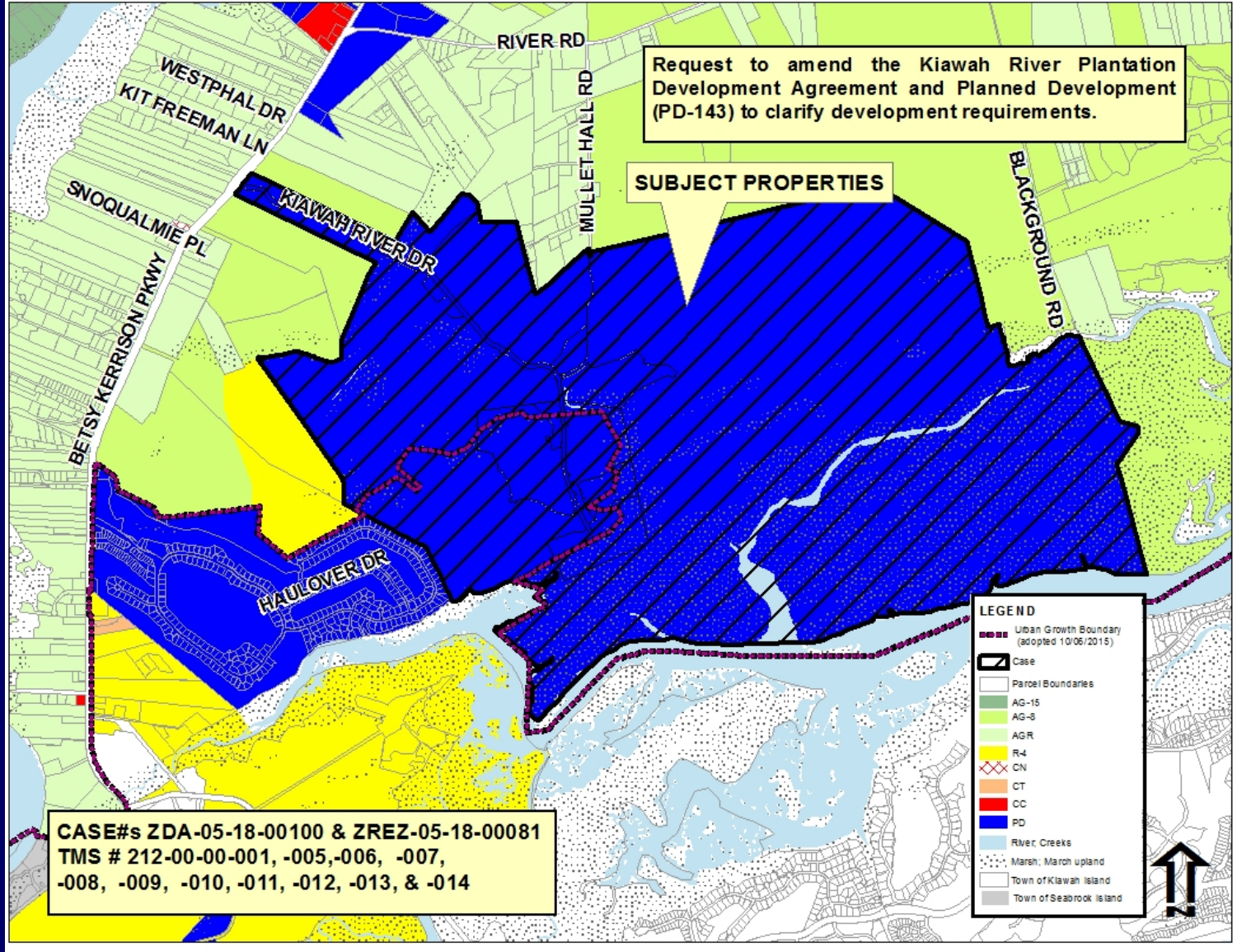
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Future Land Use Map: Kiawah River





Adjacent properties are zoned R-4, AG-8, AGR, and Planned Development. The subject property is surrounded by vacant parcels and parcels used for agriculture, residential, and institutional purposes. The southwestern portion of the subject property abuts the Kiawah River Estates subdivision (formerly known as Hope Plantation); the property to the north of the portion of the subject parcel that touches Betsy Kerrison Pkwy contains a church; and the property to the east of the subject parcel contains the Charleston County Equestrian Center. The Briar's Creek subdivision is located to the east of the subject parcel.

Property Development Since Dec. 2009

- The original parcel, PID# 212-00-00-001, has been subdivided into 11 lots
- The spine road is under construction including improvements to the entrance onto Betsy Kerrison Pkwy required by the Agreement
- The waste water treatment facility (to serve this development only) is under construction, and two pump stations have been approved
- The preliminary plat for phase 1 has been approved, allowing for 76 lots on 29.85 acres (2.55 dwelling units per acre)
 - Seven waterfront single-family detached home lots
 - 57 non-waterfront single-family detached homes lots
 - 12 townhouse development lots
 - Land clearing for phase 1 development has commenced; however, as of the writing of this report, no conditional or final plat applications have been submitted for phase 1

2009 Aerial Map



2017 Aerial Map



Kiawah River Development



1 – Betsy Kerrison Pkwy Entrance & Improvements

2 – Mullet Hall Rd Entrance



Kiawah River Development



3 – Sales Office

4 – Waste Water Treatment Facility Site



Kiawah River Development



**5 – Road on Jack Island &
Pedestrian Bridge**

**6 – Betsy Kerrison Pkwy Entrance
(from the Property)**



Requested Amendments: Development Agreement

- Update owner information to reflect the acquisition of the property by Kiawah River Investment, LLC and the substitution of Kiawah River Investment, LLC as the Property owner as a result of the conveyance
- Update community name to reflect the change to “Kiawah River”
- Update addresses for the Property Owner and attorney
- Delete Section 5.3.3.3 of the ZLDR Redlines (Appendix B), which requires Special Exception approval for Community Docks

Requested Amendments: Definitions

Development Agreement & PD Definitions

- Guest Room: Clarify that a Guest Room may be located within a Villa
- Gross Leasable Area: Clarify that community amenity centers do not count towards Gross Leasable Area
- Hotel: Clarify that a hotel does not need to be located on a single development parcel
- Inn: Clarify that an inn does not need to be located on a single development parcel
- Lot Line, Front: Allow the Property Owner to designate the Front Lot Line when a property abuts Open Space on one side and a Thoroughfare on the other or when a property abuts more than one Thoroughfare
- Plan: Update the development name to “Kiawah River”
- Property Owner: Update owner information

Requested Amendments: Appendix A, Planned Development

- Update the name to “Kiawah River”
- Section 6.1.C, Building Development Standards – Lot Access:
 - Allow the Property Owner to designate the Front and Rear Lot Lines when properties abut Open Space on one side and a Thoroughfare on the other and when properties have more than one Thoroughfare frontage
 - Require setbacks to allow appropriate vision clearance
 - State the Planning Director may require a 5’ easement to restrict access from all Thoroughfares other than that designated as the primary access
 - Include proposed Exhibit 6.3, Lot Fronting on Open Space, to illustrate this concept

Proposed Exhibit 6.3

Elevation



**Lot Fronting Open Space
Exhibit 6.3**

Note: Exhibit is conceptual. Front lot line may also abut a thoroughfare, with the rear lot line abutting open space per the "front lot line" definition.

Requested Amendments: Appendix A, Planned Development

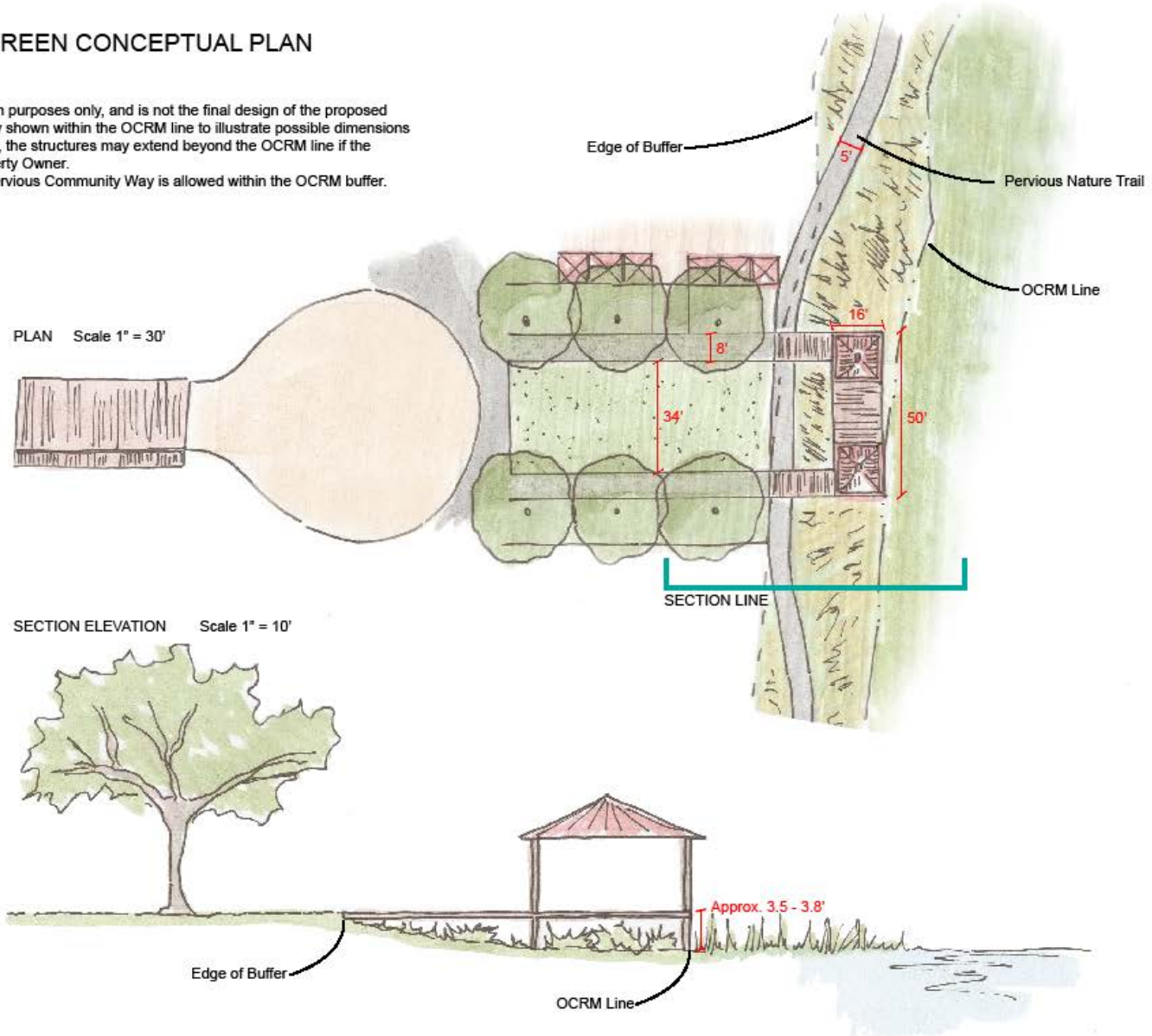
- Table 6.1, Building Development Standards: Revise the minimum front setbacks for accessory structures to change the requirement of “20’ + building setback” to “building setback” and correct table note reference numbers
- Section 8.2, Buffers and Screening:
 - Allow one intrusion into the OCRM Critical Line setback and buffer (not to exceed 50’ in width) for an Open Space area as shown on proposed Exhibit 8.3, Village Green Conceptual Plan
 - Allow the Property Owner to disturb and conduct activity within the OCRM Critical Line Buffer only as necessary to accomplish the saltwater wetlands mitigation approved by the US Army Corps of Engineers (USACOE) in the letter attached as proposed Exhibit 8.4
 - *The USACOE approved impacting 0.79 acres of saltwater impoundments to facilitate necessary road footprints with a 2:1 ratio of mitigation (requires creation of 1.58 acres of saltwater resources by expanding an area within one of the on-site impoundments – Critical Pond 4)*

Proposed Exhibit 8.3

EXHIBIT 8.3 | VILLAGE GREEN CONCEPTUAL PLAN

Notes:

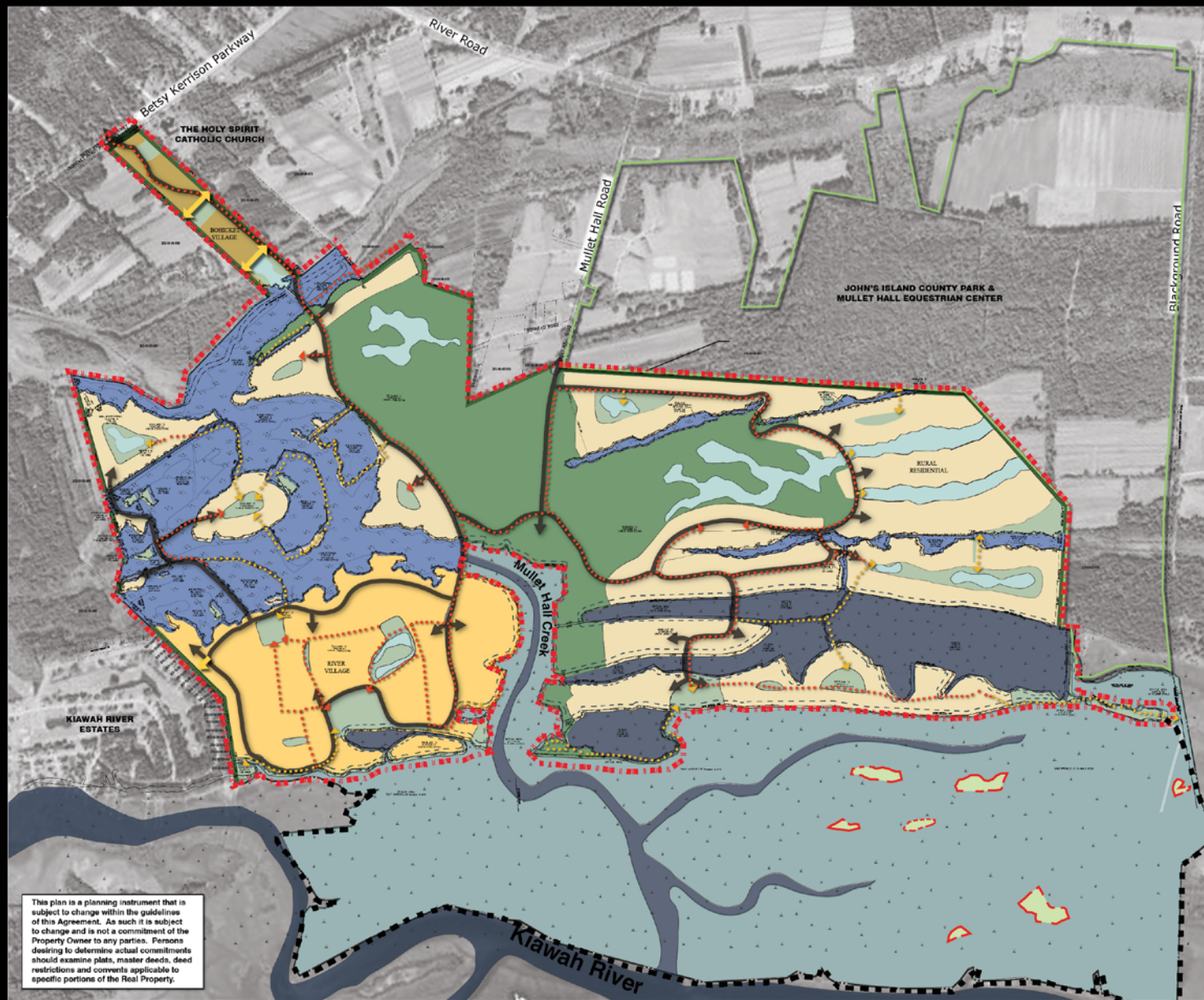
1. This diagram is for conceptual illustration purposes only, and is not the final design of the proposed improvements. The structures are currently shown within the OCRM line to illustrate possible dimensions of the structures within the buffer; however, the structures may extend beyond the OCRM line if the required permits are obtained by the Property Owner.
2. Per the PD plan, section 8.2.B.2.d., a pervious Community Way is allowed within the OCRM buffer.



Requested Amendments: Appendix A, Planned Development

- Table 8.2, Internal Land Use Buffers:
 - Clarify how the table applies to development
 - Refine land use buffer requirements including differentiating between Hotel/Inn/Bed & Breakfast lodging buffer requirements and Villa lodging buffer requirements
 - Add waste water treatment pump station to the table with no required land use buffers
- Table 10.1, Parking Standards: Include off-street parking requirements for “All Other Uses” (ARB to make the determination based upon the proposed criteria including but not limited to availability of on-street parking, non-vehicular access, etc.)
- Update Exhibit 4.1, Framework Plan, to reflect updated conceptual plan

Approved Framework Plan



- Legend**
- VEHICULAR CIRCULATION
 - RIVER VILLAGE
 - BOHICKET STATION
 - RURAL RESIDENTIAL
 - FRESHWATER WETLAND
 - SALT PONDS
 - SALT MARSH
 - MARSH ISLANDS
 - GOLF
 - PARKS/NATURAL AREAS
 - PROPOSED POND
 - REAL PROPERTY
 - UNPLATTED MARSH
 - 25' BUFFER
 - 50' BUFFER
 - STREET SYSTEM TRAIL
 - OPEN SPACE TRAIL
 - POTENTIAL CONNECTION - (LOCATION TO BE DETERMINED)

This plan is a planning instrument that is subject to change within the guidelines of this Agreement. As such it is subject to change and is not a commitment of the Property Owner to any parties. Persons desiring to determine actual commitments should examine plats, master deeds, deed restrictions and covenants applicable to specific portions of the Real Property.

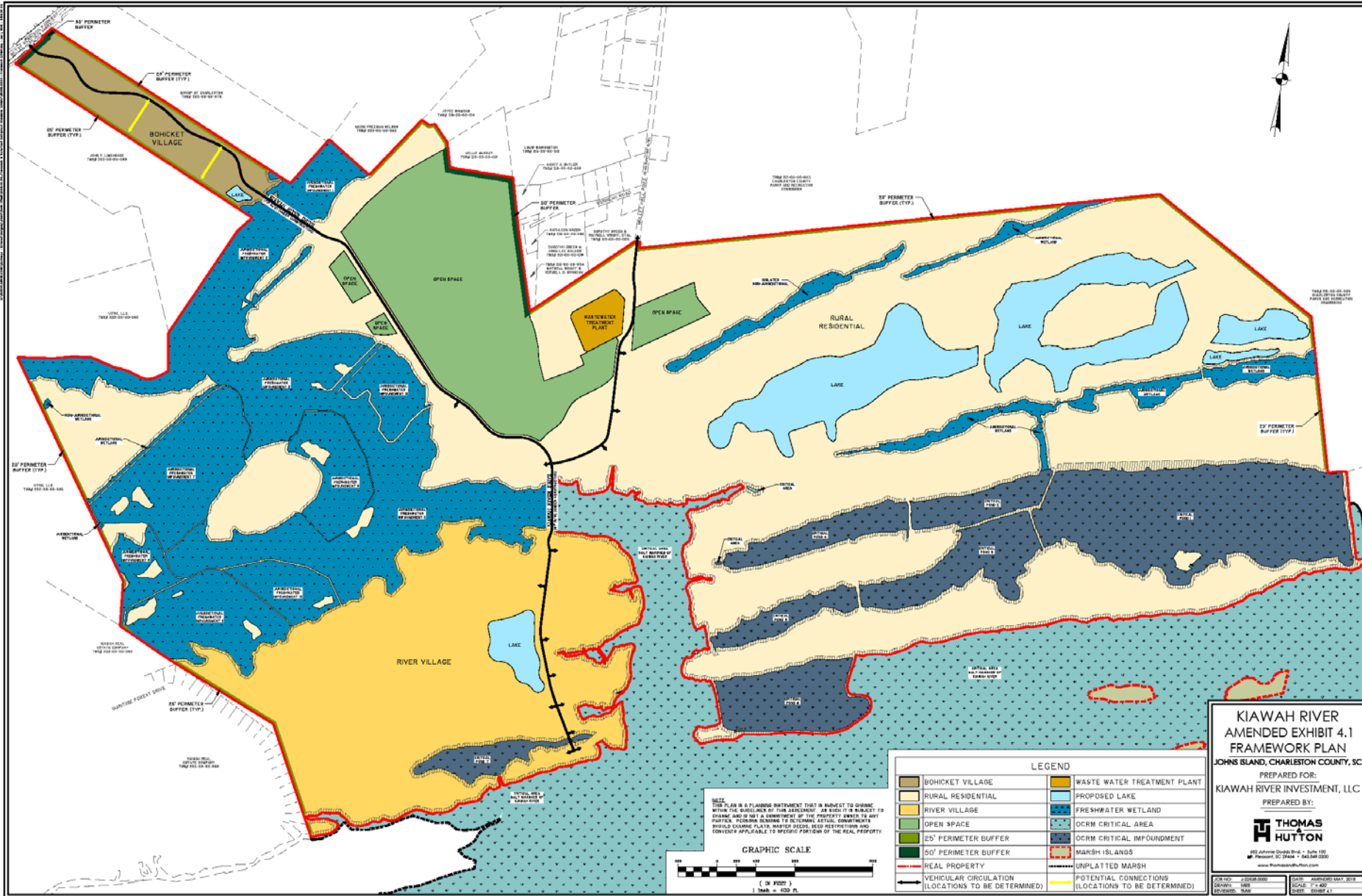
ACRES

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Kiawah River Plantation

Proposed Framework Plan



KIAWAH RIVER
AMENDED EXHIBIT 4.1
FRAMEWORK PLAN
 JOHNS ISLAND, CHARLESTON COUNTY, SC

PREPARED FOR:
KIAWAH RIVER INVESTMENT, LLC

PREPARED BY:
THOMAS HUTTON

405 Anthony Drive Blvd., Suite 100
 Myrtle Beach, SC 29577 • 843.684.3330
 www.thomashutton.com

DATE: AUGUST 2018
 SCALE: 1" = 400'
 SHEET: 0001 OF 01

Approval Criteria

- The proposed amendments to the Agreement comply with the requirements of the South Carolina Local Government Development Agreement Act and all development thus far is in compliance with the approved Agreement.
- The proposed amendments also comply with ZLDR Section §4.23.9 E (9), PD Development Plan Approval Criteria (may be approved only if County Council determines that the following criteria are met):
 - A. The PD Development Plan complies with the standards contained in this Article;
The proposed amendments are consistent with the standards of the Planned Development Zoning District article. Therefore, this criterion is met.
 - B. The development is consistent with the intent of the Comprehensive Plan and other adopted policy documents;
The proposed amendments are consistent with the intent of the Comprehensive Plan and other adopted policy documents. No changes in open space requirements or density/intensity standards are being proposed, and no land use changes are proposed. The amendments tweak the development standards to enable the Traditional Neighborhood Design always envisioned by the Property Owner. Therefore, this criterion is met.

Approval Criteria

- C. The County and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed.

The proposed amendments do not change level of public services, facilities or programs required by the original Agreement, which included letters of coordination from applicable service providers. In addition, the Property Owner must provide updated letters of coordination at the time of development of each phase. Therefore, this criterion is met.

Recommendation

Because the proposed amendments comply with the above-stated criteria, both Planning Commission (vote: 8 to 0) and Staff recommend approval with conditions:

- Page 37 of the PD Plan, Table 10.1, Off-Street Parking Table: Change the first sentence to read “In establishing the required minimum of off-street parking, the ARB ~~shall~~ may consider the following...”
- Prior to August 3rd, the applicant must hold a community meeting with area property owners/residents
 - The applicant held a community meeting on July 25th; therefore, this condition has been met

Notifications

- July 9, 2018 Planning Commission Meeting:
 - June 22, 2018:
 - 1,051 notifications were sent to owners of property located within 4,000 feet of the boundaries of the subject parcel and individuals on the Johns Island Interested Parties List
 - Ad ran in the *Post & Courier*
- August 21, 2018 Public Hearing:
 - July 20, 2018: Both the August 21 and September 11 Public Hearings were noticed in the *Post & Courier*
 - August 3, 2018: signs were posted on the property and 1,051 notification letters regarding both public hearings were sent to owners of property located within 4,000 feet of the boundaries of the subject parcel, and individuals on the Johns Island Interested Parties List.
- October 9, 2018 Public Hearing:
 - September 21, 2018: October 9 Public Hearing noticed in the *Post & Courier*
 - September 21, 2018: signs were posted on the property and 1,051 notification letters regarding the public hearing was sent to owners of property located within 4,000 feet of the boundaries of the subject parcel, and individuals on the Johns Island Interested Parties List.

ZONING CHANGE APPLICATION

2002-05-
 CASE 18-00081 PD 143A NOTIFY: 1. _____
 2. _____



Planning Department
 Lonnie Hamilton, III
 Public Services Building
 4045 Bridge View Drive
 North Charleston, SC 29405
 (843) 202-7200
 1-800-524-7832
 Fax: (843) 202-7222

PROPERTY INFORMATION

CURRENT DISTRICT PD 143 REQUESTED DISTRICT PD-143A (Amend PD)

PARCEL ID(S) 212-00-00-001

CITY/AREA OF COUNTY Johns Island

STREET ADDRESS Kiawah River Drive 3883 Betsy Kemper Pkwy ACRES 1270.61

DEED RECORDED: BOOK O625 PAGE 004 DATE 03/22/2017

PLAT RECORDED: BOOK L18 PAGE 0008-0010 DATE 01/22/2018 APPROVAL # SBMi 00665

CHARLESTON COUNTY
 SOUTH CAROLINA

APPLICANT—OWNER—REPRESENTATIVE

APPLICANT Kiawah River Investment, LLC HOME PHONE _____
 MAIL ADDRESS 211 King Street, Suite 300 WORK PHONE _____
 CITY, STATE, ZIP Charleston, SC 29401 CELL PHONE _____

OWNER Same as applicant HOME PHONE _____
 (IF OTHER THAN APPLICANT)
 MAIL ADDRESS _____ WORK PHONE _____
 CITY, STATE, ZIP _____ CELL PHONE _____

REPRESENTATIVE Kevin O'Neill HOME PHONE _____
 (IF OTHER THAN APPLICANT)
 MAIL ADDRESS Beach Development, 2501 Mullet Hall Road WORK PHONE _____
 CITY, STATE, ZIP Johns Island, SC 29455 CELL PHONE 843.277.3081

CERTIFICATION

This application will be returned to the applicant within ten (10) business days if these items are not submitted with the application or if any are found to be inaccurate:

- Copy of Approved and Recorded Plat showing present boundaries of property
- Copy of Current Recorded Deed to the property (Owner's signature must match documentation)
- Fee \$150.00 plus \$10.00 per acre (Fees vary for Planned Developments.)

I (we) certify that KEVIN O'NEILL is the authorized representative for my (our) zoning change request. I also accept the above requirements for submitting my zoning change application. To the best of my knowledge, all required information has been provided and all information is correct.

Kevin O'Neill 5/24/18
 Signature of Owner(s) Date Signature of Applicant/ Representative (if other than owner) Date
Andrew D. Pietras 5/25/18
 Planner's Signature Date Zoning Inspector's Signature Date

OFFICE USE ONLY

Has this parcel been cited for a zoning violation? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Application Number <u>2002-05-18-00081</u>
Have zoning change applications been submitted previously for this property?	Date Submitted <u>5/25/18</u>
1. Case Number <u>2002-05-18-00081</u> PD-143 Date <u>2009</u> App/Dis _____	Amount Received <u>\$2841.22</u> Cash? <input type="checkbox"/> Check? <input checked="" type="checkbox"/>
2. Case Number _____ Date _____ App/Dis _____	Receipt Number <u>JAC-134741-25-05-2018</u>

K I A W A H R I V E R

CHARLESTON SEA ISLANDS

South Carolina

June 19, 2018

Mr. Joel Evans,
Director, Zoning and Planning
Charleston County, SC
4045 Bridge View Drive
North Charleston, SC 29405

Re: Kiawah River PD and Development Agreement Amendment Applications

Dear Mr. Evans:

Attached in support of our applications, please find the following:

- Entire Development Agreement with proposed revisions in redline;
- Entire Planned Development District Plan with proposed revisions in redline;
- Single page from ZLDR with sole proposed additional change in redline;
- Revised / updated Framework Plan, Amended Exhibit 4.1 to Kiawah River PD Plan;
- Exhibit 6.3 lot Fronting Open Space;
- Exhibit 8.3 – Village Green Conceptual Plan, illustrating proposed intrusion into the OCRM buffer (as requested);
- Exhibit 8.4 United States Army Corps of Engineers Letter dated April 4, 2017, approving saltwater wetlands mitigation plan ;
- Copy of the Development Agreement – with proposed redline revised pages, only;
- Copy of the Planned Development District Plan – with proposed redline revised pages, only; and
- Copy of the proposed ZLDR redline revision, only – deleting s.5.3.3.3.

The proposed revisions to the Development Agreement reflect the acquisition of the property by Kiawah River Investment, LLC, the substitution of Kiawah River Investment, LLC as the Property Owner as a result of the conveyance, and the community name change to “Kiawah River.” The Address for Notice to the Property Owner has been updated to reflect Kiawah River Investment, LLC as Property Owner and to reflect Trenholm Walker’s new firm affiliation at Walker, Gressette, Freeman & Linton, LLC. Additionally, the definition of “Gross Leasable Area” or “GLA” was modified to state that “GLA does not include a community amenity center such as a fitness club/aquatic center.” This revision was suggested by the County for clarity and was also modified in the PD Plan.

PDD Plan Amendment proposed revisions include the following:

- **S1.1 and S1.2.** - changes the name of the Planned Development to “Kiawah River” to reflect the name change from “Kiawah River Plantation.”
- **“ARB” definition** – corrects the name to Kiawah River Architectural Review Board.
- **“Guest Room” definition** – clarifies that a Guest Room may be located within a Villa.
- **Lot Line, Front definition** – provides that a lot may front on Open Space or on a street that is not used as the primary access. *This revision will enable Traditional Neighborhood*

kiawahriver.com	2501 MULLET HALL ROAD, JOHNS ISLAND, SOUTH CAROLINA 29455	TEL: 843.973.8600
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Design, with alley-fed detached garages. Further, it will provide some flexibility as well and facilitate more attractive streetscapes.

- **S6.1 C Lot Access** – revised to recognize that Double Frontage Lots are not to be avoided, and that all lots shall be allowed only one vehicular access. Provides that the Property Owner may designate the Front Lot Line and the Rear Lot Line where a lot has more than one frontage on a Thoroughfare. Reduces the restricted access easement minimum width to 5' Double Frontage Lots (*alley and street are typical in Traditional Neighborhood Design and are encouraged*). Designation of the front and rear lot lines by the Property Owner provides the needed flexibility in order to ensure that the lot is oriented correctly and also permit a lot to front on open space with the driveway entering from the rear lot line. The reduction of the restricted access easement to a minimum of 5' reflects the minimum front, rear and side setbacks within the community
- **Exhibit 6.3** is added to illustrate a lot fronting open space with rear alley access.
- **“Hotel” and “Inn” definitions** – are modified to delete requirement that the group of buildings must be on one development parcel, to reflect that the lodging buildings, including villas, can be located on more than one TMS parcel. The spreading of lodging in the form of many separate units over a larger area of the community, as opposed to the traditional large mass hotel, is a growing trend in the hotel/hospitality industry, the duplex cottages at Palmetto Bluff being a good example. This lower skyline achieved is also more compatible with natural the river front.
- **“Plan” definition** – changes the name of the Plan to Kiawah River Planned Development District Plan – deleting “Plantation.”
- **S4. Uses** – revises reference to Exhibit 4.1 to “as amended” to reflect the updated Exhibit 4.1 – Framework Plan.
- **Table 6.1 C Minimum Setbacks – Accessory Structures** – the front setback has been reduced from 20'+Building Setback, to Building Setback. The reference in the table to Note 3 has been corrected to refer to Note 2. *The reduced setback permits flexibility in the location of detached garages, which is important in Traditional Neighborhood Design communities.*
- **S8.2B.3a** – adds a provision for intrusion into the OCRM buffer at the Village Green per the Village Green Concept plan added as Exhibit 8.3. *Intrusion into the OCRM buffer is requested in order to accommodate a boardwalk / deck feature at the marsh front for the use of Kiawah River residents and visitors.*
- **S8.2B.3b Saltwater Wetlands Mitigation** – specifically provides that the Property Owner may disturb the OCRM buffer in order to carry out the Saltwater Wetlands Mitigation plan approved by the United States Army Corps of Engineers in its letter dated April 4, 2017, added as Exhibit 8.4.
- **Table 8.2 Internal Buffers** – deletes the buffer from MF/Single Family Attached to Single Family Detached and from Villas to Single Family Detached, Multi-Family and Single Family Attached homes. *As the community is to be developed as a Traditional Neighborhood Design, it is not necessary or appropriate to buffer residential uses from each other, but will be sited and designed to be compatible with other residential uses. Similarly, Villas are a low intensity land use and buffers between Villas and residential uses are not necessary. The buffer requirement between a traditional Inn or Hotel to residential uses is retained, as the Inn and Hotel may be higher intensity uses where a buffer may be desired.*

- **Table 10.1 Parking Standards** – completed the table for “All Other Uses” by providing that the standards shall be determined by the ARB, and adding criteria for the ARB to consider in determining the parking. *Flexibility is desired particularly for non-typical uses such as amenity buildings, and to recognize that golf cart and bicycle use will be greatly encouraged amongst community residents.*
- **Section 16** – has been updated to indicate that Exhibit 4.1 has been amended; Exhibit 6.3 Illustration of Lots fronting an Open Space has been added; Exhibit 8.3 Illustration of Village Green Intrusion into OCRM Buffer Line; and Exhibit 8.4 letter for United states Army Corps of Engineers dated April 4, 2017 has been added.

Finally, we have redlined the County ZLDR to delete 5.3.3.3 which requires Special Exception approval for Community Docks as this requirement is inconsistent with the Development Agreement and Planned Development District Plan, both of which acknowledge that there may be a maximum of 18 docks within the community.

We are available to answer any questions that you may have regarding our proposed amendments to the Development Agreement and Planned Development District Plan.

Yours Very Truly,



Kevin O'Neill
V.P. Development

Cc A.Pietras
T. Walker
T. Woody
A. Dennis
C. Redd

KIAWAH RIVER PLANTATION

DEVELOPMENT AGREEMENT

BY AND AMONG

KIAWAH RIVER PLANTATION, LP;

OCEAN BOULEVARD PROPERTIES, A

SOUTH CAROLINA LIMITED PARTNERSHIP;

AND

CHARLESTON COUNTY,

SOUTH CAROLINA

**Kiawah River ~~Plantation~~-Development Agreement
By and Among Kiawah River Plantation, LP;
Ocean Boulevard Properties, a South Carolina Limited Partnership; and
Charleston County, South Carolina**

THIS DEVELOPMENT AGREEMENT is entered into this 22nd day of December, 2009 and is effective on the 1st day of January 2010, by and among Kiawah River Plantation, LP, a Delaware limited partnership; Ocean Boulevard Properties, a South Carolina Limited Partnership; and Charleston County, a political subdivision of the State of South Carolina (the “*County*”). This Development Agreement, together with the Kiawah River ~~Plantation~~-Planned Development District Plan, the recitals herein, and all exhibits and appendices attached hereto, shall be hereinafter referred to as the “*Agreement*.” The date upon which this *Agreement* becomes effective shall be hereinafter referred to as the “*Effective Date*.”

RECITALS

This *Agreement* is predicated upon the following:

1. Due to market variability and other factors, the *Property Owner* desires flexibility in its ability to develop the *Real Property*, as well as stability in the local *Laws* and regulations affecting the development of the *Real Property*.
2. The *County* desires an increased tax base, greater job opportunities for current and future residents of the *County*, certain infrastructure improvements designated more fully herein, and the protection or enhancement of certain natural resources, as explained more fully herein.
3. The South Carolina Local Government Development Agreement Act (the “*Act*”), codified at sections 6-31-10 to -160 of the South Carolina Code, enables counties to enter into binding development agreements with persons or entities having a legal or equitable interest in land intending to undertake any development, provided the land has certain minimum acreages of highland, and the development agreement and its approval complies with certain other conditions set forth in the *Act*.
4. The *Act* recognizes: “The lack of certainty in the approval of Development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and Development to escalate, and can discourage commitment to comprehensive planning.” S.C. Code Ann. § 6-31-10(B)(1).
5. The *Act* recognizes: “Development Agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the Development Agreement or in any way hinder, restrict, or prevent the Development of the project.” S.C. Code Ann. § 6-31-10(B)(6).
6. This *Agreement* shall be read and interpreted in coordination with the Kiawah River Plantation Planned Development District Plan (the “*Plan*”), which has been submitted

simultaneously herewith, attached hereto as Appendix A, and incorporated herein by reference. This *Agreement*, together with the *Plan*, facilitates flexibility for the *Property Owner* in the development of the *Real Property*, while providing the *County* with an increased tax base, job opportunities, recreational facilities, and other infrastructure, as set forth more fully herein.

7. Pursuant to section 6-31-30 of the South Carolina Code, *County Council* has adopted Article 3.16 of the *ZLDR*, incorporating the procedures and requirements for considering and entering into development agreements set forth in sections 6-31-10 to -160 of the South Carolina Code.

8. In satisfaction of section 6-31-50 of the South Carolina Code and any other notice requirements, the *County* conducted public hearings regarding its consideration of this *Agreement* on November 17, 2009 and December 3, 2009, after timely publishing and announcing notice of its intent to consider this *Agreement*.

9. The *Real Property* subject to this *Agreement* is approximately 1427.81 acres, including 1083.2 acres of highland, 187.41 acres of freshwater wetland, and 157.2 acres of OCRM critical area. A portion of the *Real Property*, being approximately 810.22 acres of highland and freshwater wetland, is currently zoned AG-8 (agricultural preservation district). A second portion of the *Real Property*, being approximately 460.39 acres of highland and freshwater wetland, is currently zoned R-4 (single family residential 4). The *Real Property* is simultaneously herewith being rezoned to planned development (PD), with the *Plan* constituting the development plan for the *Real Property*, in accordance with the terms and conditions of this *Agreement*.

10. Pursuant to section 6-31-60(A)(7) of the South Carolina Code, on December 22, 2009, *County Council* found this *Agreement* to be consistent with the *Act*, the *Comprehensive Plan*, and the *ZLDR*, as more particularly described in the *Plan* and the Executive Summary submitted with this *Agreement*.

11. Pursuant to section 6-31-60(A)(8) of the South Carolina Code, in approving this *Agreement*, *County Council* has determined that, with respect to the *Project*, this *Agreement*, in conjunction with the *Plan* and applicable *Laws*, sufficiently provides for the public health, safety, and welfare of its citizens and that no additional conditions, terms, restrictions, or other requirements are necessary.

12. On December 22, 2009, *County Council* adopted Ordinance Number [insert ordinance number], amending its zoning ordinance and zoning map to rezone the *Real Property* to PD and adopting the *Plan* as the planned development district plan for the *Real Property*.

13. On December 22, 2009, *County Council* adopted Ordinance Number [insert ordinance number], approving this *Agreement*.

14. After the Effective Date of this Agreement, Kiawah River Investment, LLC acquired all right, title, and interest of Kiawah River Plantation, LP, and Ocean Boulevard Properties, LP in and to the Real Property and has become the Property Owner.

NOW THEREFORE, in consideration of the premises of this *Agreement* and the mutual benefits to the *Parties*, the *Parties* agree as follows:

1. Definitions

In this *Agreement*, italicized words or phrases are as defined in Exhibit 1.1. The definitions set forth in Exhibit 1.1 shall control the development of the *Real Property* in lieu of any contrary definitions in the *ZLDR*, the Plan, or other *Laws*. The definitions in Chapter 12 of the *ZLDR* on the *Effective Date* shall otherwise apply.

2. Parties

The *Parties* to this *Agreement* are the *Property Owner* and the *County*. When used herein with reference to a specific *Tract*, *Development Parcel*, *Lot*, or other portion of the *Real Property*, *Parties* shall mean and refer to the *County* and that specific person or entity that has legal title to such *Tract*, *Development Parcel*, *Lot*, or other portion of the *Real Property*. If portions of this *Agreement* apply to one or more, but not all, of the entities or persons comprising the *Property Owner*, those particular parties may be separately referred to herein.

3. Relationship of the Parties

This *Agreement* creates a contractual relationship between the *Parties*. This *Agreement* is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship in which the *County* or *Property Owner* may be held responsible for the acts of the other party. Further, this *Agreement* is not intended to create, nor does it create, a relationship in which the conduct of the *Property Owner* constitutes “state action” for any purpose. This *Agreement* is not intended to grant to the *County* any authority over property lying beyond its corporate limits.

4. The Real Property

A. Legal Description/Plat: The *Real Property* is approximately 1427.81 acres, including 1083.2 acres of highland, 187.41 acres of freshwater wetland, and 157.2 acres of OCRM critical area. The *Real Property* is fully described in the legal description and plat attached hereto as Exhibits 4.1 and 4.2, respectively. Exhibit 4.2 contains a minor mathematical error. In the acreage table on the first page, under the column entitled “Ponds,” the total amount should be 235.94, and not 234.94. The total amount of the *Real Property* platted and recorded in Exhibit 4.2 is therefore 1427.81 acres, not 1426.81 acres. This error is mathematical only, as the maps delineate 235.94 acres of “Ponds” and 1427.81 total acres. An acreage breakdown of the *Real Property* pursuant to Exhibit 4.2 is attached hereto as Exhibit 4.3. The *Real Property* is a portion of Charleston County Tax Map Number 212-00-00-001.

B. Deed History/Unplatted Areas: The deeds reflecting the grant of the *Real Property*, together with approximately 576.65 acres of unplatted marshlands and small islands, to the *Property Owner* are attached hereto as Exhibits 4.4, 4.5, and 4.6. Although not included within

the *Plan*, the *Property Owner* intends to preserve or enhance this unplatted area as open space. Further, this unplatted area will be platted and recorded in compliance with the *ZLDR* prior to any *Development* or conveyance thereof, if any. This *Agreement* and the *Plan* do not and shall not interfere with the easement agreement by and between the Charleston County Park and Recreation Commission and W.L. Limehouse and Julian Limehouse, III, as Co-Personal Representatives of the Estate of Julian S. Limehouse, Jr., William Lawton Limehouse, Peggy K. Limehouse, Linda Anne L. McMurphy, a/k/a Anne Limehouse MacMurphy, Mary Ruth L. Schneider, J. Sidi Limehouse, III, a/k/a Julian S. Limehouse, III, Peggy Jo Gray, and Anne Limehouse MacMurphy, Trustee for Michael Linar Limehouse, dated June 7, 1994, and recorded in Book Z243 at Page 402 in the Charleston County RMC Office. Furthermore, this *Agreement* and the *Plan* do not and shall not interfere with the underground right-of-way easement granted by W.L. Limehouse to Berkeley Electric Cooperative, Inc., dated February 25, 1993, in Book K229 at Page 594 in the Charleston County RMC Office. These easement agreement are attached hereto and incorporated herein by reference as Exhibits 4.7 and 4.8, respectively.

C. Wetland Survey: A wetland survey of the *Real Property* is attached hereto as Exhibit 4.9. Exhibit 4.9 has been submitted to, but not yet approved by, *OCRM* and the *Corps* with respect to the current acreages of highland, freshwater wetland, and *OCRM* critical area on the *Real Property*. A letter from the *Corps* confirming receipt and on-going review of the wetland survey is attached hereto as Appendix N. The *Property Owner* will obtain an approved wetland survey from *OCRM* and the *Corps*, in compliance with the *ZLDR*, prior to obtaining development approvals or permits for the *Development* of a portion of the *Real Property* to which the survey applies.

D. Addition of Real Property: The *Property Owner* may notify the *County* from time to time of property proposed to be added to the legal description of *Real Property* by the filing of a legal description of subsequently acquired properties with the clerk of *County Council* and the *Planning Director*; provided, however, that no other property shall be added to the *Agreement* unless the *Agreement* and the *Plan* are duly amended to include the new land.

5. The Property Owner

“*Property Owner*” means Kiawah River ~~Plantation, LP Investment, LLC~~, a limited liability company, ~~partnership organized and existing under the laws of Delaware; and Ocean Boulevard Properties, a South Carolina Limited Partnership~~; together with all subsidiaries thereof and other entities, which may have a legal interest on the date of execution hereof in any of the *Real Property* described in Paragraph 4 and includes their successors in interest, successors in title (as to any portion of the *Real Property*), and/or assigns by virtue of assignment or other instrument compliant with this *Agreement*. When used herein with reference to a specific *Tract*, *Development Parcel*, *Lot*, or other portion of the *Real Property*, “*Property Owner*” shall mean and refer to that specific person or entity that has legal title to such *Tract*, *Development Parcel*, *Lot*, or other portion of the *Real Property*. The *Property Owner* warrants that there are no other legal or equitable owners of the *Real Property*.

6. Benefits and Burdens

In accordance with section 6-31-120 of the South Carolina Code, the *Parties* agree that the burdens of this *Agreement* bind, and the benefits of this *Agreement* shall inure to, each of them and to their successors in interest and, in the case of the *Property Owner*, its heirs and personal representatives, its successors in interest, successors in title and/or assigns pursuant to this *Agreement*. The burdens and benefits shall run with the land.

7. Consistency with Comprehensive Plan and Land Development Regulations

The *County* finds this *Agreement* and the *Plan* to be consistent with the *Act*, *County Ordinances*, *Comprehensive Plan*, and *ZLDR*, as more particularly described in the *Plan* and the Executive Summary submitted with this *Agreement*.

8. Development Agreement Governs

Whenever, in the *County's* determination, express substantive provisions of this *Agreement* are inconsistent or in conflict with the applicable standards set forth in the *County Ordinances*, *Comprehensive Plan*, *ZLDR*, or other *Laws*, the provisions and standards set forth in this *Agreement* shall govern. This rule of interpretation shall replace any contrary rule set forth in the *Comprehensive Plan*, *County Ordinances*, *ZLDR*, or other *Laws*. Whenever express substantive provisions of this *Agreement* are inconsistent or in conflict with the substantive provisions of the *Plan*, the more restrictive provision shall apply.

9. Legislative Act

Any change in the standards established by this *Agreement* or to the *Laws* pertaining to the same shall require the approval of *County Council*, subject to compliance with applicable statutory procedures and consistent with Paragraph 10.A of this *Agreement*. This *Agreement* constitutes a legislative act of *County Council*. *County Council* adopted this *Agreement* only after following the statutory procedures required by sections 6-31-10 to -160 of the South Carolina Code and Article 3.16 of the *ZLDR*. This *Agreement* shall not be construed to create a debt of the *County* as referenced in section 6-31-145 of the South Carolina Code.

10. Applicable Land Development Regulations

A. Applicable Laws and Land Development Regulations: Pursuant to section 6-31-80 of the South Carolina Code, except as limited by state or federal law, including section 6-31-140 of the South Carolina Code, the *Laws* applicable to *Development* of the *Real Property* shall be those in force on the *Effective Date*, as supplemented or modified by this *Agreement*. The *County* shall not apply subsequently adopted *Laws* or *Land Development Regulations* to the *Real Property* or the *Project* unless the *County* has held a properly noticed public hearing and has determined: (1) the proposed subsequent *Laws* or *Land Development Regulations* are not in conflict with the *Laws* or *Land Development Regulations* governing the *Agreement* and do not prevent the *Development* set forth in this *Agreement*; (2) the proposed subsequent *Laws* or *Land Development Regulations* are essential to the public health, safety, or welfare and the proposed subsequent *Laws* or *Land Development Regulations* expressly state that they apply to a *Development* that is subject to this *Agreement*; (3) the proposed subsequent *Laws* or *Land*

Development Regulations are specifically anticipated and provided for in this *Agreement*; (4) substantial changes have occurred in pertinent conditions existing at the time of approval of this *Agreement* which changes, if not addressed by the *County*, would pose a serious threat to the public health, safety, or welfare; or (5) this *Agreement* is based on substantially and materially inaccurate information supplied by the *Property Owner*. Nothing herein shall preclude the *Property Owner* from agreeing to abide by such new *Laws*, regulations, or ordinances subsequently passed by the *County* which the *Property Owner* deems appropriate.

B. Land Development Regulations: The Kiawah River ~~Plantation~~ Planned Development District Plan (the “*Plan*”), attached hereto and incorporated herein by reference as Appendix A, shall constitute the development plan applicable to the *Real Property*. Furthermore, the *County*’s *ZLDR*, as amended by this *Agreement*, is attached hereto as Appendix B. Appendix B shall apply except as expressly set forth in the *Plan*. As reflected in Appendix B, chapters 1, 2, 3, 10, and 11 of the *ZLDR* and the appendices to the *ZLDR*, as these chapters and appendices exist on the *Effective Date*, shall apply to the *Real Property* unless otherwise expressly stated herein.

C. Building Codes and Laws and Other Land Development Regulations: Notwithstanding any provision in this *Agreement* which may be construed to the contrary, the *Property Owner* must comply with any applicable flood, building, housing, electrical, plumbing and gas codes now existing or subsequently adopted by the *County* or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This *Agreement* shall not be construed to supersede or contravene the requirements of any flood, building, housing, electrical, plumbing or gas codes subsequently adopted by the *County* or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this *Agreement* are not intended, nor should they be construed in any way, to alter or amend the rights, duties and privileges of the *County* to exercise governmental powers and pass *Laws* not applicable to *Development* of the *Real Property* including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that *Laws* applicable to the *Development* of the *Real Property* shall be subject to Paragraph 10.A of this *Agreement*.

11. The Kiawah River ~~Plantation~~ Planned Development District Plan: The Kiawah River ~~Plantation~~ Planned Development District Plan (the “*Plan*”) is attached hereto and incorporated herein by reference as Appendix A. Appendix A shall constitute the zoning and development plan for the *Real Property*. For the purpose of illustrating the development the *Property Owner* may institute on the *Real Property* pursuant to the *Agreement* and the *Plan*, an Illustrative Master Plan is attached to the *Plan* as Exhibit 1.1. While the Illustrative Master Plan may be used by the *County* and the *Property Owner* as a general guide for the overall development of the *Real Property*, the *Lots*, *Development Parcels*, *Thoroughfares*, green space, recreational areas, *Community Ways*, and other elements illustrated thereon are not intended to represent the exact configuration and location of the development that will occur on the *Real Property*. The more specific elements of the *Agreement* and the *Plan* should be used by the *County* and the *Property Owner* to help guide the precise configuration and location of the different aspects of development as the *Project* progresses. The remainder of this Paragraph 11 of the *Agreement* addresses each item required for planned development application submittals, including planned development stipulations and sketch plans.

1. Planned Development Name: The name of the planned development shall be Kiawah River ~~Plantation~~; provided, however, the *Property Owner* may provide written notice to the *County* at any time before commencement of construction on the *Real Property* pursuant to the *Agreement* of a different name for the planned development which does not duplicate the name of any other planned development or subdivision, the final plat of which has been recorded in the RMC Office for Charleston County, South Carolina at the time of such notice.

2. Statement of Objectives: The objectives of the *Plan* are set forth in Part 2, Intent and Results, of the *Plan*, and/or as follows:

A. Current Number of Dwelling Units/Density: The *Real Property* includes 1,270.61 acres of highland and freshwater wetland, which is currently “split-zoned.” A portion of the *Real Property*, being approximately 810.22 acres of highland and freshwater wetland, is currently zoned Agricultural Preservation District (AG-8). The residential density requirements of the base zoning standards applicable to this portion of the *Real Property* would therefore facilitate the development of 101 *Dwelling Units*. A second portion of the *Real Property*, being approximately 460.39 acres of highland and freshwater wetland, is currently zoned Single Family Residential 4 (R-4). The residential density requirements of the base zoning standards applicable to this portion of the *Real Property* would therefore facilitate the development of 1,841 *Dwelling Units*. Accordingly, the combined density standards of the base zoning districts would facilitate the development of 1,942 *Dwelling Units* on the *Real Property*. Furthermore, the use regulations of the underlying zoning districts would prohibit the *Property Owner* from developing multi-family dwellings on the *Real Property* and permit single-family attached dwellings only on the portion of the *Real Property* currently zoned R-4 and only pursuant to a special exception. Moreover, many of the commercial, office, lodging, and retail uses necessary to serve the future residents of the *Real Property* would not be permitted in either district, necessitating that residents seek these amenities off-site.

B. Permitted Dwelling Units/Densities under the Comprehensive Plan/Rezoning to PD: The gross density requirements in the *Comprehensive Plan* would permit the development of up to 2,043 *Dwelling Units* on the *Real Property*. The *ZLDR* would further permit a density bonus of up to 25% in the Urban/Suburban portion of the *Real Property* for the provision of *Affordable Housing*.

C. Proposed Dwelling Units/Densities under the Plan: Pursuant to the *Plan*, the *Property Owner* may develop up to 1,285 *Dwelling Units* on the *Real Property*. Furthermore, 117 of these *Dwelling Units* will be designed as *Housing for the Workforce*, 18 of which will constitute *Affordable Housing*. In addition, the *Property Owner* may develop up to 80,000 square feet of *GLA*, which includes those commercial, institutional, and similar uses designated as such in the *Plan*. The *Property Owner* may also develop a *Golf Course* or *Golf*

Courses, consisting up to 36 total holes, and up to 450 *Guest Rooms* on the *Real Property*. The *Guest Rooms* may be dispersed among *Villas*, *Inns*, *Bed and Breakfasts*, and/or up to two (2) *Hotels*. Finally, the *Property Owner* will develop or preserve at least fifty percent (50%) of the *Real Property*, exclusive of *OCRM* critical area, as open space (which may include the above-referenced *Golf Course(s)*, provided, however, that the *Golf Course(s)* shall not comprise the entire area designated as open space).

3. Site Information: The *Real Property* subject to the *Plan* consists of 1427.81 acres, including 1083.2 acres of highland, 187.41 acres of freshwater wetland, and 157.2 acres of saltwater wetland, or marsh. This area is platted in Exhibit 4.2.

4. Table of Proposed Land Uses: Table 5.1 illustrates the proposed maximum and average residential densities for each residential use; the maximum total acreage of each residential use; the maximum allowable number of each type of residential unit requested; and the maximum proposed floor area ratios (% of *Lot* in relation to building floor area) for each non-residential use. All dimensional and lot standards requested, including the maximum *Building Coverage*, for each land use type designated, are addressed in section 6 of the *Plan*.

Table 5.1: Table of Proposed Land Uses

Permitted Uses	Not to Exceed (“nte”)	Minimum Acreage	Maximum Acreage	Maximum Density	Maximum Floor Area Ratio
Single Family Detached	nte 1285		550	4/acre	
Single Family-Attached	nte 320		50	10/acre	
Multi-Family	nte 320		50	20/acre	
Housing for the Work Force	up to 117		40	20/acre	
All Residential	nte 1285		600	1.01/acre	
GLA	nte 80,000 square feet		12		2
Accommodations	nte 450 <i>Guest Rooms</i> or <i>Villas</i>		50		2
Open Space		635.31			

The following standards shall apply to Table 5.1 and the location of densities within the *Development*:

1. As used in Table 5.1, “Density” refers to the number of *Dwelling Units* per unit of land area. Density is calculated by dividing the number of *Dwelling Units* on a site by the gross area (in acres) of highland (including freshwater wetlands) of the site on which the *Dwelling Units* are located, provided that all other requirements of the *Plan* are met.

2. The *Property Owner* may not exceed 50,000 square feet of *GLA* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.

3. The *Property Owner* may not exceed 80 *Dwelling Units* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.
4. The *Property Owner* may not exceed 580 *Dwelling Units* on the portion of the *Real Property* formerly zoned AG-8 which is also designated in the *Plan* as Rural Residential.

5. Maximum Density/Open Space: The maximum residential densities set forth herein do not exceed the maximum densities permitted in the *Comprehensive Plan*. Density and lot area calculations within the *Plan* comply with the requirements contained in Article 4.2 of the *ZLDR*, Measurements, Computations and Exceptions.

6. Affordable Dwelling Units/Housing for the Workforce: “*Housing for the Workforce Unit*” means any residential unit designed to accommodate persons employed on the *Real Property*, persons employed on Kiawah Island, persons employed on Seabrook Island, persons employed within a ten (10) mile radius of the *Real Property*, and any residential unit meeting the definition of *Affordable Housing*. The *Property Owner* or its designated assignee shall design, build, and market up to 117 *Housing for the Workforce* units on the *Real Property* as part of the *Project*. Further, 18 of these *Housing for the Workforce* units shall constitute *Affordable Housing*. *Housing for the Workforce* units and *Affordable Housing* units may be developed anywhere on the *Real Property*. Moreover, any or all of these units may consist of accessory dwellings, single-family detached dwellings, single-family attached dwellings, or multi-family units. On or before the *Property Owner*’s development of 200 residential *Dwelling Units* on the *Real Property*, the *Property Owner* or its designated assignee shall design and market (for sale or rent) at least twenty (20) *Housing for the Workforce* units on the *Real Property*. On or before the development of every additional 200 residential *Dwelling Units* on the *Real Property* (not including *Dwelling Units* reserved or used for *Housing for the Workforce*), the *Property Owner* or its designated assignee shall design and market (for sale or rent) at least twenty (20) additional *Housing for the Workforce* units up to the maximum of 117 *Housing for the Workforce* units.

7. Impact Assessment/Analysis: An analysis of the impact of the proposed development on existing public facilities and services (e.g. roads and streets, water, sewer, etc.) is attached hereto and incorporated herein by reference as Appendix C. Furthermore, a Capital Improvements Program/Fiscal Impact Analysis is attached hereto as Exhibit D. Exhibits C and D include proposed future improvements to these facilities and services to be made as part of the planned development. These exhibits are addressed more fully in Paragraph 16 of this *Agreement*.

8. Traffic Study: A traffic study and mitigation plan that meets the requirements of Article 9.9 of the *ZLDR* is attached hereto and incorporated herein by reference as Appendix E. This traffic study and the proposed mitigation plan are addressed more fully in Paragraph 16 of this *Agreement*.

9. Development Schedule: The development schedule for the *Project* is included in section 7 of the *Plan*, as well as Paragraph 18 of this *Agreement*.

10. Open Space: Open space and common open space shall be provided and managed in accordance with Section 8 of the *Plan*.

11. Streets: All streets intended for dedication to the public shall comply with the *County's* Road Construction Standards (unless otherwise approved by the Charleston *County* Public Works Director), notwithstanding any other provision contained herein. Any and all streets and roads, curb cuts, and streetscape designed and constructed by the *Property Owner* may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity; or (3) be dedicated to the public. The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep on any and all streets and roads on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public. Upon tender of a deed from the *Property Owner* approved by the *County* attorney, the public may accept any and all streets and roads (including related infrastructure) tendered for dedication by the *Property Owner* provided they comply with the *County's* Road Construction Standards described in the *ZLDR*. All alleys shall be maintained and owned by the *Property Owner*, a related entity, or an *Association* as *Common Areas*.

12. Compliance with ZLDR:

a. The *Property Owner* shall comply with the processes in the *ZLDR*, as it exists on the *Effective Date* and as may be expressly amended herein.

b. The *Property Owner* intends to proceed with the proposed *Development* in accordance with the provisions of the *Agreement*, the *ZLDR*, applicable provisions of the *Comprehensive Plan*, and with such conditions as are included in the *Plan*.

c. The provisions of Article 3.10 of the *ZLDR*, *Variances*, shall not apply to the planned development. All major changes to the planned development must be approved by *County Council*. Notwithstanding the foregoing, tree variances may be granted in accordance with the processes in the *ZLDR*.

13. Letters of Coordination: Letters of coordination from all agencies from which the *Property Owner* must either (1) obtain permits or (2) obtain services and/or facilities are collectively attached hereto and incorporated herein by reference as Appendix F.

14. Dimensional Standards:

a. Waterfront Development: The *Property Owner* may develop up to 227 single-family detached *Lots* on the portion of the *Real Property* directly abutting the *OCRM Critical Line*. Moreover, the *Property Owner* shall enhance or preserve at least three (3) miles of the portion of the *Real Property* directly abutting the *OCRM Critical Line* as open space. Further, the *Property Owner* will limit, through restrictive covenants or a conservation easement, the number of private use (use for one person or family), joint, or community *Docks* developed

on the *Real Property* to eighteen (18). In addition, the *Property Owner* shall adopt restrictive covenants with respect to single-family detached *Lots* on portion of the *Real Property* designated in the *Plan* as Rural Residential requiring that 50% of each *Lot* be preserved in its natural condition. In consideration of the foregoing, notwithstanding Article 4.27.6.B.1 of the *ZLDR*, the waterfront development standards set forth in section 6 of the *Plan*, and no others, shall apply to the *Real Property*. The waterfront development standards set forth therein shall apply to the *Real Property* in lieu of Articles 4.26, 4.27.6.B.1, and 9.7 of the *ZLDR*.

b. Pursuant to section 8 of the *Plan*, the *Property Owner* shall generally provide a 25-foot vegetative buffer between the perimeter of the *Real Property* and an adjacent property titled to an unrelated third party on the *Effective Date* (unless otherwise specified in the *Plan*). Rear *Setbacks* shall be as set forth in Table 6.1 in the *Plan*. Article 4.27.6.B.2 of the *ZLDR* shall not apply to the planned development of the *Real Property*.

15. Architectural Guidelines: The architectural guidelines set forth in Article 9.6 of the *ZLDR*, as modified in Appendix B, shall apply to the *Real Property*; provided, however, the *Property Owner* may adopt more restrictive architectural guidelines for the *Real Property* or a portion thereof and, upon approval by the Planning Director, such guidelines shall apply in lieu of the architectural guidelines in the *ZLDR*.

16. Lots to Abut Common Open Space: Pursuant to section 8 of the *Plan*, residential parcels shall be designed to maximize orientation toward common open space or similar areas.

17. Access:

a. The *Property Owner* shall use best efforts to facilitate a connection with adjacent parcels at the approximate locations illustrated in Exhibit 4.1 to the *Plan*. The *Property Owner's* obligation under this section shall not require that the *Property Owner* purchase or otherwise finance the acquisition of any right, title, or interest in and to these adjoining properties. The *County* recognizes the *Property Owner's* abilities under this section are highly dependent upon and constricted by the actions or inactions of third parties.

b. Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.

c. Primary vehicular access to office, commercial, or industrial development shall be through limited access roads.

18. Commercial Areas:

a. Commercial areas and adjacent residential, office, and industrial areas shall be directly connected through paved sidewalks, unpaved trails, or other pedestrian infrastructure.

b. Commercial areas shall be planned as groups having common parking areas and common ingress and egress points.

19. Industrial Areas:

a. A minimum vegetative buffer of forty (40) feet shall be required where industrial uses, if any, abut residential uses.

b. All intervening space between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

20. Areas Designated for Future Uses: All areas designated for future expansion or not intended for immediate improvement or development shall remain in a natural state until such time as development permits are approved; provided, however, with respect to this provision, the “natural state” of the property shall include those uses permitted under base zoning. The *County* agrees that undeveloped portions of the *Real Property* shall be held by the *Property Owner*, or its successors, for agricultural/silvicultural/forestry purposes or similar permitted uses until *Development* on that portion of the *Real Property*. The *County* agrees that it will permit said agricultural uses to continue on these undeveloped lands.

21. Signs: The *Property Owner* shall provide a master signage plan to the Planning Director, for review and approval, for each phase of the *Project* prior to obtaining a certificate of occupancy for any portion of that phase of the *Project*. Review and approval shall be based upon the sign regulations applicable to the *Real Property* and shall not be unreasonably withheld. The sign regulations in Article 9.11 of the *ZLDR*, as modified in Appendix B, and no others, shall apply to the *Real Property*; provided, however, the *Property Owner* may adopt sign guidelines for the *Real Property* or a portion thereof and, upon approval by the Planning Director, such guidelines shall apply in lieu of the sign regulations in the *ZLDR*.

22. Parking: The parking and loading regulations in Article 9.3 of the *ZLDR*, as modified in Appendix B, and no others, shall apply to the *Real Property* or any portion thereof; provided, however, the amendments set forth in section 10 of the *Plan* shall apply.

23. Tree Protection: The tree regulations in Article 9.4 of the *ZLDR*, as modified in Appendix B, and no others, shall apply to the *Real Property* or any portion thereof.

24. Resource Areas: The *Plan* protects the resources determined significant by the *Planning Director*, as set forth more fully in section 14 of the *Plan*.

25. Common Open Space: Common open space and open space is located to preserve any significant resources on the *Real Property*. The standards applicable to common open space and open space on the *Real Property* are set forth in section 8 of the *Plan*. Article 4.27.7 of the *ZLDR* shall apply to the *Real Property* only to the extent set forth in section 8 of the *Plan*.

26. Affordable Dwelling Units: Affordable dwelling units and *Housing for the Workforce* shall be provided in accordance with this *Agreement*. Article 4.27.8 of the *ZLDR* shall not apply because the *Property Owner* is NOT requesting a density bonus from the maximum range in the *Comprehensive Plan* on the Urban/Suburban portion of the *Real Property*.

27. Land Use Sketch Plan: The general location and amount of land proposed for each land use, including single-family residential, multi-family residential, institutional, office, commercial, industrial, common open space/recreation, street use, etc., is conceptually delineated in Exhibit 4.1 to the *Plan*. Moreover, the amount of land proposed for each such land use is set forth in Table 5.1 to the *Plan*.

28. Conceptual Lot Lines: The conceptual lines of the *Lots* proposed to be developed on the *Real Property* are delineated in Exhibit 1.2 to the *Plan*.

29. Pedestrian and Motor Traffic Circulation: The conceptual proposed pedestrian and motor traffic circulation for the proposed development is delineated in Exhibits 4.1 and 11.4 to the *Plan*.

30. Wetlands Survey: A wetland survey of the *Real Property* is attached hereto as Exhibit 4.9. Exhibit 4.9 has been submitted to, but not yet approved by, *OCRM* and the *Corps* with respect to the current acreages of highland, freshwater wetland, and *OCRM* critical area on the *Real Property*. A letter from the *Corps* confirming receipt and review of this survey is attached hereto as Appendix N. The *Property Owner* has no intention to develop upon any of these natural areas; provided, however, the *Property Owner* may construct portions of roads and/or utilities on these natural areas only after obtaining all applicable permits and approvals from *OCRM* and the *Corps* for such *Development* and obtaining site plan approval from the *County* pursuant to the *ZLDR*.

31. Tree Survey: The *Property Owner* has provided the *County* with a high-resolution aerial photograph of the *Real Property* in lieu of a tree survey. A tree survey showing all *Grand Trees* on proposed residential *Lots* of one acre or less and in road rights-of-way and easements on a portion of the *Real Property* proposed to be developed pursuant to the *Plan* shall be submitted as part of a site plan or preliminary plat application for that portion of the *Real Property*. Tree surveys for non-residential uses and lots greater than one acre shall conform to the standards in section 9 of the *Plan*.

Article 4.27.9.C.1.b.v of the *ZLDR*, requiring a tree survey as part of a PD application, shall not apply.

32. Architectural Elevations: Architectural elevations for each type of residential and non-residential unit are attached to the *Plan* as Exhibit 12.1.

33. Phasing Schedule: A general delineation of the areas to be included in each phase of the proposed development is attached to the *Plan* as Exhibit 7.1. Notwithstanding Article 4.27.9.C.1.b.viii of the *ZLDR*, the location of common open space areas and/or affordable housing units to be included in each phase shall not be required at this time. The location of common open space areas and/or affordable housing units to be included within a phase of development shall be set forth as part of a site plan or preliminary plat application for that phase. Common open space and *Housing for the Workforce* shall be provided throughout the *Project* in conformity with this *Agreement*.

34. Construction Entrance: The location of the construction entrance is set forth in Exhibit 14.1 to the *Plan*.

35. Landscaping Sketch Plan: Notwithstanding Article 4.27.9.C.1.b.x of the *ZLDR*, a landscaping sketch plan shall not be required at this time. A landscaping sketch plan for each phase of the proposed development shall be submitted as part of a site plan or preliminary plat application for that phase.

36. Utility Sketch Plan: Notwithstanding Article 4.27.9.C.1.b.xi of the *ZLDR*, a utility sketch plan with the location of any on-site natural areas, buffers, trees and sidewalks that may be impacted by utility facilities including the existing and proposed location of any easements or rights-of-way shall not be required at this time. In lieu thereof, the *Property Owner* has submitted a series of conceptual plans for the provision of utilities and facilities, attached to the *Plan* as Exhibits 14.1 through 14.2. A more detailed utility sketch plan, in compliance with Article 4.27.9.C.1.b.xi of the *ZLDR*, for each phase of the proposed development shall be submitted as part of a site plan or preliminary plat application for that phase.

37. Current Aerial/Sketch Plan Overlay: An aerial of the *Real Property* with an overlay of the proposed Illustrative Master Plan is attached to the *Plan* as Exhibit 1.1.

12. Local Development Permits and Other Permits Needed

Pursuant to section 6-31-60(A)(6) of the South Carolina Code, the *Parties* anticipate that the following local *Development Permits*, approvals, and other regulatory permits will be needed to complete the *Project*:

County plat approvals; *County* infrastructure permits; *County* land disturbance permits; *County* zoning, building, business license, stormwater/drainage, and contracting permits;

County certificates of occupancy; applicable *DHEC* permits; and any other required local, state or federal approvals or permits.

The *County* will make a determination on the *Property Owner's* complete applications for approvals and permits within a reasonable time. The failure of this *Agreement* to address a particular permit, condition, term, or restriction does not relieve the *Property Owner* of the necessity of complying with the law governing permit requirements, conditions, terms, or restrictions.

13. Vested Rights Governing the Development of the Real Property

A. Generally: Subject to Paragraph 10.A of this *Agreement*, all rights and prerogatives accorded to the *Property Owner* by this *Agreement* and the *Plan* shall immediately constitute vested rights for the *Development* of the *Real Property*. Nothing in this *Agreement*, including but not limited to Paragraph 10.A, is intended to abrogate and shall not abrogate or diminish rights conferred under sections 6-31-140 of the South Carolina Code, the "Vested Rights Act" (codified at sections 6-29-1510 to -1560 of the South Carolina Code), any provision of the *County Ordinances* adopted pursuant to the Vested Rights Act, or any rights that may have vested pursuant to common law or otherwise in the absence of a *Development Agreement*.

B. Vested Rights to Complete Development in Progress: Any permits or approvals granted to the *Property Owner* prior to the adoption of this *Agreement* shall continue to be valid, vested rights.

C. Vested Rights in the Plan: All permitted, conditional, accessory, and temporary uses set forth in the *Plan* shall constitute vested rights on the *Effective Date*. In addition, all *Building Development Standards* and other *Development* regulations, including but not limited to waterfront development standards, tree regulations, parking and loading regulations, open space and common open space regulations, architectural regulations, landscaping regulations, and buffer and screening regulations set forth in the *Plan* shall constitute vested rights on the *Effective Date*.

D. Entitlement Densities: The *Property Owner* shall have a vested right to the following entitlement densities on the *Effective Date*:

1. Dwelling Units: The *Property Owner* shall have the vested right to develop up to 1,285 *Dwelling Units* on the *Real Property* and may determine the precise type, configuration and location of *Dwelling Units*, provided that:

- The *Property Owner* may not develop more than 580 *Dwelling Units* on the portion of the *Real Property* formerly zoned AG-8 which is designated as Rural Residential in the *Plan*; and
- The *Property Owner* may not develop more than 80 *Dwelling Units* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.

2. Housing for the Workforce: Of the 1,285 total *Dwelling Units*, 117 shall constitute *Housing for the Workforce* units. Further, 18 of the *Housing for the Workforce*

units shall constitute *Affordable Housing*. The *Property Owner* may determine the precise type, configuration and location of *Housing for the Workforce* and *Affordable Housing* on the *Real Property*, in compliance with the *Agreement* and the *Plan*; provided, however, that the *Housing for the Workforce* units and *Affordable Housing* units shall be located throughout the *Real Property* and the *Dwelling Unit* caps described in number 1, above, are not exceeded.

3. Commercial and Institutional Entitlement Densities: “*Gross Leasable Area*” or “*GLA*” means total floor area devoted to a use designated as such in Table 4.1 of the *Plan*. *GLA* does not include public or common areas, such as parking lots, utility rooms and stairwells, in a building or on a *Lot* otherwise devoted to a use designated as *GLA* in the *Plan*. For the purpose of this provision, the term “floor area” shall have the definition specified in Chapter 12 of the *ZLDR* on the *Effective Date*. The *Property Owner* shall have the vested right to develop up to 80,000 square feet of *GLA* on the *Real Property*. This *GLA* shall constitute a vested right on the *Effective Date*. The *Property Owner* may determine the precise configuration and location of *GLA* on the *Real Property*, in compliance with the *Agreement* and the *Plan*.

4. Lodging: The *Property Owner* shall have a vested right to develop up to 450 *Guest Rooms* on the *Real Property*, which may be dispersed among *Villas*, *Inns*, *Bed and Breakfasts*, and/or up to two (2) *Hotels*. The *Property Owner* shall have a vested right to develop up to two (2) *Hotels* on the *Real Property*; provided, however, the total number of *Guest Rooms* on the *Real Property* may not exceed 450. The *Property Owner* may determine the precise type, configuration and location of *Guest Rooms* on the *Real Property*, in compliance with the *Agreement* and the *Plan*. *Guest Rooms* shall not count against any of the other entitlement densities in the *Agreement*.

5. Golf Course: “*Golf Course*” means a tract or tracts of land laid out for up to thirty-six (36) holes for playing the game of golf and improved with tees, greens, fairways, and hazards, and that may include club houses, driving ranges, training facilities, maintenance facilities, and shelters. *Golf Courses* shall constitute *Active Recreation Areas*. The *Property Owner* shall have the right to develop a portion of the *Real Property* for use as a *Golf Course* or *Golf Courses*, including up to 36 holes, any or all of which the *Property Owner* may develop as public or private, provided, however, that the *Golf Course(s)* shall not comprise the entire area designated as open space. The *Property Owner* shall have the right to build full-service club houses, practice ranges, training facilities and maintenance facilities accessory to the *Golf Course(s)* on the *Real Property* in any location the *Property Owner* deems appropriate, in compliance with the *Agreement* and the *Plan*. The *Property Owner* may determine the precise configuration and location of the *Golf Course(s)* and its/their accessory uses, in compliance with the *Agreement* and the *Plan*. The *Golf Course(s)*, including club houses and other accessory uses, shall not count against any of the other entitlement densities in this *Agreement*.

14. **Intentionally Omitted.**

15. **Configuration and Location**

The standards set forth in the Kiawah River-~~Plantation~~ Planned Development District Plan, attached hereto and incorporated herein by reference as Appendix A, shall control the configuration and location of vested rights and uses on the *Real Property* or any portion thereof. The conceptual illustrations or maps included in or attached as exhibits to this *Agreement* or the *Plan* are provided as examples only and shall not affirmatively bind the *Property Owner*. The planned *Development* is subject to change within the legal guidelines of this *Agreement* and the *Plan*, and the conceptual illustrations and maps included herein and attached hereto are therefore not commitments or representations to the *County* or any third party. The *Property Owner* may determine the precise configuration, names, acreage, amounts and location of any vested rights and uses in compliance with this *Agreement* and the *Plan*.

16. Facilities and Services

A. Generally: This section addresses the *Facilities*, including public infrastructure improvements, which are necessary to support the *Development*. The *Property Owner* shall only be responsible for those specific *Facilities* that the *Property Owner* expressly undertakes to install and maintain herein. The remainder of the *Facilities* listed herein shall be installed and maintained by the applicable service providers. Accordingly, letters of coordination with each of these service providers are included in Appendix F.

B. Certification of Completion Concurrent with Impact: Although the nature of this long term *Project* prevents the *Property Owner* from now providing exact completion dates, the *Property Owner* certifies that the specific services and *Facilities*, including public infrastructure improvements, that the *Property Owner* expressly undertakes to install will be in place, or if not fully in place, the cost of their construction fully bonded or letter of credit posted at a sufficient time to ensure availability concurrent with the impacts of the *Development* and consistent with the Schedule of *Development* set forth herein. Subject to compliance with applicable law and with all provisions of the *Agreement*, the *County* hereby authorizes the *Property Owner* to install all *Facilities* which the *Property Owner* has undertaken to provide herein.

C. Economic Impact Analysis: The *Property Owner* has procured an extensive economic and fiscal impact analysis of the proposed *Development*, prepared by The Regional Dynamics and Economic Modeling Laboratory at the Strom Thurmond Institute of Government at Clemson University and attached hereto as Appendix C. Further, a more detailed analysis of the fiscal impact of the *Project* on governmental services and infrastructure, as well as a capital improvements program designed to implement necessary infrastructure improvements as the *Project* progresses, is attached hereto as Appendix D (The Fiscal Impact of Kiawah River Plantation on Charleston County, dated December 18, 2009). Both of these analyses project a positive net fiscal impact for the *County*, with additional revenue received by the *County* as a result of the *Development* more than sufficient to cover the additional expenditure burden for the *County* generated by the *Development*.

D. Traffic Considerations

1. Traffic Study and Mitigation Plan: The *Property Owner* has procured a Traffic Impact Analysis and Mitigation Plan prepared by Kubilins Transportation Group, Inc., a copy of which is attached hereto as Appendix E. This study analyzes the traffic operations within the area of influence and provides recommended access management for the site and intersection improvements needed for mitigating traffic impacts. A proof-of-coordination letter with *DOT* is also included in Appendix E, attached hereto.

2. Scope of Study: The area of influence of the study site, as indicated by *DOT*, includes the following four (4) existing and one (1) proposed intersections:

a. Maybank Highway (SC 700) and River Road (S-10-91) (signalized);

b. Maybank Highway (SC 700) and Bohicket Road/Main Road (S-10-20) (signalized);

c. Bohicket Road/Betsy Kerrison Parkway and River Road (S-10-20) (signalized);

d. River Road (S-10-91) and Mullet Hall Road/Site Access (unsignalized);
and

e. Betsy Kerrison Parkway and Village Site Access (proposed signal)

3. Site Access: The *Development* will be served by two (2) full-movement access points. The primary access point for the *Development* will be located at Betsy Kerrison Parkway. The secondary access point for the *Development* will be located at Mullet Hall Road. There are no recommended improvements to Mullet Hall Road. However, the following improvements are recommended to ensure proper site access at Betsy Kerrison Parkway:

a. Construct a full-movement access drive with one (1) ingress lane and two (2) egress lanes. The egress lanes should be configured as a separate left turn lane with 150 feet of storage and the through lane shall terminate as a right turn lane. 150 feet of internal protected storage should also be provided.

b. Construct a dedicated left-turn lane on the southbound approach of Betsy Kerrison Parkway with 150 feet of storage with appropriate tapers.

c. Construct a dedicated right-turn lane on the northbound approach of Betsy Kerrison Parkway with 100 feet of storage with appropriate tapers

d. Install traffic signal control upon meeting the appropriate MUTCD and SCDOT traffic signal control warrants.

The *Property Owner* shall construct or finance the construction of the above-stated improvements (or such other improvements as shall be recommended in consultation

with *DOT*) after obtaining all applicable permits and approvals from *DOT* as these improvements are deemed necessary by *DOT*. The *Property Owner* shall complete the first three (a-c) of the above-stated improvements concurrently with the completion of Phase 1 construction. The *Property Owner* shall complete the final recommended improvement (d) when required in coordination with *DOT*. The *Property Owner* will dedicate any applicable public improvements associated with this primary access point to the public for maintenance in accordance with applicable law and provide any applicable maintenance bond in coordination with *DOT*.

4. Initial Development Capacity: The study analyzed the amount of development and resultant traffic that can be handled without operational impacts to the major facilities and intersections on Johns Island. The analysis determined that the following amount of development could be constructed over the next several years without any significant impact to the intersections or roadway network that would require improvements:

- 105 single family homes
- 315 recreational homes
- 40 workforce apartments
- 350 guest rooms
- 35,000 square feet of *GLA* in the Bohicket Station Tract, as delineated in Exhibit 4.1 of the *Plan*
- 20,000 square feet of *GLA* within the River Village Tract, as delineated in Exhibit 4.1 of the *Plan*
- An 18-hole golf course

Further, Kublins Transportation Group, Inc. has prepared a land-use equivalency matrix, attached hereto as Appendix E-1, which permits a ready conversion of the traffic impact (number of peak hour trips generated) from one proposed use to another. The *Property Owner* shall fund an independent supplemental traffic study (the cost of which shall not exceed \$20,000.00) and provide a proposed mitigation and implementation plan for the *County's* review and approval after the *Development* has reached 2/3 of the "Initial Development Capacity" set forth in the initial traffic impact analysis, prepared as part of this *Agreement*, as such "Initial Development Capacity" may be converted by Appendix E-1.

E. The Project's Thoroughfares:

1. Definition: "*Thoroughfare*" means a way for use by vehicular and pedestrian traffic and to provide access to *Lots* and open space, consisting of vehicular lanes and their adjacent rights-of-way.

2. County Road Construction Standards: Notwithstanding any provision in the *Agreement* or the *Plan* which may be construed to the contrary, the *Property Owner* shall comply with the standards for public roads set forth in the *County Road Construction Standards*, described in the *ZLDR*, with respect to any *Thoroughfares* the *Property Owner*

intends to dedicate to the public. The *Agreement* and the *Plan* shall not be construed to supersede or contravene the *County Road Construction Standards* described in the *ZLDR* with respect to any *Thoroughfares* the *Property Owner* intends to dedicate to the public.

3. Design and Installation: The *Property Owner* shall develop and install *Thoroughfares* and their related infrastructure on the *Real Property*. The *Property Owner* may develop any or all of the *Thoroughfares* on the *Real Property* as public or private; provided, however, any *Thoroughfares* to be offered for dedication to the public will comply with the *County Road Construction Standards* described in the *ZLDR*.

4. Private Thoroughfares: Exhibits 11.1 and 11.2 to the *Plan* provide an illustration of the typical private *Thoroughfare* sections which may be implemented on the *Real Property*, including typical utility placements within private *Thoroughfares*. Exhibit 11.3 to the *Plan* shows the vehicular lanes and parking assemblies which may be utilized for private *Thoroughfares* on the *Real Property* or designated portions thereof. Exhibit 11.4 to the *Plan* shows the conceptual road framework which may be implemented for private *Thoroughfares* on the *Real Property*. Notwithstanding those exhibits, the *Property Owner* may determine the precise configuration and location of any and all private *Thoroughfares* on the *Real Property*; provided, however, the *Property Owner* has a qualified engineer determine that their configuration and location does not present a significant safety hazard.

5. Ownership and Maintenance: The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep on any and all *Thoroughfares* on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public in conformity with the *County Road Construction Standards* described in the *ZLDR*. All alleys shall be maintained and owned by the *Property Owner*, a related entity, or an *Association*.

6. Paving: Any and all public *Thoroughfares* installed on the *Real Property* shall be paved in accordance with the *County Road Construction Standards*, described in the *ZLDR*. To preserve the existing rural character of the *Real Property* or portions thereof, the *Property Owner* may retain existing unpaved, private *Thoroughfares* and/or install other unpaved, private *Thoroughfares* on the *Real Property* or portions thereof.

7. Internal Access: The *Property Owner* may limit access to private *Thoroughfares* on the *Real Property* or portions thereof through the use of a security gate or other similar method. Access to public *Thoroughfares* may NOT be similarly limited. All *Thoroughfares* on the *Real Property*, whether public or private, shall have direct or indirect access to Betsy Kerrison Parkway and Mullet Hall Road.

8. Construction Access: Construction traffic will be routed along Mullet Hall Road, at the location illustrated in Exhibit 14.1 to the *Plan*. Prior to construction of Phase 1, the *Property Owner* shall finance an inspection of Mullet Hall Road to determine and record its current condition. The *Property Owner* will provide a report defining the base line condition of Mullet Hall Road and providing an ultimate road

section recommendation to accommodate projected traffic for build-out of the *Project*. This report will be submitted to *DOT* for review and approval. The *Property Owner* will then provide *DOT* with an engineer-certified construction cost estimate for any repairs and other improvements needed as specified in the report, as well as a letter of credit or bond ensuring the work will take place within a mutually agreeable time frame. The *Property Owner* will continue to coordinate any improvements or maintenance of Mullet Hall Road with *DOT* during the *Project*. The Charleston County Parks and Recreation Commission, which uses Mullet Hall Road for primary access to the Johns Island County Park and Mullet Hall Equestrian Center, has consented to this procedure via letter of coordination attached to the *Plan* as Exhibit 11.5.

9. Connections with Adjacent Properties: The *Property Owner* shall use best efforts to facilitate a connection with adjacent parcels at the approximate locations illustrated in Exhibit 4.1 to the *Plan*. The *Property Owner's* obligation under this section shall not require that the *Property Owner* purchase or otherwise finance the acquisition of any right, title, or interest in and to these adjoining properties. The *County* recognizes the *Property Owner's* abilities under this section are highly dependent upon and constricted by the actions or inactions of third parties.

F. Community Ways: As used herein, a “*Community Way*” means a walkway of any surface type (paved or unpaved), a bicycle lane, bicycle route, bicycle trail, leisure trail, or walking trail designed for pedestrian or bicycle traffic. The *Property Owner* shall install an interconnected system of *Community Ways* on the *Real Property*. The *Property Owner* may determine the configuration, location, type, number, size, location, lighting and path surfaces of private *Community Ways* on the *Real Property*. However, any and all public *Community Ways* shall comply with the *County's* Improvement Standards, as they exist on the *Effective Date*. The *Property Owner* shall use best efforts to facilitate a connection with adjacent parcels at the approximate locations delineated in Exhibit 4.1 to the *Plan*. The *Property Owner's* obligation under this section shall not require that the *Property Owner* purchase or otherwise finance the acquisition of any right, title, or interest in and to these adjoining properties. The *County* recognizes the *Property Owner's* abilities under this section are highly dependent upon and constricted by the actions or inactions of third parties. Any and all *Community Ways* designed and constructed by the *Property Owner* may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity; or (3) be dedicated to the public. The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep of the *Community Ways* on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public. Upon tender of a deed from the *Property Owner* approved by the *County* attorney, the public may accept any and all *Community Ways* tendered for dedication by the *Property Owner* provided they comply with the *County's* Improvement Standards, as they exist on the *Effective Date*.

G. Golf Carts and Personal Transportation Vehicles: Golf carts and personal transportation vehicles may be used on any *Thoroughfares*, causeways, *Community Ways*, and parking areas of the *Real Property* or any portion thereof that the *Property Owner* may designate, if consistent with state law.

H. Wastewater Treatment: The *Property Owner* will provide suitable wastewater treatment or septic to all *Lots* and *Dwelling Units* on the *Real Property* pursuant to the *Agreement* after obtaining all applicable permits and approvals from regulatory agencies and governmental entities. Any wastewater treatment system shall be subject to best management practices. The proposed wastewater treatment facility will comply with the Charleston County 208 Water Quality Management Plan and all BCDCOG and SCDHEC requirements, including the SCDHEC permitting requirements that the *Property Owner* provide financial protections for the continued economic viability of the system and that the system be managed by a class A licensed operator.

I. Potable Water: St. John's Water Company will provide potable water to all *Lots* and *Dwelling Units* on the *Real Property* pursuant to the *Agreement* after obtaining all applicable permits and approvals from regulatory agencies. Water supply for the *Development* will be via two (2) connections: (1) an existing, twenty-four-inch (24") diameter water transmission main on Betsy Kerrison Boulevard; and (2) an existing six-inch (6") diameter water main on Mullet Hall Road. The existing water main on Mullet Hall Road will likely need to be upsized in the future to supply sufficient fire-flow. The new system will be designed and constructed to supply sufficient fire suppressing flow based on the requirements of the Insurance Services Office (ISO), as well as the Charleston County Building Department. A Preliminary Master Water Plan is attached to the *Plan* as Exhibit 14.1. Prior to the construction of Phase 1, a more in-depth water model will be created in order to properly size all mains. The new water distribution system will be designed to meet the requirements of the St. Johns Water Company and *DHEC*. Applicable impact fees will be paid to St. Johns Water Company in order to offset any capital improvement upgrades that will be needed for the system. A proof-of-coordination letter with St. Johns Water Company is included in Appendix F. Unless otherwise provided with respect to *Lots* served by a well, the *Property Owner* shall design and construct facilities necessary for the transmission and distribution of potable water to all *Lots* and *Dwelling Units* on the *Real Property*. The *Property Owner* shall transfer facilities for the transmission and distribution of potable water, including necessary easements, to St. Johns Water Co.

J. Drainage:

1. Stormwater Master Plan: A Stormwater Master Plan for the *Real Property* is attached hereto as Appendix H. The *Property Owner* shall provide sufficient drainage for the *Development* of the *Real Property*. The *Property Owner* shall not impair or diminish the drainage currently flowing through the *Real Property*. The *Property Owner* shall not impede such drainage during construction or during land disturbance activities on the *Real Property* and shall provide comparable drainage at a substitute location, if necessary.

2. County Stormwater Ordinance: Notwithstanding any provision in the *Agreement* or the *Plan* which may be construed to the contrary, the *Property Owner* shall comply with the standards for drainage set forth in the *County Stormwater Ordinance*. The *Agreement* and the *Plan* shall not be construed to supersede or contravene the *County Stormwater Ordinance*.

3. Coordination with County Public Works Department: The *Property Owner* will continue to coordinate with the Stormwater Division of the *County's* Public Works Department to ensure that all publicly dedicated, constructed and accepted drainage-related capital improvements (or portions thereof) and operating expenses directly attributable to the *Project* and the *Development* are paid for through property tax revenue or other revenues generated from the *Development* during the build-out of the *Project* and concurrent with impacts from the *Development*, as well as to ensure that all improvements constructed on the *Real Property* comply with the *County's* Stormwater Ordinance. The *Property Owner* shall obtain all applicable permits and approvals relating to drainage before beginning each phase of the *Project*.

4. Maintenance: Any and all drainage infrastructure designed and constructed by the *Property Owner* may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity; or (3) be dedicated to the public. The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep of the drainage infrastructure and facilities on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public.

K. Septic Tanks and Wells: The *Property Owner* may install septic systems and/or wells for drinking water to service *Lots* and *Dwelling Units* on the *Real Property* or portions thereof provided the septic systems and/or wells for drinking water meet state regulatory requirements. The number of *Lots* or *Dwelling Units* on the *Real Property* serviced by wells and/or septic systems shall not exceed any applicable state regulatory requirements. Any such *Lots* and *Dwelling Units* on the *Real Property* that are serviced by a septic system or well meeting applicable regulatory requirements shall not be considered non-conforming under the *County's* *Laws* because of such septic system or well.

L. Streetlights: The *Property Owner* shall have the right to decide the location, design and number of streetlights, if any, on the *Real Property*. Any and all streetlights designed and installed on the *Real Property* may (1) be owned and maintained as *Common Areas* or (2) be owned and maintained by the *Property Owner* or a related entity. If the location of any streetlight is to be in a public right-of-way, the location must be approved by the *County's* Director of Public Works.

M. Stoplights, Traffic Control, and Other Street Signage: The *Property Owner* may determine the configuration and location of all street and traffic control signs on the *Real Property*, the standards of which shall be determined in consultation with *DOT*. All traffic control devices within a public or private right-of-way must meet the requirements of the Manual on Uniform Traffic Control Devices.

N. Parks, Common Spaces and Buffers on the Real Property: Certain portions of the *Real Property* may contain parks, common spaces, and buffers. The *Property Owner* reserves the right to limit access and use of these to select owners, tenants or lessees on the *Real Property*, their guests, and others who may be their invitees.

O. Solid Waste Collection: Trash collection will be provided by the *Property Owner* for all residential, commercial, institutional, retail and office parcels on the *Real Property*. Trash collection for single-family parcels will be curb-side. Trash collection will be from a central location, such as a Dumpster, for each separate multi-family, commercial, institutional, retail, or office site on the *Real Property*. These Dumpsters (or other containers) will be located out-of-sight in approved areas with appropriate access and screening. A proof-of-coordination letter with Suburban Disposal Services is included in Appendix F. The *Property Owner* will continue to work with the Charleston County Environmental Management Department to coordinate solid-waste related activities.

P. Education: The *Development* will be served by the Charleston County School District and area private schools. The *Development* is planned to be similar in scope and nature to the Kiawah Island and Seabrook communities. The *Development* is expected to generate 39 new students who attend school in the district by the time of full build-out at year 20. A proof-of-coordination letter was received from the Charleston County School District stating that “all of the referenced schools currently have capacity on site to serve students in their attendance zones.” A copy of this letter is included in Appendix F.

Q. Police: All access drives and parking areas will be lighted to improve security and reduce vehicle thefts. The proposed *Development* will foster community involvement, which will aid in the prevention of crime through citizen activism. Also, the proposed traffic improvements referenced in Appendix E should maintain or improve current response times to this and adjacent sites. A proof-of-coordination letter with the Charleston County Sheriff’s Office is included in Appendix F.

R. Fire Protection: All access roads and parking areas will be constructed to facilitate fire equipment access. Representatives of the *Property Owner* have coordinated with the St. John’s Fire Department to discuss the *Development*, including proposed road sections. The *Property Owner* will continue to coordinate with St. Johns Fire Department through the life of this *Agreement*. The *Property Owner* will provide capital items as stated in Section 16(X) of this *Agreement*.

S. Emergency Medical Services: Charleston County EMS provides emergency medical services to the citizens of Charleston County. A proof-of-coordination letter with Charleston County EMS is included in Appendix F.

T. Utilities: Utilities, such as electrical and gas services, cable television, high speed internet access, and telephone service, shall be made available and maintained by the appropriate service providers. All utilities shall be installed underground. The *Property Owner* shall furnish necessary easements to utility providers for water, sewer, gas, electricity, telephone, cable television, and other utilities. Adequate easements for utilities shall be reserved by the *Property Owner* in conveyances of *Lots, Dwelling Units, and Development Parcels*. The location and size of such easements shall be determined by the *Property Owner* in consultation with the applicable service provider. Letters of coordination from Berkeley Electric Cooperative, Inc., Comcast, and Bellsouth are included in Appendix F.

U. Common Area Maintenance: Any *Association* established with respect to the *Real Property* or any portion thereof shall be responsible for maintaining the *Common Areas*, as described in any applicable *Covenants* and/or the *Agreement*.

V. Hurricane Preparedness Plan: The *Property Owner* has procured a Hurricane Evacuation Plan, which is attached hereto as Appendix I. The *Property Owner* will coordinate with the Charleston County Emergency Preparedness Division and the South Carolina Emergency Management Division to ensure that the *Development* complies with applicable laws and regulations.

W. Town of Kiawah Island: The *Property Owner* has conferred with the Town of Kiawah Island, the only municipality adjacent to the *Real Property*, which supports the *Project*. Furthermore, the *Property Owner* has conferred with the nearby municipality of Seabrook Island. Proof-of-coordination letters with the Town of Kiawah Island and Seabrook Island are included in Appendix F.

X. Mitigation Provided Directly by the Property Owner to the County: The *Property Owner* shall provide the following amounts to mitigate the impact of the *Development*:

1. Ladder Truck: The *Property Owner* will pay \$800,000 or the actual cost, whichever is lesser, towards the purchase of a ladder truck to service the *Real Property* for St. John's Fire District on or before obtaining a building permit for the construction of any building on the *Real Property* requiring a ladder truck according to National Fire Prevention Association requirements.

2. Dedication of Land: During the term of this *Agreement*, the *Property Owner* shall set aside three (3) highland acres of the *Real Property* at a mutually agreeable location(s). At such time as the *County* requests the use of any or all of this acreage for the construction of a substation(s) for the use of St. John's Fire District, the Charleston County Sheriff's Office, the Charleston County Magistrate's Office, Charleston County EMS, and/or any other police, fire or EMS service which may acquire jurisdiction over the *Real Property* after the *Effective Date* (provided, however, the site(s) shall not be used solely by the Charleston County Magistrate's Office), the *Property Owner* shall dedicate the such acreage to the *County* as necessary for such use(s). If the *County* does not construct a substation on the dedicated site(s) within three (3) years of the dedication, the dedicated site(s) shall revert back to the *Property Owner*; provided, however, the *Property Owner* shall continue to hold the site(s) as set forth in this Paragraph 16.X.2 and all of the *County's* rights in this Paragraph 16.X.2 shall continue until the termination of this *Agreement*. The *County* may not request such dedication until after a certificate of occupancy has been issued for the 200th *Dwelling Unit*, unless otherwise agreed by the *Parties*.

17. Natural Resource Protection and Preservation

A. Cultural Resources Survey: The *Property Owner* has procured a Cultural Resources Survey of Mullet Hall Plantation, Johns Island, Charleston County, South Carolina, prepared by

the Chicora Foundation, Inc., attached hereto as Appendix J. The study examined archaeological sites and cultural resources found on the *Real Property*.

1. Cemeteries: Three (3) cemeteries, designated in the study as 38CH1540, 38CH1548, and 38CH1549, will not be developed except as provided herein. Additionally, as recommended in the study, 38CH1540 will have a fifty foot (50') minimum buffer, 38CH1548 will have a twenty-five foot (25') minimum buffer, and 38CH1549 will have a fifty foot (50') minimum buffer. All three cemetery sites will have construction fences erected for their protection during all phases of construction activity. As further recommended in the study, the *Property Owner* will remove all trees in the cemeteries of 5-inches DBH or less in diameter. The remaining trees will be pruned for crown cleaning and overall restoration. No tree survey or other *County* permits shall be required for such clearing and restoration.

2. Archaeological Resources: Upon review and approval by the State Historic Preservation Office ("SHPO"), eligible and potentially eligible archaeological resources may be either green spaced (preserved in place) or subjected to additional investigation (data recovery in the case of eligible sites or additional testing in the case of potentially eligible sites). With additional testing, the potentially eligible sites may be designated as either eligible or not eligible. Contractors shall be advised to report the discovery of any archaeological remains encountered during construction activities to the *Project* engineer, who should, in turn, report the find to SHPO. No further land-altering activities shall take place in the area of the discovery until they have been examined by an archaeologist and, if necessary, processed.

B. Memorandum of Agreement: The *Property Owner* will enter into a Memorandum of Agreement with *DHEC* and SHPO, a proposed draft of which is attached hereto as Appendix K, to certify the consistency of the *Development* with the Coastal Zone Management Plan and to mitigate potential impacts of the *Development* on sites which are eligible for, potentially eligible for, or currently listed in the National Register of Historic Places. The *Property Owner* will continue to coordinate with *DHEC* and SHPO to ensure that applicable natural and cultural resource areas on the *Real Property* are investigated, preserved and protected pursuant to state and federal law.

C. Threatened and Endangered Species Assessment: The *Property Owner* has procured a Threatened and Endangered Species Assessment, prepared by Newkirk Environmental, Inc., which, together with a May 21, 2009, update of this assessment, is attached hereto as Appendix L. The assessment was conducted to determine the occurrence of, or potential for, animal and plant species federally listed as endangered or threatened to exist within the *Real Property*. Completion of this survey complied with current state and federal regulations, including the Federal Endangered Species Act, the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and the South Carolina Non-Game and Endangered Species Conservation Act. Field surveys have documented the presence of two (2) bald eagle nests within the boundaries of the *Real Property*. As a result, coordination with the Department of Natural Resources and the United States Fish & Wildlife Service is on-going in an attempt to establish guidelines for activities near the active nests. The proposed *Development* shall comply with these guidelines.

D. Flora and Fauna: The *Property Owner* will use best efforts to maintain and enhance the native plant material on the *Real Property*. Additional considerations in *Lot* configurations will be made to maintain wildlife corridors that connect this property with the surrounding natural environment.

18. Development Schedule for the Project

A. Commencement Date: The *Project* will be deemed to commence *Development* upon the *Effective Date*.

B. Interim Completion Dates: The *Property Owner* estimates that during the years after the *Effective Date*, the following percentages of the undeveloped highland within the *Real Property* will be developed pursuant to the *Plan*:

<u>Year</u>	<u>Percentage Complete</u>
5	0-25%
10	26-50%
15	51-75%
20	76-100%

As such, a generalized phasing plan for the *Real Property*, showing a conceptual illustration of the *Development* which may be implemented on the *Real Property* 5 years, 10 years, 15 years, and 20 years after the *Effective Date* of the *Agreement* is attached to the *Plan* as Exhibit 7.1.

C. Completion Date: The *Property Owner* projects that the *Project* should be substantially completed (i.e. essentially all structures erected and/or all necessary infrastructure in place to serve the intended uses) twenty (20) years from the *Effective Date*.

D. Modification of Commencement or Completion Date: The *County* recognizes the *Development* on the *Real Property* will include a variety of uses and that demand, cost, environmental factors, and other pertinent financial and feasibility considerations fluctuate. Accordingly, the commencement date and schedule of completion set forth in this *Agreement* are estimates only. The timing of the actual *Development* of the *Project* will likely differ because of the multiple variables influencing it. The *Parties* agree that the commencement date, interim completion dates, and completion date are therefore subject to modification and that the *Property Owner* may provide to the *County* updated schedules which shall not constitute an amendment of this *Agreement* triggering the process for approval of amendments set forth in this *Agreement*.

E. Failure to Meet Commencement or Completion Date: The *Property Owner's* failure to meet the commencement date, an interim completion date, or the completion date shall not, in and of itself, constitute a material breach of this *Agreement* pursuant to section 6-31-90 of the South Carolina Code, but must be judged based on the totality of circumstances.

19. Term of the Agreement

A. Term: Pursuant to section 6-31-40 of the South Carolina Code, this *Agreement* shall expire twenty (20) years from the *Effective Date* unless extended pursuant to the remaining provisions of this Paragraph. The date of the expiration of the term of this *Agreement* is the termination date.

B. Extension of Term: If the *Property Owner* provides to the *County* a written certification during the initial or the first extension term of this *Agreement* but no later than ninety (90) days prior to the termination date that the gross highland acres within the *Real Property* then owned by the *Property Owner*, and/or an entity or entities that have substantially the same ownership as the *Property Owner*, is twenty-five acres or more, the *County*, the *Property Owner*, and/or such entity or entities shall enter an amendment to this *Agreement* extending the term for an additional five (5) year term from the date of certification; provided, however, the *Property Owner* is not in material breach of the *Agreement*. The *Property Owner* may exercise up to two such five-year extensions. Nothing in this *Agreement* shall be interpreted to preclude the *Parties* from extending the termination date by mutual *Agreement* or from entering into subsequent Development Agreements.

20. Intentionally Omitted.

21. Submission List

The following package of documents, exhibits, and appendices has been submitted simultaneously with this *Agreement* and is incorporated herein:

Development Agreement

- Exhibit 1.1-Definitions
- Exhibit 4.1-Legal Description
- Exhibit 4.2-Plat
- Exhibit 4.3-Acreage Breakdown
- Exhibit 4.4-Deed No. 1
- Exhibit 4.5-Deed No. 2
- Exhibit 4.6-Deed No. 3
- Exhibit 4.7-CCPRC Easement Agreement
- Exhibit 4.8-Berkeley Electric Easement Agreement
- Exhibit 4.9-Wetland Survey

Appendices

- Appendix A-The Kiawah River Plantation Planned Development District Plan (with exhibits)
- Appendix B-ZLDR, as modified
- Appendix C-Economic Impact Analysis
- Appendix D-Capital Improvements Program/Fiscal Impact Analysis
- Appendix E-Traffic Impact Analysis and Mitigation Plan
- Appendix E-1-Land Use Equivalency Matrix
- Appendix F-Letters of Coordination with Local Government Entities
 - 1-DOT
 - 2-BCDCOG

- 3-St. John's Water Co.
- 4-Suburban Disposal Services
- 5-Charleston County School District
- 6-Charleston County Sherriff's Office
- 7-St. John's Fire Department
- 8-Charleston County EMS
- 9-Berkeley County Electric Cooperative, Inc.
- 10-Comcast
- 11-BellSouth
- 12-Town of Kiawah Island
- 13-Charleston County Parks and Recreation Commission
- 14-Town of Seabrook

- Appendix G-Intentionally Omitted
- Appendix H-Stormwater Master Plan
- Appendix I-Hurricane Evacuation Plan
- Appendix J-Cultural Resource Survey
- Appendix K-Proposed Memorandum of Agreement with DHEC and SHPO
- Appendix L-Threatened and Endangered Species Assessment with May 21, 2009 Addendum
- Appendix M-Intentionally Omitted
- Appendix N-Letter of Receipt from the Corps

22. Amending or Canceling the Agreement

Subject to the provisions of section 6-31-100 of the South Carolina Code, this *Agreement* may be amended or canceled in whole or in part only by mutual written consent of the *Parties* or their successors in interest and, in the case of the *Property Owner*, its successors in legal title. Any amendment to this *Agreement* shall comply with the provisions of section 6-31-100. If an amendment affects less than all the persons and entities comprising the *Property Owner*, then only the *County* and those affected persons or entities who are *Property Owners* need to sign such written amendment for it to be effective. Any provision of this *Agreement* requiring consent or approval of one of the *Parties* shall not require amendment of this *Agreement*, unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. Pursuant to section 6-31-60(B) of the South Carolina Code, a major modification of this *Agreement* shall occur only after public notice and a public hearing by the *County*.

23. Modifying or Suspending the Agreement

Pursuant to section 6-31-130 of the South Carolina Code, in the event state or federal laws or regulations, including state or federal laws or regulations enacted after the *Effective Date*, prevent or preclude compliance with one or more provisions of this *Agreement*, the pertinent provisions of this *Agreement* shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

24. Periodic Review

Pursuant to sections 6-31-40 and 6-31-90(a) of the South Carolina Code, the *County's Planning Director* shall review the *Project* and this *Agreement* every twelve months to determine the *Property Owner's* good faith compliance with the terms of this *Agreement*. If, as a result of its periodic review, the *County* finds and determines that the *Property Owner* has committed a material breach of the terms or conditions of this *Agreement*, the *County* shall serve notice in writing upon the *Property Owner* setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the *Property Owner* a reasonable time in which to cure the material breach. If the *Property Owner* fails to cure any material breach within the time given, then the *County* unilaterally may terminate or modify this *Agreement*; provided, that the *County* has first given the *Property Owner* the opportunity: (1) to rebut the *County's* finding and determination; or (2) to consent to amend this *Agreement* to meet the concerns of the *County* with respect to the findings and determinations.

25. Severability

Subject to the provisions of section 6-31-150 of the South Carolina Code, if any word, phrase, sentence, paragraph or provision of this *Agreement* shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

26. Merger

This *Agreement*, coupled with its exhibits, which are incorporated herein by reference, shall state the final and complete expression of the *Parties'* intentions. All prior negotiations and representations are superseded and merged herein.

27. Contingencies

This *Agreement* and the *Plan* are contingent upon (1) their execution and approval in this form by the *Parties*; and (2) the *County's* zoning of the *Real Property* as a planned development district (with this Appendix A to this *Agreement* constituting the development plan).

28. Cooperation

The *Parties* hereto agree to cooperate with each other to effectuate the provisions of this *Agreement* and to act reasonably and expeditiously in all performances required under the *Agreement*. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this *Agreement*, the *Parties* hereby agree to cooperate in defending such action. Such cooperation does not require, in the event of such challenge, that a party to this *Agreement* shall pay for the expense of litigation for any other party.

29. Governing Law

This *Agreement* shall be construed and enforced in accordance with the laws of the State of South Carolina.

30. Remedies/Non-Binding Arbitration

A. Remedies: If there is a material breach of this *Agreement*, the non-breaching party may pursue all available legal and equitable remedies. Each party recognizes that the other party may suffer irreparable harm from a material breach of this *Agreement* and that no adequate remedy at law may exist to enforce this *Agreement*. Consequently, the *Parties* agree that any non-breaching party who seeks enforcement of the *Agreement* may seek the equitable remedies of injunction and specific performance. The *County* will look solely to the *Property Owner* as to any rights it may have against the *Property Owner* under this *Agreement*, and hereby waives any right to assert claims against members, officers, managers, employees, agents, and contractors of the *Property Owner*, and further agrees that no member, officer, manager, employee, agent, and contractor of the *Property Owner* has any personal, joint, or several liability under this *Agreement*. Likewise, the *Property Owner* agrees to look solely to the *County's* assets as to any rights it may have against the *County* under this *Agreement*, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the *County*, its *County Council* members, officers, agencies, boards, or commissions.

B. Non-Binding Arbitration: If there is a dispute between the *County* and the *Property Owner* concerning the terms, meaning, interpretation, rights or obligations under this *Agreement*, the *Parties* agree to submit such issue(s) to prompt non-binding arbitration before invoking legal proceedings. This non-binding arbitration shall be initiated by one party's notifying the other in writing of the dispute and that party's request for non-binding arbitration as described herein. Each side shall within five (5) days of receipt of such notice pick an arbitrator and these two (2) arbitrators shall pick the third. The *Parties* shall then promptly convene a conference with the arbitration panel and present their positions. In this conference, the rules of evidence and other legal formalities shall not apply; positions may be stated and need not be presented through testimony, exhibits, or evidence. The majority of the arbitrators shall promptly render their decision. Upon the rendering of the arbitration panel's decision, either side may then immediately pursue proceedings for legal or equitable remedies. The *Parties* shall each bear the cost of its appointed arbitrator and equally share the cost of the third arbitrator and any separate expenses associated with the arbitration conference.

31. Recording

Within fourteen (14) days after execution of this *Agreement*, the *Property Owner* shall record the *Agreement* with the Charleston County Register of Mesne Conveyances against the *Real Property* described in Paragraph 4 of this *Agreement*. The provisions contained herein shall be deemed to run with the land. The burdens of this *Agreement* are binding upon, and the benefits of this *Agreement* shall inure to, all successors in interest, successors in title, and assigns of the *Parties* to this *Agreement*.

32. Third Parties

Notwithstanding any provision herein to the contrary, this *Agreement* shall not be interpreted to create or bestow any rights, remedies, or obligations on persons or entities that are not *Parties* or successors or assigns to this *Agreement* under Paragraph 33 of this *Agreement*.

33. Successors and Assigns

A. Binding Effect: This *Agreement* shall be binding on the personal representatives, successors in interest, successors in title, and assigns of the *Property Owner* in the ownership or *Development* of any portion of the *Real Property* or the *Project*. A purchaser or other successor in title of any portion of the *Real Property* shall be responsible for performance of the *Property Owner's* obligations hereunder as to the portion of the *Real Property* so transferred and shall have the rights afforded to the *Property Owner* hereunder with respect to the portion of the *Real Property* conveyed. The *Property Owner* shall be released from obligations under this *Agreement* upon the sale of *Tracts, Lots* or *Development Parcels* as to the property conveyed, and the purchaser shall become the responsible party with regard to this *Agreement* as to the *Tract, Lot* or *Development Parcel* so conveyed. This *Agreement* shall also be binding on the *County* and all future *County Councils* for the duration of this *Agreement*, even if the *County Council* members change.

B. Transfer of Real Property: The *Property Owner* shall be entitled to transfer any portion or all of the *Real Property* to a purchaser(s) and assign its rights and obligations under this *Agreement*. If the *Property Owner* transfers to an unrelated third party a *Lot* or *Development Parcel* within the *Real Property* on which the *Property Owner* is required to provide and/or construct certain *Facilities*, then the *Property Owner* shall be required to obtain a written *Agreement* from the purchaser expressly assuming all such separate responsibilities and obligations with regard to the *Lot* or *Development Parcel* conveyed and the *Property Owner* shall provide a copy of such *Agreement* to the *County*. Notwithstanding anything to the contrary contained herein, the exceptions and restrictions to transfer contained in this Paragraph shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the *Real Property* or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the *Real Property* as set forth above. Furthermore, nothing contained herein shall prevent, hinder or delay any transfer of any portion of the *Real Property* to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this *Agreement* as the successor in title to the *Property Owner* in accordance with this *Agreement*.

C. Release of Property Owner: In the event of the sale or other conveyance of all or a portion of the *Real Property* and compliance with the conditions set forth herein, the *Property Owner* shall be released from any further obligations with respect to this *Agreement* as to the portion of the *Real Property* so transferred, and the transferee shall be considered as substituted as the *Property Owner* under the *Agreement* as to the portion of the *Real Property* so transferred.

D. Estoppel Certificate: Upon request in writing from the *Property Owner* (or its successors or assigns) to the *County*, sent by certified or registered mail or publicly licensed

message carrier, return receipt requested, the *County* will provide a certificate in recordable form that, solely with respect to the portion of the *Real Property* described in the request, there are no violations or breaches of this *Agreement*, except as otherwise described in the certificate. The *County* will respond to such a request and may employ such professional consultants, municipal, *County* and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the party making the request.

34. **General Terms and Conditions**

A. No Waiver: Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this *Agreement* is amended by vote of *County Council* taken with the same formality as the vote approving this *Agreement*, no officer, official or agent of the *County* has the power to amend, modify or alter this *Agreement* or waive any of its conditions as to bind the *County* by making any promise or representation not contained herein. Any amendments are subject to Paragraph 22 of this *Agreement*.

B. Entire Agreement: This *Agreement* constitutes the entire *Agreement* between the *Parties* and supersedes all prior *Agreements*, whether oral or written, covering the same subject matter. This *Agreement* may not be modified or amended except in writing mutually agreed to and accepted by both *Parties* to this *Agreement*.

C. Intentionally Omitted.

D. Notices: All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

1. Notice to the Property Owner:

c/o ~~Kiawah River Plantation, LP and
Ocean Boulevard Properties, A South Carolina Limited Partnership
Kiawah River Investment, LLC~~
Attention: John Darby
Post Office Box 242
Charleston, South Carolina 29402

With Copy to:

G. Trenholm Walker
~~Daniel S. McQueeney, Jr.
Pratt Thomas Walker, P.A. Walker Gressette Freeman & Linton, LLC~~
Post Office Drawer 2216247
Charleston, South Carolina 29413-216247

2. Notice to the County:

County of Charleston
Attention: Planning Director
Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive, Suite A-314
Charleston, SC 29405-7464

With Copy to:

County of Charleston
Attention: County Attorney
Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive, Suite B-314
Charleston, SC 29405-7464

The address for any party or person may be changed by proper notice to the other parties or persons involved.

E. Execution of Agreement: This *Agreement* may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other *Party* within seven (7) days of receipt of said facsimile copy.

IN WITNESS WHEREOF this *Agreement* has been executed, delivered, and sealed by the *Parties* on the day and year first above written.

WITNESSES:

COUNTY OF CHARLESTON

By: _____
Teddie E. Pryor, Sr.
Chairman, County Council

Attest: _____
Beverly T. Craven
Clerk to Council

WITNESSES:

**KIAWAH RIVER PLANTATION, LP
INVESTMENT, LLC**

By: ~~V Holding Company, Inc., Its: General
Partner Beach O’Hear Pointe, LLC~~
Its: Managing Member

By: The Beach Company

Its: Manager

By: _____
John C.L. Darby
Its: President and CEO

By: _____
~~Charles S. Way, Jr.~~
Its: ~~Chairman and Executive Vice President~~

WITNESSES:

~~OCEAN BOULEVARD PROPERTIES,
A SOUTH CAROLINA LIMITED
PARTNERSHIP
By: The Beach Co., Its: General Partner~~

By: _____
John C.L. Darby
Its: President and CEO

By: _____
Charles S. Way, Jr.
Its: Chairman and Executive Vice President

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

THE FOREGOING INSTRUMENT was acknowledged before me by CHARLESTON COUNTY, SOUTH CAROLINA, by Teddie E. Pryor, Sr., its Council Chair, and Beverly T. Craven, its Clerk of Council, this 22nd day of December, 2009.

Notary Public for South Carolina
My Commission Expires: _____

(SEAL)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

THE FOREGOING INSTRUMENT was acknowledged before me by KIAWAH RIVER INVESTMENT, LLC PLANTATION, LP, by Beach O'Hear Pointe, LLCV Holding Company, Inc., its Managing Member~~General Partner~~, by The Beach Company, its Manager, by John C.L. Darby, its President and Chief Executive Officer, and ~~Charles S. Way, Jr.~~_____, its Chairman and Executive Vice President_____, this 22nd day of _____ December, 201809.

(SEAL)

Notary Public for South Carolina
My Commission Expires: _____

~~STATE OF SOUTH CAROLINA)~~ ACKNOWLEDGMENT
~~COUNTY OF CHARLESTON)~~

~~THE FOREGOING INSTRUMENT was acknowledged before me by OCEAN BOULEVARD PROPERTIES, A SOUTH CAROLINA LIMITED PARTNERSHIP, by The Beach Co., its General Partner, by John C.L. Darby, its President and Chief Executive Officer, and Charles S. Way, Jr., its Chairman and Executive Vice President, this 22nd day of December, 2009.~~

(SEAL)

Notary Public for South Carolina
My Commission Expires: _____

Definitions

The “*Act*” means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 to -160 of the South Carolina Code.

“*Accessory Dwelling Unit*” means a dwelling unit, with no more than 800 square feet of gross floor area, that has been added to, onto, or created within, a single family house. This definition includes garage apartments. An *Accessory Dwelling Unit* may be detached from a single family house provided it complies with the conditions applicable to *Accessory Dwelling Units* in Appendix B to the *Agreement*.

“*Active Recreation Area*” means any park, recreational facility, or recreational area which is not dependent upon a specific environmental or natural resource and which is developed with recreation and support facilities. An *Active Recreation Area* includes, but is not limited to, playgrounds, *Golf Courses*, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, water-dependent uses, equestrian facilities, pickle courts, racquetball courts, and tennis courts. *Active Recreation Areas* shall constitute open space.

“*Affordable Housing*” means, in the case of dwelling units for sale, housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than twenty-eight percent (28%) of the annual household income for a household earning no more than eighty percent (80%) of the area median income, by household size, for the metropolitan statistical area as published from time to time by the U.S. Department of Housing and Community Development (HUD) and, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than thirty percent (30%) of the annual household income for a household earning no more than eighty percent (80%) of the area median income, by household size for the metropolitan statistical area as published from time to time by HUD.

“*Agreement*” means this Development Agreement, including the recitals and exhibits attached hereto. The *Agreement* shall also include the *Plan*.

“*ARB*” is the Kiawah River ~~Plantation~~ Architectural Review Board that is currently functional under the auspices of the *Property Owner* and/or as it may later function under applicable *Covenants*. The *ARB* may promulgate, modify, and enforce development guidelines, such as architectural and landscaping guidelines, assigned to it under the *Agreement* or the *Plan* with respect to any portion of the *Real Property*.

“*Association*” means one or more non-profit association(s) or corporation(s), which will be formally constituted and made up of the property owners and/or residents of the *Real Property*, or a particular portion or portions thereof. An *Association* may take responsibility for costs and maintenance of *Common Areas* on or affecting any portion of the *Real Property* subject to such *Association*’s jurisdiction, as delineated in any applicable *Covenants*.

“*Bed and Breakfast*” means a lodging-type building or group of buildings on one *Lot* offering two (2) to twelve (12) *Guest Rooms*, with or without meal service, on a daily, weekly,

monthly, or seasonal basis. A *Bed and Breakfast* may be owner-occupied and/or staff-occupied. Whether or not owner- or staff-occupied, a *Bed and Breakfast* shall contribute to *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Building Coverage*” means the area of a *Lot* covered by principal or accessory buildings or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies, and the first two feet (2’) of a roof overhang. This definition shall not include pools, pool decks, or pervious drives.

“*Building Development Standards*” means any applicable dimensional standards for *Lots*, *Development Parcels*, buildings, and structures, including but not limited to any minimum standards for *Lot* area, *Lot* width, *Setbacks*, and yard requirements and any maximum standards for *Building Height* and *Building Coverage* on *Lots* or *Development Parcels*.

“*Building Height*” means elevation from *Ground Floor Level* as measured in feet. *Building Height* does not include those items specifically excluded from consideration of *Building Height* in the *Plan*.

“*Common Areas*” means “Common Areas,” as defined under any *Covenants* encumbering all or portions of the *Real Property*, i.e., all real and personal properties which now or hereafter are deeded or leased to, or are the subject of a use agreement or easement with, an *Association* and wherein the property therein described is specifically denominated to be part of the *Common Areas*. The *Common Areas* may include but shall not be limited to open space; maintenance and drainage areas; *Facilities*; easements; alleys; *Thoroughfares*; parking lots; *Community Ways*; street lighting; signs; lagoons; ponds; wetlands; rights-of-way; and the area between any property line of an owner and the mean high water mark of any adjoining river tidal creek, marsh, or other water body. The designation of any land and/or improvements as a Common Area shall not mean or imply that the public at large acquires any easement of use or enjoyment therein.

“*Community Way*” means a walkway of any surface type (paved or unpaved), bike trail, leisure trail, or walking trail designed for pedestrian or bike traffic.

“*Comprehensive Plan*” means the Charleston County Comprehensive Plan, adopted pursuant to sections 6-29-510 to -540 of the South Carolina Code, as well as the official map of Charleston County, adopted pursuant to sections 6-7-1210 to -1280 of the South Carolina Code.

“*Corps*” means the United States Army Corps of Engineers.

“*County*” means Charleston County, a political subdivision of the State of South Carolina.

“*County Council*” means the County Council of Charleston County, South Carolina.

“*County Ordinances*” means the Code of Ordinances of Charleston County, South Carolina.

“*Covenants*” means and refers to one or more declaration(s) of covenants, conditions, and restrictions encumbering all or portions of the *Real Property* that have been or will be recorded by the *Property Owner*.

“*Development*” means the planning for or carry out of a building activity, demolition, reclamation of on-site materials, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels, and is intended by the *Parties* to include all further uses of, activities upon, or changes to the *Real Property* as are authorized by the *Agreement*. “*Development*,” as designated in a land or *Development Permit*, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “*Development*” refers to the planning for or the act of developing or to the result of *Development*. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not *Development*. Reference to particular operations is not intended to limit the generality of this term.

“*Development Parcel*” means any parcel of land on which *Development* may occur, including platted *Lots* and unplatted parcels, but excluding public or private street rights-of-way.

“*Development Permit*” includes a building permit, zoning permit, construction permit, subdivision or plat approval, rezoning certification, special exception, variance, certificate of occupancy or any other official action of *Local Government* having the effect of permitting or approving the *Development* or use of real property.

“*DHEC*” means the Department of Health and Environmental Control, as established pursuant to section 44-1-20 of the South Carolina Code.

“*Diameter Breast Height*” or “*DBH*” means the total diameter, in inches, of a tree trunk or trunks measured at a point four and one half feet above existing grade (at the base of the tree). In measuring *DBH*, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

“*District*” means the Kiawah River—~~Plantation~~ Planned Development District, as established in the *Plan*.

“*Dock*” or “*Pier*” means a structure built over and/or floating on water used to provide access to water and/or for the mooring of boats or other watercraft. A *Dock* or *Pier* may contain commercial uses as permitted by *DHEC* and shall constitute a water-dependent use.

“*DOT*” means the South Carolina Department of Transportation, as established in section 57-1-20 of the South Carolina Code.

“*Dwelling Unit*” means one or more rooms, designed, occupied or intended for permanent occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities

contained therein. The term “*Dwelling Unit*” does not include *Guest Rooms, Villas*, or accessory buildings or structures (including but not limited to *Accessory Dwelling Units*).

“*Facilities*” means major capital or community improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, electrical service, cable television, high speed internet access, and telephone service.

“*Golf Course*” means a tract or tracts of land laid out for up to thirty-six (36) holes for playing the game of golf and improved with tees, greens, fairways, and hazards, and that may include club houses, driving ranges, training facilities, maintenance facilities, and shelters. *Golf Courses* shall constitute *Active Recreation Areas*.

“*Grand Tree*” means any live, healthy tree with a *DBH* of 24 inches or greater, with the exception of pine tree species.

“*Gross Leasable Area*” or “*GLA*” means floor area devoted to a use designated as such in the table of uses set forth in the *Plan*. *GLA* does not include public or common areas, such as parking lots, utility rooms and stairwells, in a building or on a *Lot* otherwise devoted to a use designated as *GLA* in the *Plan*. *GLA does not include a community amenity center, such as a fitness club/aquatic center.* For the purpose of this provision, the term “floor area” shall have the definition specified in Chapter 12 of the *ZLDR* on the *Effective Date*.

“*Ground Floor Level*” means *Natural Ground* or the lowest floor elevation for structures as set forth in the County’s flood management ordinance, as amended, whichever is higher; provided, however, that *Ground Floor Level* shall not exceed 14 feet above *Natural Ground*. This definition shall not be construed to prevent an owner from constructing his first finished floor higher than *Ground Floor Level*; provided, however, *Building Height* shall be measured from *Ground Floor Level*.

“*Guest Room*” means a room or suite designed for temporary occupancy by one (1) or more people in a single unit on a daily, weekly, monthly, or seasonal basis. A *Guest Room* may be individually owned or owned as a “time-share” unit without respect to other *Guest Rooms*. A *Guest Room* may be located within a *Hotel, Inn, Villa, or Bed and Breakfast*. A *Guest Room* shall contribute to the *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Hotel*” means a lodging-type building or group of buildings ~~on one Development Parcel~~ offering twenty-five (25) or more *Guest Rooms*, with or without meal service, on a daily, weekly, monthly, or seasonal basis. The *Property Owner* shall have the vested right to develop up to two (2) *Hotels* on the Real Property. The amount of *Guest Rooms* permitted in a *Hotel* shall be limited only by the total *Guest Room* entitlement densities in the *Agreement*. A *Hotel* may be owner-occupied and/or staff-occupied. Whether or not owner- or staff-occupied, a *Hotel* shall contribute to *Hotel* and *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Housing for the Workforce*” means all *Affordable Housing* and all dwelling units designed to accommodate persons employed on the *Real Property*, persons employed on Kiawah

Island, persons employed on Seabrook Island, and/or persons employed within a ten (10) mile radius of the *Real Property*.

“*Inn*” means a lodging-type building or group of buildings ~~on one *Development Parcel*~~ offering thirteen (13) to twenty-four (24) *Guest Rooms*, with or without meal service, on a daily, weekly, monthly, or seasonal basis. An *Inn* may be owner-occupied and/or staff-occupied.

“*Land Development Regulations*” means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of *Development* and includes, but is not limited to, *Local Government* zoning, rezoning, subdivision, building construction, occupancy, aesthetic, road, or sign regulations or any other regulations controlling the *Development* or use of property.

“*Laws*” means all ordinances, resolutions, regulations, comprehensive plans, *Land Development Regulations*, policies and rules, custom and usage (formal or informal) adopted by a *Local Government* affecting the *Development* of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications, except as provided in section 6-31-140(A) of the South Carolina Code.

“*Local Government*” means any county, municipality, special district, or governmental entity of the state, county, municipality or region established pursuant to law which exercises regulatory control over, and grants *Development Permits* for land *Development* or which provides public *Facilities*. The *County* is a *Local Government*.

“*Lot*” means *Development Parcel* identified in a *Subdivision Plat* recorded in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina.

“*Lot Line, Front*” means the lot line separating a *Lot* from the *Thoroughfare* that is used as the primary access point to the *Lot*. In cases where a *Lot* abuts open space, including *Passive Recreation Areas*, on one side, and a *Thoroughfare* that is used as the primary access on the opposite side, the Property Owner may designate the lot line abutting the open space as the *Front Lot Line* and the opposite lot line (abutting the *Thoroughfare*) as the *Rear Lot Line*. In cases where a *Lot* abuts more than one *Thoroughfare*, the Property Owner may designate the *Front Lot Line* pursuant to Section 6.1.c herein

“*Mixed Use*” means a use, structure, or parcel containing both residential and non-residential elements.

“*Natural Ground*” means average elevation of a *Lot* or *Development Parcel* prior to *Development* activity.

“*OCRM*” means DHEC’s Office of Ocean and Coastal Resource Management.

“*OCRM Critical Line*” means the critical area line defined by *OCRM*.

“Parties” are the *Property Owner* and the *County*. When used herein with reference to a specific *Tract, Development Parcel, Lot*, or other portion of the *Real Property*, *Parties* shall mean and refer to the *County* and that specific person or entity that has legal title to such *Tract, Development Parcel, Lot*, or other portion of the *Real Property*. If portions of the *Agreement* apply to one or more, but not all, of the entities or persons comprising the *Property Owner*, those particular parties may be separately referred to herein.

“*Passive Recreation Area*” means areas in and located due to the presence of a particular natural or environmental setting and that may include conservation lands or waters providing for both active and passive types of resource-based outdoor recreation activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition such as boating, fishing, camping, nature trails and nature study. A farm or other agricultural use shall be considered a *Passive Recreation Area*. *Passive Recreation Areas* shall constitute open space.

“*Pervious Cover*” means water bodies, as well as land that permits the absorption of storm water into the ground. *Pervious Cover* may include, but is not limited to *Community Ways*, streets, roads, alleys, parking lots and driveways which are pervious to storm water.

“*Plan*” means the Kiawah River ~~Plantation~~ Planned Development District Plan. The *Plan* is attached to the *Agreement* and incorporated therein by reference. The *Plan* shall constitute a vested right of the *Property Owner* during the term of the *Agreement* (including any extensions or renewals thereof).

“*Planning Commission*” means the Charleston County Planning Commission as established under Article 2.2 of the *ZLDR*.

“*Planning Director*” means the Director of the Planning Department of Charleston County or the authorized designee or representative of the Director.

“*Project*” is the *Development* that has occurred and will occur on the *Real Property*.

“*Property Owner*” means Kiawah River ~~Investment Plantation, LP, LLC, a limited partnership organized and existing under the laws of Delaware; and Ocean Boulevard Properties, a South Carolina Limited Partnership~~; together with all subsidiaries thereof and other entities, which may have a legal interest on the date of execution hereof in any of the *Real Property* described in Paragraph 4 of the *Agreement* and includes their successors in interest, successors in title (as to any portion of the *Real Property*), and/or assigns by virtue of assignment or other instrument compliant with the *Agreement*. When used herein with reference to a specific *Tract, Development Parcel, Lot*, or other portion of the *Real Property*, “*Property Owner*” shall mean and refer to that specific person or entity that has legal title to such *Tract, Development Parcel, Lot*, or other portion of the *Real Property*. The *Property Owner* warrants that there are no other legal or equitable owners of the *Real Property* on the *Effective Date*.

“*Protected Trees*” means any tree on a parcel with a diameter breast height of eight inches or greater prior to development and all tree within required buffers or required landscape areas. Limited removal is allowed only when specified by the provisions of this Ordinance.

“*PSC*” means the Public Service Commission, as established pursuant to section 58-3-10 of the South Carolina Code, as amended.

“*Real Property*” is the *Real Property* referred to in Paragraph 4 of the *Agreement* and includes any improvements or structures customarily regarded as part of real property.

“*Setback*” means any required minimum distance from a *Lot* line or street right-of-way that establishes an area within which a structure shall not be erected. Any *Laws* applicable to *Setbacks* and exceptions to *Setbacks* are set forth in the *Plan*, which shall control in lieu of *Laws* applicable to *Setbacks* and exceptions to *Setbacks* in the *ZLDR* or other *Laws*.

“*Subdivision Plat*” means a recorded graphic description of property prepared and approved in compliance with the *ZLDR*, as modified by this *Agreement*.

“*Thoroughfare*” means a way for use by vehicular and pedestrian traffic and to provide access to *Lots* and open spaces, consisting of vehicular lanes and their adjacent rights-of-way.

“*Tract*” means and refers to composite parcels of the *Real Property* that have yet to be subdivided.

“*Villa*” means a lodging-style building offering one or more bedrooms and other areas (such as cooking and sanitary facilities) operating as a single unit, with or without meal service, on a daily, weekly, monthly, or seasonal basis. A *Villa* may be owned and temporarily occupied by an individual or entity without respect to ownership of other *Villas*. A *Villa* shall constitute one (1) *Guest Room* and shall contribute to *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Zoning and Land Development Regulations*” or “*ZLDR*” means and refers to the Zoning and Land Development Regulations of Charleston County, South Carolina.

SECTION 1 – STATEMENT OF OBJECTIVES

1.1 The Kiawah River ~~Plantation~~ Planned Development

The Kiawah River ~~Plantation~~ Planned Development Plan will provide significant benefits to the *Property Owner*, the future residents of the *Real Property*, and the *County*. The benefits and objectives of such a rezoning will include, but are not limited to, the following:

- Greater flexibility with respect to *Lot* dimensions, incentivizing the *Property Owner* to provide a variety of housing types and allowing the *Property Owner* to conform the *Development* to the natural characteristics on the *Real Property*;
- The provision of a significant amount of *Housing for the Workforce* and *Affordable Housing*, helping mitigate existing traffic issues on Johns Island, Kiawah Island, and Seabrook Island;
- An increase in the number of permitted uses on the *Real Property*, ensuring that the future residents and visitors to the *Real Property* enjoy recreational, commercial, retail, and office amenities within a short walk or bicycle ride from their homes or guest rooms;
- The protection of the waterfront environment by limiting the number of docks constructed thereon to eighteen (18) and utilizing restrictive covenants to ensure single-family detached lots in the Rural Residential portion of the *Real Property* are substantially maintained in their natural environment;
- The facilitation of greater economic opportunity for the *County* and its existing residents by creating several hundred jobs in the *County* and the State; increasing total revenues to area business; providing a net positive impact on the *County's* fiscal responsibilities; and introducing new lodging and recreational opportunities for visitors;
- The preservation and enhancement of green spaces, important cultural and historical sites, threatened and endangered species, and recreational areas on the *Real Property* and within the adjacent Johns Island County Park, including the preservation or development of at least fifty percent (50%) of the *Real Property* as open space;
- The provision of a smooth transition from the Suburban portion of the *County* to the Rural portion of the *County*, while ensuring a perpetual and clearly-defined Urban Growth Boundary on this portion of Johns Island; and
- A limitation on the total number of *Dwelling Units* which may be developed on the *Real Property*, to 1,285 *Dwelling Units*, 117 of which will be *Housing for the Workforce Units*. The *Plan* would allow greater flexibility in the location of these *Dwelling Units* but still preserve the rural flavor of the existing community with a gross residential density of .90 *Dwelling Units* per acre (including all acreage) or 1.01 *Dwelling Units* per acre (including only highland and freshwater wetland).

Accordingly, pursuant to sections 6-29-720 and -740 of the South Carolina Code, the *County* specifically finds that the *Plan* does the following:

- Helps achieve the objectives of the *Comprehensive Plan*;
- Permits flexibility in development;
- Results in improved design, character, and quality of new mixed use development;
- Preserves the natural and scenic features of open spaces;
- Encourages innovative site planning for residential, commercial, institutional, and industrial development;
- Provides for variation from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to

accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare;

- Comprises housing of different types and densities and of compatible commercial uses, office parks, and mixed-use development; and
- Includes a unified site design for a mixed use development.

1.2 Planned Development Name

The name of the Planned Development shall be Kiawah River **Plantation**; provided, however, the *Property Owner* may provide written notice to the *County* at any time before commencement of construction on the *Real Property* pursuant to the *Agreement* of a different name for the Planned Development which does not duplicate the name of any other Planned Development or subdivision, the final plat of which has been recorded in the RMC Office for Charleston County, South Carolina at the time of such notice.

1.3 The Illustrative Master Plan

For the purpose of illustrating the *Development* the *Property Owner* may institute on the *Real Property* pursuant to the *Agreement* and the *Plan*, an Illustrative Master Plan is attached hereto as Exhibit 1.1. Exhibit 1.2 delineates the conceptual location of the individual *Lots* on the *Real Property*. While the Illustrative Master Plan may be used by the *County* and the *Property Owner* as a general guide for the overall *Development* of the *Real Property*, the *Lots*, *Development Parcels*, *Thoroughfares*, green space, recreational areas, *Community Ways*, and other elements illustrated thereon are not intended to represent the exact configuration and location of the *Development* that will occur on the *Real Property*. The more specific elements of the *Agreement* and the *Plan* should be used by the *County* and the *Property Owner* to help guide the precise configuration and location of the different aspects of *Development* as the *Project* progresses.

SECTION 2 – REAL PROPERTY

2.1 Legal Description

All that certain piece, parcel or tract of land, together with all buildings and improvements presently located thereon, situate, lying and being on Johns Island, in the County of Charleston, State of South Carolina, known generally as “Mullet Hall Plantation,” containing 1083.197 acres of highland (including certain small islands), 235.94 acres of ponds and creeks, 86.36 acres of impounds, and 22.313 acres between mean high water and the DHEC-OCRM Critical Line, more or less, shown on a plat by A.H. Schwacke, & Associates entitled “PLAT OF MULLET HALL & JACK ISLAND 1426.81 ACRES JOHNS ISLAND CHARLESTON COUNTY SOUTH CAROLINA,” dated October 4, 1994, last revised on November 11, 1994, and recorded in Plat Book EA, at Pages 316 through 322, in the RMC Office for Charleston County, South Carolina, (the “Plat”), said property having such location, butts and bounds, metes, courses and distances as will by reference to the Plat more fully appear. The Plat is attached hereto as Exhibit 2.1.

Being a portion of TMS # 212-00-00-001.

2.2 Wetland Survey

A wetland survey delineating the location, acreage, and type (freshwater or critical area/marsh) of all wetlands on the *Real Property* as they exist prior to *Development* is attached hereto as Exhibit 2.3. The *Property Owner* has no intention to develop upon any of these natural areas; provided, however, the *Property Owner* may construct portions of roads and/or utilities on these natural areas only after obtaining all applicable permits and approvals from *OCRM* and the *Corps* for such *Development* and obtaining site plan approval from the *County* pursuant to the *ZLDR*.

SECTION 3 – DEFINITIONS

The definitions set forth in this section of the *Plan* shall control the development of the *Real Property* in lieu of any contrary definitions in the *ZLDR* or other *Laws*. The definitions in Chapter 12 of the *ZLDR* on the *Effective Date* shall otherwise apply.

The “*Act*” means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 to -160 of the South Carolina Code.

“*Accessory Dwelling Unit*” means a dwelling unit, with no more than 800 square feet of gross floor area that has been added to, onto, or created within, a single family house. This definition includes garage apartments. An *Accessory Dwelling Unit* may be detached from a single family house provided it complies with the conditions applicable to *Accessory Dwelling Units* in Appendix B to the *Agreement*.

“*Active Recreation Area*” means any park, recreational facility, or recreational area which is not dependent upon a specific environmental or natural resource and which is developed with recreation and support facilities. An *Active Recreation Area* includes, but is not limited to, playgrounds, *Golf Courses*, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, water-dependent uses, equestrian facilities, pickle courts, racquetball courts, and tennis courts. *Active Recreation Areas* shall constitute open space.

“*Affordable Housing*” means, in the case of dwelling units for sale, housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than twenty-eight percent (28%) of the annual household income for a household earning no more than eighty percent (80%) of the area median income, by household size, for the metropolitan statistical area as published from time to time by the U.S. Department of Housing and Community Development (HUD) and, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than thirty percent (30%) of the annual household income for a household earning no more than eighty percent (80%) of the area median income, by household size for the metropolitan statistical area as published from time to time by HUD.

“*Agreement*” means this Development Agreement, including the recitals and exhibits attached hereto. The *Agreement* shall also include the *Plan*.

“*ARB*” is the Kiawah River-~~Plantation~~ Architectural Review Board that is currently functional under the auspices of the *Property Owner* and/or as it may later function under applicable *Covenants*. The *ARB* may promulgate, modify, and enforce development guidelines, such as architectural and landscaping guidelines, assigned to it under the *Agreement* or the *Plan* with respect to any portion of the *Real Property*.

“*Association*” means one or more non-profit association(s) or corporation(s), which will be formally constituted and made up of the property owners and/or residents of the *Real Property*, or a particular portion or portions thereof. An *Association* may take responsibility for costs and maintenance of *Common Areas* on or affecting any portion of the *Real Property* subject to such *Association’s* jurisdiction, as delineated in any applicable *Covenants*.

“*Bed and Breakfast*” means a lodging-type building or group of buildings on one *Lot* offering two (2) to twelve (12) *Guest Rooms*, with or without meal service, on a daily, weekly, monthly, or seasonal basis. A *Bed and Breakfast* may be owner-occupied and/or staff-occupied. Whether or not owner- or staff-occupied, a *Bed and Breakfast* shall contribute to *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Building Coverage*” means the area of a *Lot* covered by principal or accessory buildings or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies, and the first two feet (2’) of a roof overhang. This definition shall not include pools, pool decks, or pervious drives.

“*Building Development Standards*” means any applicable dimensional standards for *Lots*, *Development Parcels*, buildings, and structures, including but not limited to any minimum standards for *Lot area*, *Lot width*, *Setbacks*, and yard requirements and any maximum standards for *Building Height* and *Building Coverage* on *Lots* or *Development Parcels*.

“*Building Height*” means elevation from *Ground Floor Level* as measured in feet. *Building Height* does not include those items specifically excluded from consideration of *Building Height* in the *Plan*.

“*Common Areas*” means “Common Areas,” as defined under any *Covenants* encumbering all or portions of the *Real Property*, i.e., all real and personal properties which now or hereafter are deeded or leased to, or are the subject of a use agreement or easement with, an *Association* and wherein the property therein described is specifically denominated to be part of the *Common Areas*. The *Common Areas* may include but shall not be limited to open space; maintenance and drainage areas; *Facilities*; easements; alleys; *Thoroughfares*; parking lots; *Community Ways*; street lighting; signs; lagoons; ponds; wetlands; rights-of-way; and the area between any property line of an owner and the mean high water mark of any adjoining river tidal creek, marsh, or other water body. The designation of any land and/or improvements as a *Common Area* shall not mean or imply that the public at large acquires any easement of use or enjoyment therein.

“*Community Way*” means a walkway of any surface type (paved or unpaved), bike trail, leisure trail, or walking trail designed for pedestrian or bike traffic.

“*Comprehensive Plan*” means the Charleston County Comprehensive Plan, adopted pursuant to sections 6-29-510 to -540 of the South Carolina Code, as well as the official map of Charleston County, adopted pursuant to sections 6-7-1210 to -1280 of the South Carolina Code.

“*Corps*” means the United States Army Corps of Engineers.

“*County*” means Charleston County, a political subdivision of the State of South Carolina.

“*County Council*” means the County Council of Charleston County, South Carolina.

“*County Ordinances*” means the Code of Ordinances of Charleston County, South Carolina.

“*Covenants*” means and refers to one or more declaration(s) of covenants, conditions, and restrictions encumbering all or portions of the *Real Property* that have been or will be recorded by the *Property Owner*.

“*Development*” means the planning for or carry out of a building activity, demolition, reclamation of on-site materials, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels, and is intended by the *Parties* to include all further uses of, activities upon, or changes to the *Real Property* as are authorized by the *Agreement*. “*Development*,” as designated in a land or *Development Permit*, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context,

“*Development*” refers to the planning for or the act of developing or to the result of *Development*. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not *Development*. Reference to particular operations is not intended to limit the generality of this term.

“*Development Parcel*” means any parcel of land on which *Development* may occur, including platted *Lots* and unplatted parcels, but excluding public or private street rights-of-way.

“*Development Permit*” includes a building permit, zoning permit, construction permit, subdivision or plat approval, rezoning certification, special exception, variance, certificate of occupancy or any other official action of *Local Government* having the effect of permitting or approving the *Development* or use of real property.

“*DHEC*” means the Department of Health and Environmental Control, as established pursuant to section 44-1-20 of the South Carolina Code.

“*Diameter Breast Height*” or “*DBH*” means the total diameter, in inches, of a tree trunk or trunks measured at a point four and one half feet above existing grade (at the base of the tree). In measuring *DBH*, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

“*Dock*” or “*Pier*” means a structure built over and/or floating on water used to provide access to water and/or for the mooring of boats or other watercraft. A *Dock* or *Pier* may contain commercial uses as permitted by *DHEC* and shall constitute a water-dependent use.

“*DOT*” means the South Carolina Department of Transportation, as established in section 57-1-20 of the South Carolina Code.

“*Dwelling Unit*” means one or more rooms, designed, occupied or intended for permanent occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities contained therein. The term “*Dwelling Unit*” does not include *Guest Rooms, Villas, Accessory Dwelling Units*, or accessory buildings or structures.

“*Facilities*” means major capital or community improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, electrical service, cable television, high speed internet access, and telephone service.

“*Golf Course*” means a tract or tracts of land laid out for up to thirty-six (36) holes for playing the game of golf and improved with tees, greens, fairways, and hazards, and that may include club houses, driving ranges, training facilities, maintenance facilities, and shelters. *Golf Courses* shall constitute *Active Recreation Areas*.

“*Grand Tree*” means any live, healthy tree with a *DBH* of 24 inches or greater, with the exception of pine tree species.

“*Gross Leasable Area*” or “*GLA*” means floor area devoted to a use designated as such in the table of uses set forth in the *Plan*. *GLA* does not include public or common areas, such as parking lots, utility rooms and stairwells, in a building or on a *Lot* otherwise devoted to a use designated as *GLA* in the *Plan*. *GLA does not include a community amenity center, such as a fitness club/aquatic center.* For the purpose of this provision, the term “floor area” shall have the definition specified in Chapter 12 of the

ZLDR on the *Effective Date*. Commercial uses on *Docks* or piers shall contribute to entitlement densities for *GLA*.

“*Ground Floor Level*” means *Natural Ground* or the lowest floor elevation for structures as set forth in the *County’s* flood management ordinance, as amended, whichever is higher; provided, however, that *Ground Floor Level* shall not exceed 14 feet above *Natural Ground*. This definition shall not be construed to prevent an owner from constructing his first finished floor higher than *Ground Floor Level*; provided, however, *Building Height* shall be measured from *Ground Floor Level*.

“*Guest Room*” means a room or suite designed for temporary occupancy by one (1) or more people in a single unit on a daily, weekly, monthly, or seasonal basis. A *Guest Room* may be individually owned or owned as a “time-share” unit without respect to other *Guest Rooms*. A *Guest Room* may be located within a *Hotel*, *Inn*, *Villa* or *Bed and Breakfast*. A *Guest Room* shall contribute to the *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Hotel*” means a lodging-type building or group of buildings ~~on one *Development Parcel*~~ offering twenty-five (25) or more *Guest Rooms*, with or without meal service, on a daily, weekly, monthly, or seasonal basis. The *Property Owner* shall have the vested right to develop up to two (2) *Hotels* on the *Real Property*. The amount of *Guest Rooms* permitted in a *Hotel* shall be limited only by the total *Guest Room* entitlement densities in the *Agreement*. A *Hotel* may be owner-occupied and/or staff-occupied. Whether or not owner- or staff-occupied, a *Hotel* shall contribute to *Hotel* and *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Housing for the Workforce*” means all *Affordable Housing* and all dwelling units designed to accommodate persons employed on the *Real Property*, persons employed on Kiawah Island, persons employed on Seabrook Island, and/or persons employed within a ten (10) mile radius of the *Real Property*.

“*Inn*” means a lodging-type building or group of buildings ~~on one *Development Parcel*~~ offering thirteen (13) to twenty-four (24) *Guest Rooms*, with or without meal service, on a daily, weekly, monthly, or seasonal basis. An *Inn* may be owner-occupied and/or staff-occupied.

“*Land Development Regulations*” means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of *Development* and includes, but is not limited to, *Local Government* zoning, rezoning, subdivision, building construction, occupancy, aesthetic, road, or sign regulations or any other regulations controlling the *Development* or use of property.

“*Laws*” means all ordinances, resolutions, regulations, comprehensive plans, *Land Development Regulations*, policies and rules, custom and usage (formal or informal) adopted by a *Local Government* affecting the *Development* of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications, except as provided in section 6-31-140(A) of the South Carolina Code.

“*Local Government*” means any county, municipality, special district, or governmental entity of the state, county, municipality or region established pursuant to law which exercises regulatory control over, and grants *Development Permits* for land *Development* or which provides public *Facilities*. The *County* is a *Local Government*.

“*Lot*” means *Development Parcel* identified in a *Subdivision Plat* recorded in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina.

“Lot Line, Front” means the lot line separating a Lot from the Thoroughfare that is used as the primary access point to the Lot. In cases where a Lot abuts open space, including passive recreation areas, on one side, and a Thoroughfare that is used as the primary access on the opposite side, the Property Owner may designate the lot line abutting the open space as the Front Lot Line and the opposite lot line (abutting the Thoroughfare) as the rear lot line. In cases where a Lot abuts more than one Thoroughfare, the Property Owner may designate the Front Lot Line pursuant to Section 6.1.c herein.

“Mixed Use” means a use, structure, or parcel containing both residential and non-residential elements.

“Natural Ground” means average elevation of a Lot or Development Parcel prior to Development activity.

“OCRM” means DHEC’s Office of Ocean and Coastal Resource Management.

“OCRM Critical Line” means the critical area line defined by OCRM.

“Parties” are the Property Owner and the County. When used herein with reference to a specific Tract, Development Parcel, Lot, or other portion of the Real Property, Parties shall mean and refer to the County and that specific person or entity that has legal title to such Tract, Development Parcel, Lot, or other portion of the Real Property. If portions of the Agreement apply to one or more, but not all, of the entities or persons comprising the Property Owner, those particular parties may be separately referred to herein.

“Passive Recreation Area” means areas in and located due to the presence of a particular natural or environmental setting and that may include conservation lands or waters providing for both active and passive types of resource-based outdoor recreation activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition such as boating, fishing, camping, nature trails and nature study. A farm or other agricultural use shall be considered a Passive Recreation Area. Passive Recreation Areas shall constitute open space.

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“Plan” means the Kiawah River ~~Plantation~~ Planned Development District Plan. The Plan is attached to the Agreement and incorporated therein by reference. The Plan shall constitute a vested right of the Property Owner during the term of the Agreement (including any extensions or renewals thereof).

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“Planning Director” means the Director of the Planning Department of Charleston County or the authorized designee or representative of the Director.

“Project” is the Development that has occurred and will occur on the Real Property.

“Property Owner” means Kiawah River ~~Plantation, LP, a limited partnership organized and existing under the laws of Delaware; and Ocean Boulevard Properties, a South Carolina Limited Partnership~~Investment, LLC; together with all subsidiaries thereof and other entities, which may have a

legal interest on the date of execution hereof in any of the *Real Property* described in Paragraph 4 of the *Agreement* and includes their successors in interest, successors in title (as to any portion of the *Real Property*), and/or assigns by virtue of assignment or other instrument compliant with the *Agreement*. When used herein with reference to a specific *Tract, Development Parcel, Lot*, or other portion of the *Real Property*, “*Property Owner*” shall mean and refer to that specific person or entity that has legal title to such *Tract, Development Parcel, Lot*, or other portion of the *Real Property*. The *Property Owner* warrants that there are no other legal or equitable owners of the *Real Property* on the *Effective Date*.

“*Protected Trees*” means any tree on a parcel with a diameter breast height of eight inches or greater prior to development and all trees within required buffers or required landscape areas. Limited removal is allowed only when specified by the provisions of this Ordinance.

“*PSC*” means the Public Service Commission, as established pursuant to section 58-3-10 of the South Carolina Code, as amended.

“*Real Property*” is the *Real Property* referred to in Paragraph 4 of the *Agreement* and includes any improvements or structures customarily regarded as part of real property.

“*Setback*” means any required minimum distance from a *Lot* line or street right-of-way that establishes an area within which a structure shall not be erected. Any *Laws* applicable to *Setbacks* and exceptions to *Setbacks* are set forth in the *Plan*, which shall control in lieu of *Laws* applicable to *Setbacks* and exceptions to *Setbacks* in the *ZLDR* or other *Laws*.

“*Subdivision Plat*” means a recorded graphic description of property prepared and approved in compliance with the *ZLDR*, as modified by this *Agreement*.

“*Thoroughfare*” means a way for use by vehicular and pedestrian traffic and to provide access to *Lots* and open spaces, consisting of vehicular lanes and their adjacent rights-of-way.

“*Tract*” means and refers to composite parcels of the *Real Property* that have yet to be subdivided.

“*Villa*” means a lodging-style building offering one or more bedrooms and other areas (such as cooking and sanitary facilities) operating as a single unit, with or without meal service, on a daily, weekly, monthly, or seasonal basis. A *Villa* may be owned and temporarily occupied by an individual or entity without respect to ownership of other *Villas*. A *Villa* shall constitute one (1) *Guest Room* and shall contribute to *Guest Room* entitlement densities, and no others, in the *Agreement*.

“*Zoning and Land Development Regulations*” or “*ZLDR*” means and refers to the *Zoning and Land Development Regulations* of Charleston County, South Carolina.

SECTION 4 - USES

Exhibit 4.1 illustrates the areas for the *Development* on the *Real Property*, including a general delineation of the allowed uses within each area. The configuration and location of these areas for *Development* are conceptual approximations only. Based on market demand and other considerations, the *Development* which may actually occur on the *Real Property* is subject to change within the legal guidelines of the *Agreement* and the *Plan* and not the illustrations in Exhibit 4.1. The conceptual illustrations and maps attached hereto are therefore not commitments or representations to the *County* or any third party.

4.1 Permitted Principal Uses

A. Table of Uses: The Table of Uses attached hereto as Table 4.1 shall control the uses permitted, prohibited, and permitted with conditions on the *Real Property* or designated portions thereof. All of the uses listed in Table 4.1 shall be as defined in Chapter 12 of the *ZLDR*, as it exists on the *Effective Date*, unless specific definitions have been supplemented or modified in section 3 of this *Plan*.

B. Use Types: The following use types shall control Table 4.1:

1. Allowed Uses: An “A” indicates that a use type is allowed by right on the *Real Property* or a portion thereof. A special exception shall not be required.

2. Conditional Uses: A “C” indicates that a use type is allowed on the *Real Property* or a portion thereof only if it complies with use-specific conditions, as set forth further in the *Plan*. A cross-reference to the applicable use-specific conditions can be found in the “Conditions” column of Table 4.1. The number provides a cross-reference to a use-specific condition contained in Article 6.4 of Appendix D, which is a red-line of the *ZLDR*. The conditions set forth herein shall control use-specific conditions on the *Real Property*. A conditional use shall be permitted upon the *Property Owner*’s compliance with the applicable conditions herein.

3. New or Unlisted Uses: The *Planning Director* shall be authorized to make use determinations whenever there is a question regarding the category of use based on the definitions contained in Chapter 12 of the *ZLDR*, as it exists on the *Effective Date* and as specific definitions are modified or supplemented herein.

C. Mixed Uses: The *Property Owner* may utilize different permitted land uses on a particular *Lot* or *Development Parcel*.

D. Hunting: Hunting shall be permitted on any portion of the *Real Property* provided all applicable permits and approvals are obtained.

4.2 Accessory Uses

Accessory uses shall be permitted, permitted with conditions, or prohibited in accordance with Article 6.5 of Appendix D, which is a red-line of the *ZLDR*.

4.3 Temporary Uses

1. Temporary Accessory Dwelling Units: The *ARB* may allow, allow with conditions, or prohibit temporary accessory dwelling units, such as dormitory-style farm or other labor housing, or other *Accessory Dwelling Units* on the *Real Property* or any portion thereof. The precise

configuration, location and amount of temporary accessory dwelling units permitted on the *Real Property* or any portion thereof shall be in the *ARB*'s discretion.

2. Temporary Modular Units: The *ARB* may allow, allow with conditions, or prohibit temporary modular units for recreational, construction, commercial, retail, office or other uses (excluding residential uses) on the *Real Property* or any portion thereof. The precise configuration, location and amount of temporary modular units permitted on the *Real Property* or any portion thereof shall be in the *ARB*'s discretion. Temporary modular units shall not count toward any caps within the *Agreement*.

3. Temporary Sales: The *ARB* may permit, permit with conditions, or prohibit temporary sales on the *Real Property* or any portion thereof.

4. Assemblies and Special Events: The *ARB* may permit, permit with conditions, or prohibit temporary public or private assembly use and events of public or private interest, such as cultural events, weddings, outdoor concerts and parking for special events on the *Real Property* or any portion thereof. The *ARB* may promulgate, modify and enforce any regulations pertaining to assemblies and special events in applicable *Covenants*.

5. Construction Facilities: The *ARB* may permit, permit with conditions, or prohibit accessory construction facilities on any *Development Parcel, Tract* or other portion of the *Real Property*.

4.4 Areas Designated for Future Use: All areas designated for future expansion or not intended for immediate improvement or development shall remain in a natural state until such time as development permits are approved; provided, however, with respect to this provision, the "natural state" of the property shall include those uses permitted under base zoning.

Table 4.1-Table of Uses

Use Designation	Uses	Classification or Conditions
Agricultural	Animal Aquaculture, including Finfish Farming, Fish Hatcheries, or Shrimp or Shellfish Farming (in ponds)	
	Apiculture (Bee Keeping)	A
	Horse or Other Animal Production	
	Concentrated Animal Feeding Operations	
	Greenhouse Production or Food Crops Grown under Cover	A
	Horticultural Production or Commercial Nursery Operations	A
	Hydroponics	A
	Crop Production	A
	Bona Fide Forestry Operations	C, §6.4.23
	Lumber Mills, Planing, or Saw Mills, including chipping and mulching	
	Stable	C, §6.4.20
	Agricultural Processing	
	Agricultural Sales or Services	A
	Roadside Stands, including the sale of Sweetgrass Baskets	C, §6.4.58
	Residential	Congregate Living for the elderly
Duplex		A
Dwelling Group		C, §6.4.7
Multi-Family, including Condominiums or Apartments		A
Retirement Housing		C
Retirement Housing, Limited (up to 10 residents)		C
Single Family Attached, also known as Townhouses or Rowhouses		C, §6.4.2
Single Family Detached		A
Workforce Housing		A
Affordable Housing		A
Civic/Institutional	Court of Law	A* ¹
	Safety Services, including Emergency Medical or Ambulance Service, Fire Protection and Police Protection	A*
	Adult Day Care Facilities	C*, §6.4.29
	Child Day Care Facilities, including Group Day Care Home or Child Care Center	C*, §6.4.29
	Family Day Care Home	A*

¹ An asterisk (*) indicates the use will contribute to GLA entitlement densities, and no others, in the Agreement.

Death Care Services	Cemeteries or Crematories	A
	Funeral Services, including Funeral Homes or Mortuaries	A*
Educational Services	Pre-School or Educational Nursery	C*, §6.4.29
	School, Primary	A*
	School, Secondary	A*
	College or University Facility	A*
	Business or Trade School	A*
	Personal Improvement Education, including Fine Arts Schools or Automobile Driving Schools	A*
Health Care Services	Medical Office or Outpatient Clinic, including Psychiatrist Offices, Abortion Clinics, Chiropractic Facilities, or Ambulatory Surgical Facilities	A*
	Convalescent Services, including Nursing Homes	A*
	Public or Community Health Care Centers	A*
	Health Care Laboratories, including Medical Diagnostic or Dental Laboratories	A*
	Home Health Agencies	A*
	Hospitals, including General Hospitals, Specialized Hospitals, Chronic Hospitals, Psychiatric or Substance Abuse Hospitals, or Hospices	A*
Museums, Historical Sites and Similar Institutions	Historical Sites (Open to the Public)	A
	Libraries or Archives	A
	Museums	A*
	Nature Exhibition	C, §6.4.10
	Botanical Gardens	A*
Postal Service	Postal Service	A*
Recreation and Entertainment	Community Recreation, including Recreation Centers	A
	Fishing or Hunting Guide Service (commercial)	A*
	Fishing or Hunting Lodge (commercial)	A*
	Golf Courses or Country Clubs	C, §6.4.50
	Parks and Recreation	A
	Recreation and Entertainment, Indoor, including Bowling Centers, Ice or Roller Skating Rinks, Indoor Shooting Ranges, Theaters, or Video Arcades	C*, §6.4.11

	Recreation and Entertainment, Outdoor, including Amusement Parks, Fairgrounds, Miniature Golf Course, Race or Go-Cart Tracks, or Sports Arena	C*, §6.4.11
	Golf Driving Ranges	C*, §6.4.11
	Outdoor Shooting Ranges	C*, §6.4.11
	Recreation or Vacation Camps	C*, §6.4.11
	Equestrian	C, §6.4.11
Religious, Civic, Professional and Similar Organizations	Business, Professional, Labor or Political Organizations	A*
	Social or Civic Organizations, including Youth Organizations	A*
	Religious Assembly	A
	Social Club or Lounge	A
Utility and Waste-Related Uses	Utility Service, Major	C, §6.4.17 §6.4.21
	Electric or Gas Power Generation Facilities	C, §6.4.17 §6.4.21
	Utility Substation	C, §6.4.21
	Electrical or Telephone Switching Facility	C, §6.4.21
	Sewage Collector or Trunk Lines	C, §6.4.21
	Sewage Disposal Facilities	C, §6.4.17
	Utility Pumping Station	C, §6.4.21
	Water Mains	C, §6.4.21
	Water or Sewage Treatment Facilities	C, §6.4.21
	Water Storage Tank	C, §6.4.21
	Utility Service, Minor	C, §6.4.31
	Electric or Gas Power Distribution	C, §6.4.31
	Sewage Collection Service Line	C, §6.4.31
	Water Service Line	C, §6.4.31
	Septic Tank Installation, Cleaning or Related Services	C, §6.4.31
Accommodations	Hotels	A
	Inns	A
	Bed and Breakfasts	C, §6.4.4
	Villas	A
Animal Services	Kennel	C*, §6.4.54
	Pet Stores or Grooming Salons	A*
	Small Animal Boarding (enclosed building)	A*
	Veterinary Services	A*

Commercial	Banks	A*
-Financial	Financial Services, including Loan or Lending Services, Savings and Loan Institutions, or Stock and Bond Brokers	A*
-Food Services and Drinking Places	Bar or Lounge (Alcoholic Beverages), including Taverns, Cocktail Lounges, or Member Exclusive Bards or Lounges	A*
	Catering Service	A*
	Restaurant, Fast Food, including Snack or Non-Alcoholic Beverage Bars	A*
	Restaurant, General, including Cafeterias, Diners, Delicatessens, or Full Service Restaurants	A*
-Information and Industries	Communication Services, including Radio or Television Broadcasting Studios, News Syndicates, Film or Sound Recording Studios, Telecommunication Service Centers, or Telegraph Service Offices	A*
	Communication Towers	C*, §6.4.5
	Data Processing Services	A*
	Publishing Industries, including Newspaper, Periodical, Book, Database, or Software Publishers	A*
-Offices	Administrative of Business Office, including Bookkeeping Services, Couriers, Insurance Offices, Personnel Offices, Real Estate Services, Secretarial Services, or Travel Arrangement Services	A*
	Government Office	A*
	Professional Office, including Accounting, Tax Preparation, Architectural, Engineering, or Legal Services	A*
-Other Non-Residential Development	Convention Center or Visitors Bureau	A*
	Office/Warehouse Complex	A*
	Off-Premises Sign (e.g. Billboard)	C*, See section 13.2 of the <i>Plan</i>
	Special Trade Contractors (Offices/Storage)	C*, §6.4.36
	Building Equipment or Other Machinery Installation Contractors	C*, §6.4.36
	Carpentry Contractors	C*, §6.4.36
	Concrete Contractors	C*, §6.4.36
	Drywall, Plastering, Acoustical or Insulation Contractors	C*, §6.4.36
	Electrical Contractors	C*, §6.4.36
	Excavation Contractors	C*, §6.4.36
	Masonry or Stone Contractors	C*, §6.4.36
	Painting or Wall Covering Contractors	C*, §6.4.36
	Plumbing, Heating or Air Conditioning Contractors	C*, §6.4.36
	Roofing, Siding or Sheet Metal Contractors	C*, §6.4.36
	Tile, Marble, Terrazzo or Mosaic Contractors	C*, §6.4.36

Parking	Parking Lots	A
	Parking Garages	A
Rental and Leasing Services	Charter Boat or Other Recreational Watercraft Rental Services	C*, Article 5.3
	Construction Tools or Equipment Rentals	A*
	Consumer Goods Rental Centers	A*
	Consumer Goods Rental Service, including Electronics, Appliances, Formal Wear, Costume, Video or Disc, Home Health Equipment, Recreational Goods, or other Household Items	C*, §6.4.38
	Self-Service Storage/Mini-Warehousing	C*, §6.4.16
Repair and Maintenance Services	Boat Yard	C*, §6.4.39 Article 5.3
	Repair Service, Consumer, including Appliance, Shoe, Watch, Furniture, Jewelry, or Musical Instrument Repair Shops	C*, §6.4.40
	Repair Service, Commercial, including Electric Motor Repair, Scientific or Professional Instrument Repair, Tool Repair, Heavy Duty Truck or Machinery Servicing and Repair, Tire Retreading or Recapping, or Welding Shops	A*
	Vehicle Repair Consumer, including Muffler Shops, Auto Repair Garages, Tire or Break Shops, or Body or Fender Shops	C*, §6.4.22
	Vehicle Service, Limited, including Automotive Oil Change or Lubrication Shops, or Car Washes	C*, §6.4.22
Retail Sales	Nonstore Retailers	A*
	Direct Selling Establishments	A*
	Electronic Shopping or Mail-Order Houses	A*
	Fuel (except liquefied petroleum gas) Dealers, including Heating Oil Dealers	A*
	Liquefied Petroleum Gas (Bottled Gas) Dealers	C*, §6.4.41
	Vending Machine Operators	A*
	Building Materials or Garden Equipment and Supplies Retailers	C*, §6.4.42
	Hardware Stores	C*, §6.4.42
	Home Improvement Centers	A*
	Garden Supply Centers	C*, §6.4.42
	Outdoor Power Equipment Stores	C*, §6.4.42
	Paint, Varnish or Wallpaper Stores	C*, §6.4.42
	Food Sales, including Grocery Stores, Meat Markets or Butchers, Retail Bakeries, or Candy Shops	A*
	Liquor, Beer or Wine Sales	A*

	Retail Sales or Services, General	A*
	Art, Hobby, Musical Instrument, Toy, Sporting Goods, or Related Products Store	A*
	Clothing, Piece Goods, Shoes, Jewelry, Luggage, Leather Goods or Related Products Store	A*
	Convenience Stores	A*
	Drug Stores or Pharmacies	A*
	Duplicating or Quick Printing Services	A*
	Electronics, Appliance or Related Products Store	A*
	Florist	A*
	Furniture, Cabinet, Home Furnishings or Related Products Store	A*
	Pawn Shop	A*
	Private Postal or Mailing Service	A*
	Tobacconist	A*
	Sweetgrass Basket Stands	C*, §6.4.58
	Warehouse Clubs or Superstores	A*
	Service Stations, Gasoline (with or without convenience stores)	A*
	Motorcycle, Watercraft, or Recreational Vehicle Dealers	A*
	Vehicle Parts, Accessories or Tire Stores	A*
Retail or Personal Services	Consumer Convenience Service	A*
	Automated Bank/Teller Machines	A*
	Drycleaners or Coin-Operated Laundries	A*
	Drycleaning or Laundry Pick-up Service Stations	A*
	Locksmith	A*
	One-Hour Photo Finishing	A*
	Tailors or Seamstresses	A*
	Hair, Nail or Skin Care Services, including Barber Shops or Beauty Salons	A*
	Personal Improvement Service, including Dance Studios, Health or Physical Fitness Studios, Photography Studios, or Reducing Studios	A*
	Services to Buildings or Dwellings, including Carpet or Upholstery Cleaning, Exterminating, or Janitorial services	A*
	Landscaping and Horticultural Services to commercial, industrial, or institutional buildings and residences	A*
Water Dependent Uses	Boat Ramps	C, §5.3.4 Article 5.3
	Dock or Pier	C, §5.3.3 Article 5.3
	Dry Stack Storage for Watercraft	C*, Article 5.3

Recycling Services	Recycling Center	A*
	Recycling Collection, Drop-Off	A*
Transportation	Sightseeing Transportation, Land or Water	C*, Article 5.3
	Taxi or Limousine Service	A*
	Urban Transit Systems	A*
	Water Transportation, including Coastal or Inland Water Passenger Transportation	C*, Article 5.3

SECTION 5 – ENTITLEMENT DENSITIES

5.1 Entitlements

Exhibit 5.1 illustrates the *Development* the *Property Owner* may institute on the *Real Property* pursuant to the *Plan*. The configuration and location of the individual elements of the *Plan* are conceptual approximations only. Based on market demand and other considerations, the *Development* which may actually occur on the *Real Property* is subject to change within the legal guidelines of the *Agreement* and the *Plan* and not the illustrations in Exhibit 5.1. The conceptual illustrations and maps attached hereto are therefore not commitments or representations to the *County* or any third party. The *Property Owner* shall have a vested right to the following entitlement densities on the *Effective Date*:

1. Dwelling Units: The *Property Owner* shall have the vested right to develop up to 1,285 *Dwelling Units* on the *Real Property* and may determine the precise type, configuration and location of *Dwelling Units*, provided that:

- The *Property Owner* may not develop more than 580 *Dwelling Units* on the portion of the *Real Property* formerly zoned AG-8 which is designated as Rural Residential in the *Plan*; and
- The *Property Owner* may not develop more than 80 *Dwelling Units* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.

Table 5.1 illustrates the maximum and average residential densities for each residential use; the maximum total acreage of each residential unit requested (including *Housing for the Workforce* units); and the maximum allowable number of each type of residential unit requested (including *Housing for the Workforce* units).

2. Housing for the Workforce: “*Housing for the Workforce*” means all *Affordable Housing* and all dwellings designed to accommodate persons employed on the *Real Property*, persons employed on Kiawah Island, persons employed on Seabrook Island, and/or persons employed within a ten (10) mile radius of the *Real Property*. Of the 1,285 total *Dwelling Units*, 117 shall constitute *Housing for the Workforce* units. Further, 18 of the *Housing for the Workforce* units shall constitute *Affordable Housing*. The *Property Owner* may determine the precise type, configuration and location of *Housing for the Workforce* and *Affordable Housing* on the *Real Property*, in compliance with the *Agreement* and the *Plan*; provided, however, that the *Housing for the Workforce* units and *Affordable Housing* units shall be located throughout the *Real Property* and the *Dwelling Unit* caps described in number 1, above, are not exceeded.

3. Commercial and Institutional Entitlement Densities: “*Gross Leasable Area*” or “*GLA*” means floor area devoted to a use designated as such in Table 4.1. *GLA* does not include public or common areas, such as parking lots, utility rooms and stairwells, in a building or on a *Lot* otherwise devoted to a use designated as *GLA* in Table 4.1. For the purpose of this provision, the term “floor area” shall have the definition specified in Chapter 12 of the *ZLDR* on the *Effective Date*. The *Property Owner* shall have the vested right to develop up to 80,000 square feet of *GLA* on the *Real Property*. This *GLA* shall constitute a vested right on the *Effective Date*. The *Property Owner* may determine the precise configuration and location of *GLA* on the *Real Property*, in compliance with the *Agreement* and the *Plan*.

4. Lodging: The *Property Owner* shall have a vested right to develop up to 450 *Guest Rooms* on the *Real Property*, which may be dispersed among *Villas*, *Inns*, *Beds and Breakfasts*, and/or up to two (2) *Hotels*. The *Property Owner* shall have a vested right to develop up to two (2) *Hotels* on the *Real*

Property; provided, however, the total number of *Guest Rooms* and *Villas* on the *Real Property* may not exceed 450. The *Property Owner* may determine the precise type, configuration and location of *Hotels*, *Villas*, and *Guest Rooms* on the *Real Property*, in compliance with the *Agreement* and the *Plan*. *Guest Rooms*, *Hotels*, and *Villas* shall not count against any of the other entitlement densities in the *Agreement*.

5. Golf Course: “*Golf Course*” means a tract or tracts of land laid out for up to thirty-six (36) holes for playing the game of golf and improved with tees, greens, fairways, and hazards, and that may include club houses, driving ranges, training facilities, maintenance facilities, and shelters. *Golf Courses* shall constitute *Active Recreation Areas*. The *Property Owner* shall have the right to develop a portion of the *Real Property* for use as a *Golf Course* or *Golf Courses*, including up to 36 holes, any or all of which the *Property Owner* may develop as public or private, provided, however, that the *Golf Course(s)* shall not comprise the entire area designated as open space. The *Property Owner* shall have the right to build full-service club houses, practice ranges, training facilities and maintenance facilities accessory to the *Golf Course(s)* on the *Real Property* in any location the *Property Owner* deems appropriate, in compliance with the *Agreement* and the *Plan*. The *Property Owner* may determine the precise configuration and location of the *Golf Course(s)* and its/their accessory uses, in compliance with the *Agreement* and the *Plan*. The *Golf Course(s)*, including club houses, pro shop and other accessory uses, shall not count against any of the other entitlement densities in the *Agreement*.

Table 5.1 – Table of Proposed Land Uses

Permitted Uses	Not to Exceed (“nte”)	Minimum Acreage	Maximum Acreage	Maximum Density	Maximum Floor Area Ratio
Single Family Detached	nte 1285		550	4/acre	
Single Family-Attached	nte 320		50	10/acre	
Multi-Family	nte 320		50	20/acre	
Housing for the Work Force	up to 117		40	20/acre	
All Residential	nte 1285		600	1.01/acre	
GLA	nte 80,000 GLA		12		2
Accommodations	nte 450 <i>Guest Rooms</i>		50		2
Open Space		635.31acres			

The following standards shall apply to Table 5.1 and the location of densities within the *Development*:

1. As used in Table 5.1, “Density” refers to the number of *Dwelling Units* per unit of land area. Density is calculated by dividing the number of *Dwelling Units* on a site by the gross area (in acres) of highland (including freshwater wetlands) of the site on which the *Dwelling Units* are located, provided that all other requirements of the *Plan* are met.
2. The *Property Owner* may not exceed 50,000 square feet of *GLA* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.
3. The *Property Owner* may not exceed 80 *Dwelling Units* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.
4. The *Property Owner* may not exceed 580 *Dwelling Units* on the portion of the *Real Property* formerly zoned AG-8 which is also designated in the *Plan* as Rural Residential.

SECTION 6 – PD DISTRICT STANDARDS

6.1 Building Development Standards

A. Generally: Table 6.1 sets forth any applicable standards for *Lot* area, *Lot* depth, *Lot* width, *Setbacks*, *Building Height*, *Building Coverage*, and all other dimensional standards for the *Real Property* or particular portions thereof. The measurements, computations, and exceptions to the *Building Development Standards* in Table 6.1 shall be as set forth further herein.

B. Lot Size:

1. Lot Area: *Lots* shall comply with the *Lot* area standards in Table 6.1 of the *Plan*.

2. Lot Depth: The depth of residential *Lots* shall not exceed five (5) times the width of the *Lot* (a 1:5 ratio); provided, however, the *ARB* may allow the *Lot* width to depth ratio of 1:5 to be exceeded when any of the following conditions occur:

a. When attached dwellings are proposed;

b. Where additional depth is provided for marsh frontage *Lots* when the *Lot* width to depth ratio is met and the property line is extended into the marsh or the property is bisected by or fronts on freshwater wetlands;

c. The subdivision of a parent *Tract*, provided any of the following requirements are met:

i. The minimum *Lot* frontage for each *Lot* is not less than 250 feet;

ii. In no case shall the average *Lot* width be less than 250 feet with the minimum *Lot* width at any one point less than 200 feet; or

iii. The property to be subdivided is located in the Rural Residential portion of the *Real Property*.

3. Prescribed *Lot* width requirements shall be for at least two-thirds of the depth of the *Lot*.

C. Lot Access:

~~1. Lot Frontage, Lot Access, and Double- Frontage Lots: Double frontage lots:~~

~~a. The Front Lot Line for *Lots* that abut open space on one side and a Thoroughfare on the other shall be avoided except where essential to provide separation of residential development from major roadways or designated pursuant to the Front Lot Line definition contained herein. (Attached as Exhibit 6.3 is an illustration of a *Lot* fronting on open space illustrating the designation of the Front Lot Line).~~

~~b. *Lots* with more than one frontage on a Thoroughfare shall be allowed; however, only one vehicular access shall be allowed for each *Lot*. Where a *Lot* has more than one frontage on a Thoroughfare, the *Property Owner* shall identify one of the Thoroughfare frontages as the Front Lot Line and one as the rear lot line provided that~~

there is an adequate vision clearance triangle for the lot line with the vehicular access. The remaining lot lines will be subject to overcome specific disadvantages of topography and orientation. side setback standards. An easement(s) with a minimum width of ~~ten~~ five feet may be required by the Zoning and Planning Department Director to restrict access from ~~the major street or other area. any Thoroughfare~~ or other vehicular access other than that designated as the primary access.

2. Public Access: All *Lots* shall be provided with a direct or indirect means of access to Betsy Kerrison Parkway and Mullet Hall Road through the system of *Thoroughfares* on the *Real Property*. This provision shall not preclude the *Property Owner* from implementing a private *Thoroughfare* system with respect to the *Real Property* or any portion thereof and shall not be interpreted to require that all *Lots* front a public *Thoroughfare*.

3. Vehicular access: Streets within planned developments should connect to adjoining neighborhoods/developments. Cul-de-sacs, T-turnarounds, and dead-end streets are discouraged. Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service. Primary vehicular access to office, commercial, or industrial development shall be through limited access roads.

4. Miscellaneous: All flag *Lots*, *Lots* on a cul-de-sac, and privately-accessed *Lots* shall comply with the International Fire Code, as adopted by the *County*.

5. Flag Lots: The *Real Property* contains substantial areas of wetlands, which may necessitate the use of flag *Lots* in certain instances. Accordingly, with respect to residential *Lots*, the *ARB* may allow, allow with conditions, or prohibit flag *Lots* on the *Real Property* or any portion thereof. The flagpole portion of a flag lot shall have a minimum width of 20 feet for its entire depth, and the depth or length of the flagpole shall not exceed 450 feet.

6. Public Access vs. Publicly-Maintained: References herein to “public access” shall not be read to require that any or all access points must be publicly maintained.

D. Residential Density: The *Property Owner* shall be entitled to develop up to 1,285 *Dwelling Units* on the *Real Property*. This entitlement density correlates to a gross residential density of .90 *Dwelling Units* per acre (including all acreage) or 1.01 *Dwelling Units* per acre (including only highland and freshwater wetland). No other residential density requirements are applicable to the *Project*, except as provided in Table 6.1; provided, however (1) the *Property Owner* may not develop more than 580 *Dwelling Units* on the portion of the *Real Property* formerly zoned AG-8 which is designated as Rural Residential in the *Plan*; and (2) the *Property Owner* may not develop more than 80 *Dwelling Units* on the portion of the *Real Property* delineated in the *Plan* as the Bohicket Station.

E. Minimum Setbacks: *Setbacks* are the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the *Lot* on which the structure is located, except as modified herein. *Setback* standards on the *Real Property* are set forth in Table 6.1; provided, however, the following shall apply:

1. Negative or “Zero” Lot Lines: The *Property Owner* may employ negative or “zero” *Lot* lines. Refer to Table 6.1.

2. Exceptions to Setbacks: Every part of a required *Setback* must be open and unobstructed from the ground to the sky, except as follows:

a. Trees, shrubbery or other landscape features may be located within any required *Setback*;

b. Fences and walls may be located within any required *Setback*; provided, however, that for residential, office, and commercial uses, no fence, wall or hedge shall exceed:

(1) Four feet in height when located within any front or street side *Setback*;

(2) Six feet in height when located in any interior side, rear, or *OCRM Critical Line Setback*.

c. Driveways may be located in any required *Setbacks*;

d. *Community Ways* may be located within any required *Setbacks*;

e. Utility lines, transformers, pedestals, wires and associated structures, such as power poles, may be located within any required *Setbacks*;

f. Covered or uncovered porches, steps to building entrances, patio decks, garages, and balconies may extend up to five feet into any required *Setbacks*;

g. Openwork fire balconies and fire escapes may extend up to five feet into any required side *Setbacks*;

h. *Facilities*, utilities and maintenance areas, including easements, may be located within any required *Setbacks*;

i. Sills, belt courses, cornices, buttresses, eaves and other architectural features may extend up to two feet into any required *Setbacks*;

j. Chimneys and flues may extend up to two feet into any required *Setbacks*;

k. Satellite dish antennas may be placed within required rear *Setbacks*;

l. Mechanical equipment, including heating ventilation and air conditioning (HVAC) equipment, may be extended up to five feet into required side, *OCRM Critical Line*, or rear *Setbacks*.

3. Contextual Setbacks: Notwithstanding the *Setback* standards set forth in Table 6.1, the front building line of any structure or addition to a structure may be as close to the street as the front building line of a structure located on any *Lot* that is immediately adjacent to the subject *Lot*. If the subject *Lot* is located between two developed *Lots*, the front building line of the structure that is set back closest to the street shall apply to the subject *Lot*.

4. Reduction for Public Purpose: When an existing *Setback* is reduced because of conveyance to an *Association*, or a federal, state or *Local Government*, for a public purpose and the remaining *Setback* is at least fifty percent (50%) of the required *Setback*, as set forth herein, then that remaining *Setback* will be deemed to satisfy the *Setback* standards in Table 6.1. This

provision shall also apply in the event the existing *Setback* is reduced because of a conservation easement, so long as the remaining *Setback* is at least fifty percent (50%) of the required *Setback* in Table 6.1.

F. Maximum Building Height:

1. Generally: “*Building Height*” means elevation from *Ground Floor Level* as measured in feet. The maximum *Building Height* for the *Real Property* or portions thereof is set forth in Table 6.1.

2. Definition of Height-Fences or Walls: Fences or walls shall be measured from finished grade on the lower side of the fence or wall.

3. Exceptions to Height Limits: The *Building Height* limitations herein shall not apply to any of the following:

- a. Farm buildings on the *Real Property*, if any;
- b. Electrical power transmission lines;
- c. Belfries, cupolas, spires, domes, monuments, flagpoles, chimneys, radio/television receiving antennas or chimney flues;
- d. Bulkhead, elevator, water tank, or any other similar structure or necessary mechanical appurtenance extending above the roof of any building, if such structure does not occupy more than fifty percent (50%) of the area of the roof.
- e. Solar panels.

4. Maximum Building Height for Hotels: Notwithstanding any other provision herein, the maximum *Building Height* for *Hotels* shall be 65 feet. Likewise, the maximum *Building Height* for a club house on any *Golf Course* shall be 50 feet; provided, however, the maximum *Building Height* for a *Hotel* shall apply if the club house is attached to or within a *Hotel*.

G. Building Coverage: *Building Coverage* means the area of a *Lot* covered by principal or accessory buildings or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies, and the first two feet (2’) of a roof overhang. Pools, pool decks and pervious drives are not included in *Building Coverage*. The maximum *Building Coverage* for the *Real Property* or any portion thereof is set forth in Table 6.1.

6.2 Proposed Waterfront Development Standards

The *Plan* facilitates the *Development* of up to 227 single-family detached *Lots* on the portion of the *Real Property* directly abutting the *OCRM Critical Line*. A conceptual illustration of this *Development* is set forth in Exhibit 6.1. Further, pursuant to the Master Dock Plan attached hereto as Exhibit 6.2, the *Property Owner* will limit the number of docks developed on the *Real Property* to eighteen (18). In addition, the *Property Owner* shall adopt restrictive covenants with respect to single-family detached lots in the Rural Residential Area requiring that 50% of each *Lot* be preserved in its natural condition. In consideration of the foregoing and to incentivize the provision of a variety of housing types, the following minimum standards shall apply to single-family detached *Lots* abutting an *OCRM Critical Line* regardless of base zoning:

1. Lot Area: Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *Lot* area of 12,000 square feet.

2. Lot Width: Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *Lot* width of 90 feet. The average *Lot* width for all single-family detached *Lots* abutting an *OCRM Critical Line* shall be 100 feet.

3. OCRM Critical Line Buffer: Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *OCRM Critical Line* buffer of 15 feet. The portion of the *Real Property* abutting the *OCRM Critical Line* shall have an average buffer width of 35 feet. For *Lots* directly abutting the marsh of the Kiawah River in the area zoned AG-8, the buffer from the *OCRM Critical Line* shall be 35 feet and the *Setback* from the *OCRM Critical Line* shall be 50 feet. The *ARB* shall have the ability to amend the *Setback* on this portion of the *Real Property* taking into consideration *Grand Trees* or other significant trees, topography of the land, adequate *Setbacks*, and the area needed for construction and landscaping of the roads or natural conditions. All accessory structures shall comply with these standards.

4. OCRM Critical Line Setback: Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *OCRM Critical Line Setback* of 35 feet. All accessory structures shall comply with these standards.

Table 6.1 – Building Development Standards

	Bohicket Station	River Village	Rural Residential	Waterfront Development
A. LOT OCCUPATION				
Maximum Density	8 units per acre	4 units per acre	1 unit per acre	
Lot Area	1,600 sf.	1,600 sf.	9,000 sf.	12,000 sf.
Lot Width (width/length)	20' min. (1:5)	18' min. (1:5)	75' min. (1:5)	90' min./100' ave.
Building Coverage	80%	100%	50%	
B. MIN. SETBACKS - PRINCIPAL BUILDING				
Front Setback (Principle)	10' (1)	10' (1)	25'	
Side Setback	0/5' (2)	0/5' (2)	15'	
Rear Setback	5' min.	5' min.	25' min.	15' buffer / 35' setback(6)
C. MIN. SETBACKS - ACCESSORY STRUCTURES				
Front Setback	20' + Bldg. setback	20' + Bldg. setback	20' + Bldg. setback	
Side Setback	3' min.	3' min.	12'	
Rear Setback	3'	3'	3'	
D. BUILDING HEIGHT				
Principal Building	50'	50'/65' (32)	50'/65' (32)	

Notes:

1. Zero lot line homes may be built with no setbacks on one side of the property, but must have at least 10 feet of separation between buildings.
2. 65' building height should only apply to *Hotels*.
3. Width /length ratio does not apply to single-family attached dwelling units.
4. Pervious pavement for drives and pool decks, as well as the area of any pools, shall not count against *Building Coverage*.
5. Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *OCRM Critical Line* buffer of 15 feet. Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *OCRM Critical Line Setback* of 35 feet. The portion of the *Real Property* abutting the *OCRM Critical Line* shall have an average buffer width of 35 feet. For *Lots* directly abutting the marsh of the Kiawah River in the area zoned AG-8, the buffer from the *OCRM Critical Line* shall be

35 feet and the *Setback* from the *OCRM Critical Line* shall be 50 feet. The *ARB* shall have the ability to amend the *Setback* on this portion of the *Real Property* taking into consideration *Grand Trees* or other significant trees, topography of the land, adequate *Setbacks*, and the area needed for construction and landscaping of the roads or natural conditions. All accessory structures shall comply with these standards.

SECTION 7 – DEVELOPMENT SCHEDULE

A. Commencement Date: The *Project* will be deemed to commence *Development* upon the *Effective Date* of the *Agreement*.

B. Interim Completion Dates: The *Property Owner* estimates that during the years after the *Effective Date*, the following percentages of the undeveloped highlands within the *Real Property* will be developed:

<u>Year</u>	<u>Percentage Complete</u>
5	0-25%
10	26-50%
15	51-75%
20	76-100%

As such, a generalized phasing plan for the *Real Property*, showing a conceptual illustration of the *Development* which may be implemented on the *Real Property* 5 years, 10 years, 15 years, and 20 years after the *Effective Date* of the *Agreement* is attached hereto as Exhibit 7.1.

C. Completion Date: The *Property Owner* projects that the *Project* should be substantially completed (i.e. essentially all structures erected and/or all necessary infrastructure in place to serve the intended uses) twenty (20) years from the start of development.

D. Modification of Commencement or Completion Date: The *County* recognizes the *Development* on the *Real Property* will include a variety of uses and that demand, cost, environmental factors, and other pertinent financial and feasibility considerations fluctuate. Accordingly, the commencement date and schedule of completion set forth in this *Agreement* are estimates only. The timing of the actual *Development* of the *Project* will likely differ because of the multiple variables influencing it. The *Parties* agree that the commencement date, interim completion dates, and completion date are therefore subject to modification and that the *Property Owner* may provide to the *County* updated schedules which shall not constitute an amendment of this *Agreement* triggering the process for approval of amendments set forth in the *Agreement*.

SECTION 8 – OPEN SPACE AND BUFFER STANDARDS

8.1 Open Space: 635.31 acres of the *Real Property*, as delineated in Table 8.1, will be preserved or enhanced as open space or common open space (both as defined in Chapter 12 of the *ZLDR*) to provide an amenity to the residents and visitors of the *Real Property*. The *Property Owner* shall preserve or develop a minimum of fifty percent (50%) of the combined highland and freshwater wetlands on the *Real Property* as open space/common open space, totaling 635.31 acres. The following guidelines for open space, and no others, shall apply to the *Real Property*:

1. Park Spaces: The *Property Owner* will provide the following park types in the approximate locations set forth in the Open Space Plan attached as Exhibit 8.1 and based upon the specifications set forth in Exhibit 8.2:

- (3) Neighborhood Focal Point Parks
- (1) Boat Landing
- (1) Recreational Park
- (2) Waterfront Parks
- Golf course(s) with up to 36 holes (or other active or passive outdoor recreational amenities of equivalent acreage)
- Playgrounds as, and where determined by, the *Property Owner*

2. The *Property Owner* shall use best efforts to locate open space as reasonably necessary to preserve significant natural, cultural, archaeological, and historical resources on the *Real Property*. The *Property Owner* shall preserve or enhance over three (3) miles of the waterfront edge (the portion of the *Real Property* directly abutting an *OCRM Critical Line*) as open space or common open space. This preserved area shall include, but not be limited to, the two (2) waterfront parks and one (1) boat landing referred to previously in this section 8 of the *Plan*.

3. Open space which the *Property Owner* designates to be set aside for dedication to the public or the residents of the *Real Property* or any portion thereof shall be detailed on each sketch plan and recorded with a final plat or separate instrument with respect to that portion of the *Real Property* as *Development* progresses.

4. Open space should be useable to the new residents and visitors of the *Real Property* (or portions thereof) and others.

5. Residential builders shall use best efforts to maximize the orientation of residential *Lots* toward open space, common open space, natural areas, parks, marshes, wetlands, and the adjacent Johns Island County Park and Mullet Hall Equestrian Center. Open space should be designed to provide a significant amenity to the residents, visitors, and others who will interact with the open space on a daily basis.

6. The total combined acreage of freshwater wetlands, detention ponds, and buffers to be used as open space shall not comprise more than forty percent (40%) of the proposed open space herein.

7. Land enhanced or preserved as open space shall not be occupied by streets, drives, parking areas, or structures, unless such streets, drives, parking areas, or structures are pervious to stormwater.

8. A minimum of four (4) acres of farmland will be retained as community gardens.

9. The transfer and maintenance of open space and common open space will depend upon the circumstances. With respect to freshwater wetlands, water bodies, salt marsh, salt water ponds, and marsh islands, the *Property Owner* may (1) retain, preserve, and maintain this area or any portion thereof itself or through a related entity; (2) subject this area or any portion thereof to a conservation easement in favor of a qualified entity for preservation and maintenance; or (3) transfer this area or any portion thereof for ownership and maintenance to the public, an *Association*, or a qualified *Local Government*. With respect to any and all *Golf Courses*, water-dependant uses, or other active outdoor recreational areas, these areas or any portion thereof may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity (for profit or not for profit); (3) be owned and maintained by a third party (for profit or not for profit); or (4) be dedicated to the public for ownership and maintenance. With respect to the existing cemeteries, bald eagle nests, and other areas of natural, cultural, or historical significance specifically set forth further in the *Plan*, the *Property Owner* shall transfer, maintain, enhance, and/or preserve these areas as set forth further in section 14 of the *Plan*.

Table 8.1 Open Space

Total Property	1,427.81 acres			
Total Highland	1270.61 acres	100%		
Minimum Highland Open Space	635.31 acres	50%		
Highland Open Space			394.41 acres	28%
Freshwater Wetland & Impoundments			240.90 acres	17%
OCRM Critical Area Impoundments			157.20 acres	11%
Private Lots (50% of lot)			130 acres (1)	9%
Total			922.51 acres	65%

Notes:

1. The total acreage of preserved area within private *Lot* lines will vary based on the number of *Lots* developed on the Rural Residential portion of the *Real Property*.

8.2 **Buffers and Screening**

The following shall replace the processes set forth in Article 9.5 of the *ZLDR*:

A. Golf Course Use Permitted: When feasible, *Golf Course* uses shall be permitted within any required buffers on the *Real Property* excluding *OCRM* buffers and perimeter buffers. In the event the *Property Owner* elects to designate a required buffer for *Golf Course* use, the requirements for materials, location, width, and other buffering criteria in this Paragraph shall not apply.

B. OCRM Critical Line Buffers: The following buffer standards shall apply to *OCRM Critical Line* buffers on the *Real Property*:

1. Minimum Buffers: Any single-family detached *Lot* abutting an *OCRM Critical Line* shall have a minimum *OCRM Critical Line* buffer of 15 feet. The portion of the *Real Property* abutting the *OCRM Critical Line* shall have an average buffer width of 35 feet. For *Lots* directly abutting the marsh of the Kiawah River in the area zoned AG-8, the buffer from the *OCRM Critical Line* shall be 35 feet and the *Setback* from the *OCRM Critical Line* shall be 50 feet. The *ARB* shall have the ability to amend the *Setback* on this portion of the *Real Property* taking into consideration *Grand Trees* or other significant trees, topography of the land, adequate *Setbacks*, and the area needed for construction and landscaping of the roads or natural conditions. All accessory structures shall comply with these standards.

2. Prohibited Activities: The following activities are specifically prohibited in an *OCRM Critical Line* buffer area:

a. Removal, excavation or disturbance of the soil, except for minimal disturbance associated with the planting of shrubs or trees for landscaping;

b. Grassed lawns requiring regular maintenance such as herbicides, pesticides, fertilizers, and frequent mowing;

c. Gardens, fences, or structures, except for permitted crossings;

d. Paved or other impervious surfaces; however, unpaved or pervious *Community Ways* shall be permitted;

e. Destruction or addition of plant life which would alter the existing pattern of vegetation.

3. Exceptions to OCRM Critical Line Buffers. The Property Owner shall be allowed the following exceptions for alteration of the OCRM Critical Line Buffers:

a. Village Green: An Open Space area not to exceed 50 feet in width, which may include a deck, shall be allowed to intrude into the OCRM Critical Line setback and buffer up to the OCRM Critical Line in one location as generally shown on the non-binding illustration attached as Exhibit 8.3.

b. Saltwater Wetlands Mitigation. Property Owner shall be allowed to disturb the OCRM Critical Line Buffer and conduct activity in the OCRM Critical Line Buffer only as necessary, and with the minimal amount of impact and variance from the OCRM Critical Line Buffer requirements as determined by the Zoning and Planning Department Director, in order to accomplish the saltwater wetlands mitigation approved by the United States Army Corps of Engineers in its letter dated April 4, 2017, copy attached as Exhibit 8.4 hereto.

C. Perimeter Buffers:

1. Generally: The *Property Owner* shall provide a natural buffer, at least twenty-five feet (25') wide, between the perimeter of the *Real Property* and an adjacent property titled to an unrelated party on the *Effective Date*; provided, however, this provision shall not require the *Property Owner* to provide a buffer between the *Real Property* and any adjacent property acquired by the *Property Owner* or a related entity after the *Effective Date*. This perimeter buffer is illustrated in the Perimeter Buffer Plan attached hereto as Exhibit 8.1.

2. Betsy Kerrison Parkway: The *Property Owner* shall provide for at least a fifty foot (50') wide buffer from the public right-of-way along Betsy Kerrison Parkway. This buffer is also illustrated in Exhibit 8.1.

3. Buffers Provided on Adjacent Property: A perimeter buffer will not be required when an adjacent property has a pre-existing natural or man-made buffer (e.g. Park) of at least twenty-five feet (25') or is used for a golf course on the *Effective Date*.

D. Internal Buffers: Certain internal buffers will be required for adjacent uses according to Table 8.2.

E. Buffer Materials:

1. Perimeter Buffers: The existing vegetation within a required perimeter buffer will be protected, when reasonable. Unless otherwise precluded by state law, the *Property Owner* shall have the right to perform select clearing and landscaping within a required perimeter buffer; provided, however, the *Property Owner* shall eliminate or reduce dirt, litter, noise, glare of lights, and unsightly buildings or parking areas in a required perimeter buffer. Select clearing within a required perimeter buffer shall be consistent with improvements to the buffers in the general vicinity. Select clearing within a required perimeter buffer shall not allow for the removal of protected trees. Furthermore, this select clearing shall not include trimming limbs more than eight feet (8') above ground level. The desired effect is a mature, natural vegetative buffer. Gates, walls, fences, lighting, signage, driveways, *Community Ways*, and curb-cuts will be allowed in buffers to complement edge conditions. Notwithstanding the foregoing, the *Property Owner* may establish a park or *Golf Course* use within a perimeter buffer when feasible.

2. Internal Buffers: Any material requirements for internal buffers will be considered on a case-by-case basis as deemed necessary by the *ARB* to complement and enhance the overall aesthetics and character of the *Real Property*; provided, however, gates, walls, fences, lighting, signage, driveways, *Community Ways*, and curb-cuts will be allowed in internal buffer areas on the *Real Property*, subject to *ARB* approval. Public or private parks, recreational areas, and *Golf Course* uses shall not require additional buffering material.

F. Cemetery Buffers: Three (3) cemeteries, designated in the Cultural Resources Survey procured by the *Property Owner* as 38CH1540, 38CH1548, and 38CH1549, will not be developed except as provided herein. Additionally, as recommended in the survey, 38CH1540 will have a fifty foot (50') minimum buffer, 38CH1548 will have a twenty-five foot (25') minimum buffer, and 38CH1549 will have a fifty foot (50') minimum buffer. All three cemetery sites will have construction fences erected for their protection during all phases of construction activity. As further recommended in the survey, the *Property Owner* will remove all trees in the

cemeteries of 5-inches DBH or less in diameter. The remaining trees will be pruned for crown cleaning and overall restoration. No tree survey or other *County* permits shall be required for such clearing and restoration.

8.3 Restrictions on Single-Family Detached Lots: The *Property Owner* shall adopt restrictive covenants, enforced by the *ARB*, applicable to single-family detached *Lots* (as defined in Chapter 12 of the *ZLDR*) on the Rural Residential portion of the *Real Property* to ensure a greater percentage of these *Lots* are preserved in their natural state, as *Pervious Cover*. This acreage, which constitutes approximately 130 acres of the *Real Property*, is not included in the calculations for minimum highland open space and common open space in Table 8.1.

Table 8.2 – Internal Buffers

Land Use Buffers shall be provided along side and rear yards in accordance with the minimum requirements contained in Table 8.2, Internal Buffers

Use or Zoning of Adjacent Property

<u>Proposed Uses</u>	<u>Single Family Detached</u>	<u>Commercial</u>	<u>Office</u>	<u>Civic/ Institutional</u>	<u>Golf</u>	<u>Multi-Family/Single Family Attached</u>	<u>Inn/Hotel/ B&B</u>	<u>Lodging - Villas</u>	<u>Wastewater Pump Station</u>	<u>Wastewater Treatment Plant</u>
<u>Single Family Detached</u>	<u>0' Commercial</u>	<u>10' Office</u>	<u>10' Civic/ Institutional</u>	<u>10' Golf</u>	<u>0' Multi-Family/Single Family Attached</u>	<u>Lodging 0'</u>	<u>Wastewater-15' Plant*</u>	0'	0'	25'
<u>Commercial Single Family Detached</u>	10'	<u>40'0'</u>	<u>40'0'</u>	0'	20'	20'	0'	10'	0'	15'
<u>Office Commercial</u>	<u>20'10'</u>	0'	0'	0'	20'	0'	0'	10'	0'	15'
<u>Civic/Institutional Office</u>	<u>20'10'</u>	0'	0'	0'	20'	<u>0'20'</u>	0'	10'	0'	15'
<u>Golf Civic/Institutional</u>	0'	<u>0'20'</u>	<u>-20'</u>	20'	0'	0'	0'	<u>45'0'</u>	0'	0'
<u>Multi-Family/Single Family Attached Golf</u>	<u>0'0'</u>	20'	20'	20'	0'	0'	15'	0'	0'	25'
<u>Lodging - Inn/Hotel/B&B Multi-Family/Single Family Attached</u>	<u>20'15'</u>	<u>20'0'</u>	<u>20'0'</u>	<u>20'0'</u>	0'	15'	0'	15'	0'	25'
<u>Lodging - Villas</u>	<u>20'0'</u>	<u>0'0'</u>	<u>0'0'</u>	<u>0'0'</u>	<u>0'0'</u>	<u>45'0'</u>	<u>-15'</u>	<u>25'0'</u>	0'	25'

Waste-water Treatment Plant Wastewater Pump Station	25'0	45'0	45'0	45'0	0'0	25'0	25'0	-0	0	0
Wastewater Treatment Plant* Buffer width may be reduced to 5' with the addition of a 6' privacy fence.	25'	15'	15'	15'	0'	25'	25'	25'	0'	0'

* Buffer width may be reduced to 5' with the addition of a 6' privacy

fence. Notes:

Notes: 1. All

landscape

requirements for

buffers shall be

defined and

governed by the

ARB

1. All landscape requirements for buffers shall be defined and governed by the ARB.

~~2. Modifications to internal buffers may be reviewed and approved by the ARB on a case-by-case basis as deemed necessary by the ARB to complement and enhance the overall aesthetics and character of the Real Property.~~

2. Modifications to internal buffers may be reviewed and approved by the ARB on a case-by-case basis as deemed necessary by the ARB to complement and enhance the overall aesthetics and character of the Real Property.

Minimum buffer landscaping (Plants per 100 linear feet)

(2) Canopy Trees

(2.5" caliper and 12 feet in height)

(20) Shrubs (3 gallon and 18" to 24" in height or spread)

SECTION 9 – TREE PROTECTION STANDARDS

A. Tree Surveys: The *Property Owner* shall provide a tree survey to the Planning Director delineating all *Grand Trees* and *Protected Trees* on a portion of the *Real Property* prior to obtaining any development approvals or permits for that phase of the *Project*. This tree survey shall comply with the requirements of Article 9.4 of the *ZLDR*, as modified in Appendix B.

B. Tree Removal, Replacement, Protection, Preservation and Mitigation: Article 9.4 of the *ZLDR*, as modified in Appendix B, shall apply with respect to tree removal, replacement, protection, preservation, and mitigation requirements on the *Real Property* or any portion thereof; provided, however, the *ARB* shall be permitted to modify these standards and, upon approval by the Planning Director, these modifications shall apply with respect to tree removal, replacement, protection, preservation, and mitigation requirements on the *Real Property* or any portion thereof. Notwithstanding the foregoing, the *ARB* shall not be permitted to modify the tree removal, replacement, protection, preservation and mitigation requirements for *Grand Trees* (as delineated on the tree survey) set forth in Article 9.4 of the *ZLDR*, as modified in Appendix B. The *County Board of Zoning Appeals* shall have sole and exclusive jurisdiction to grant variances from the tree removal, replacement, protection, preservation and mitigation requirements for *Grand Trees* (as delineated on the tree survey) set forth in Article 9.4 of the *ZLDR*, as modified in Appendix B. The *Board of Zoning Appeals* shall exercise this jurisdiction consistent with the procedural and approval criteria in the *ZLDR*. The *ARB* shall have sole jurisdiction to grant variances from the tree removal, replacement, protection, preservation and mitigation requirements for all other *Protected Trees* (as delineated in the tree survey). The *ARB* shall give special consideration to the *Golf Course*, wastewater treatment facility, and any portion of the *Real Property* developed pursuant to a traditional neighborhood design. For such portions of the *Real Property*, the *ARB* shall permit removal of *Protected Trees* upon appropriate mitigation by the *Property Owner*.

SECTION 10 – PARKING STANDARDS

A. Generally: The Parking and Loading Regulations in Article 9.3 of the *ZLDR*, and no others, shall apply to the *Real Property* or any portion thereof; provided, however, the following shared parking guidelines Table 10.2 may be utilized in the River Village and Bohicket Station to accommodate a mix of uses on the *Real Property*:

Table 10.1: Required Parking Standards

Use Type	Residential	Village
Residential	2.0/Dwelling Unit	1.0/Dwelling Unit
Lodging (incl. Hotels, Inns, Bed and Breakfasts, and Villas)	1.0/Guest Room	1.0/Guest Room
Office	3.0/1,000 square feet	2.0/1,000 square feet
Retail	4.0/1,000 square feet	3.0/1,000 square feet
All Other	<u>To be determined by ARB (1)</u>	<u>To be determined by ARB (1)</u>

1. In establishing the required minimum of off-street parking, the ARB shall may consider the following in making a reasonable determination of the projected parking needs: the nature of the use(s), the availability of on-street parking, anticipated access by non-vehicular means (i.e., pedestrian, bicycle, golf cart, etc.), peak and off-peak parking projections, recognized standards for determining adequate parking spaces, any qualified professional assessments of particular parking needs, and any other factors the ARB deems pertinent.

Table 10.2: Shared Parking Standards

	Residential	Lodging	Office	Retail
Residential	1	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail	1.2	1.3	1.2	1.0

Notwithstanding the foregoing, the *Property Owner* shall have the right to utilize on-street parallel and angle parking (to include 90 degree parking) on private *Thoroughfares* on the *Real Property*, if such parking does not present a significant safety hazard with respect to the particular *Thoroughfare*.

SECTION 11 – THOROUGHFARE STANDARDS

1. Definition: “*Thoroughfare*” means a way for use by vehicular and pedestrian traffic and to provide access to *Lots* and open space, consisting of vehicular lanes and their adjacent rights-of-way.

2. County Road Construction Standards: Notwithstanding any provision in the *Agreement* or the *Plan* which may be construed to the contrary, the *Property Owner* shall comply with the standards for public roads set forth in the County Road Construction Standards, described in the *ZLDR*, with respect to any *Thoroughfares* the *Property Owner* intends to dedicate to the public. The *Agreement* and the *Plan* shall not be construed to supersede or contravene the County Road Construction Standards described in the *ZLDR* with respect to any *Thoroughfares* the *Property Owner* intends to dedicate to the public.

3. Design and Installation: The *Property Owner* shall develop and install *Thoroughfares* and their related infrastructure on the *Real Property*. The *Property Owner* may develop any or all of the *Thoroughfares* on the *Real Property* as public or private; provided, however, any *Thoroughfares* to be offered for dedication to the public will comply with the County Road Construction Standards described in the *ZLDR*.

4. Private Thoroughfares: Exhibits 11.1 and 11.2 provide an illustration of the typical private *Thoroughfare* sections which may be implemented on the *Real Property*, including typical utility placements within private *Thoroughfares*. Exhibit 11.3 shows the vehicular lanes and parking assemblies which may be utilized for private *Thoroughfares* on the *Real Property* or designated portions thereof. Exhibit 11.4 shows the conceptual road framework which may be implemented for private *Thoroughfares* on the *Real Property*. Notwithstanding those exhibits, the *Property Owner* may determine the precise configuration and location of any and all private *Thoroughfares* on the *Real Property*; provided, however, the *Property Owner* has a qualified engineer determine that their configuration and location does not present a significant safety hazard.

5. Ownership and Maintenance: The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep on any and all *Thoroughfares* on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public in conformity with the County Road Construction Standards described in the *ZLDR*. All alleys shall be maintained and owned by the *Property Owner*, a related entity, or an *Association*.

6. Paving: Any and all public *Thoroughfares* installed on the *Real Property* shall be paved in accordance with the public road standards in the County Road Construction Standards, described in the *ZLDR*. To preserve the existing rural character of the *Real Property* or portions thereof, the *Property Owner* may retain existing unpaved, private *Thoroughfares* and/or install other unpaved, private *Thoroughfares* on the *Real Property* or portions thereof.

7. Internal Access: The *Property Owner* may limit access to private *Thoroughfares* on the *Real Property* or portions thereof through the use of a security gate or other similar method. Access to public *Thoroughfares* may NOT be similarly limited. All *Thoroughfares* on the *Real Property*, whether public or private, shall have direct or indirect access to Betsy Kerrison Parkway and Mullet Hall Road.

8. Construction Access: Construction traffic will be routed along Mullet Hall Road, at the location illustrated in Exhibit 14.1. Prior to construction of Phase 1, the *Property Owner* shall finance an inspection of Mullet Hall Road to determine and record its current condition. The *Property Owner* will provide a report defining the base line condition of Mullet Hall Road and providing an ultimate road section recommendation to accommodate projected traffic for build-out of the *Project*. This report will be submitted to *DOT* for review and approval. The *Property Owner* will then provide *DOT* with an

engineer-certified construction cost estimate for any repairs and other improvements needed as specified in the report, as well as a letter of credit or bond ensuring the work will take place within a mutually agreeable time frame. The *Property Owner* will continue to coordinate any improvements or maintenance of Mullet Hall Road with *DOT* during the *Project*. The Charleston County Parks and Recreation Commission, which uses Mullet Hall Road for primary access to the Johns Island County Park and Mullet Hall Equestrian Center, has consented to this procedure via letter of coordination attached hereto as Exhibit 11.5. A letter of coordination from *DOT* will be obtained prior to phase 1 construction and such letter will address the use of Mullet Hall Road as a secondary entrance to the proposed development and will state any required mitigation.

9. Connections with Adjacent Properties: The *Property Owner* shall use best efforts to facilitate a connection with adjacent parcels at the approximate locations illustrated in Exhibit 4.1. The *Property Owner's* obligation under this section shall not require that the *Property Owner* purchase or otherwise finance the acquisition of any right, title, or interest in and to these adjoining properties. The *County* recognizes the *Property Owner's* abilities under this section are highly dependent upon and constricted by the actions or inactions of third parties.

SECTION 12 – ARCHITECTURAL AND LANDSCAPE DESIGN STANDARDS

The architectural and landscaping regulations set forth in the *ZLDR* shall apply to the *Real Property*; provided, however, the *Property Owner* may adopt more restrictive architectural and landscaping guidelines for the *Real Property* or a portion thereof and, upon approval by the *Planning Director*, such guidelines shall apply in lieu of the architectural and landscaping regulations in the *ZLDR*. Exhibits 12.1 and 12.2 illustrate the architecture and landscaping which may be incorporated on the *Real Property* or portions thereof. The *Property Owner* shall adopt restrictive covenants with respect to Single-Family Detached *Lots* located on the Rural Residential portion of the *Real Property*, requiring at least 50% of each *Lot* be preserved in its natural habitat. These guidelines intend to be similar in content and character to Kiawah Island Community Association Guidelines “Designing with Nature”.

SECTION 13 – SIGNAGE STANDARDS

1. The *Property Owner* shall provide a master signage plan to the *Planning Director*, for review and approval, for each phase of the *Project* prior to obtaining a certificate of occupancy for any portion of that phase of the *Project*. Review and approval shall be based upon the sign regulations applicable to the *Real Property* and shall not be unreasonably withheld. The sign regulations in Article 9.11 of the *ZLDR*, as set forth in Appendix B, and no others, shall apply to the *Real Property*; provided, however, the *Property Owner* may adopt sign guidelines for the *Real Property* or a portion thereof and, upon approval by the *Planning Director*, such guidelines shall apply in lieu of the sign regulations in the *ZLDR*; and further provided the sign regulations in section 13.2 of this *Plan* shall apply.

2. Upon approval by the *ARB*, off-premises signs shall be permitted on any portion of the *Real Property* to the extent such signs advertise a business or other area located or to be located on another portion of the *Real Property*. Upon approval by the *ARB*, off-premises signs may advertise more than one business or other area located on or to be located on the *Real Property*; provided, however, each business must be located on the *Real Property*.

SECTION 14 – GENERAL FACILITIES

A. Generally: This section addresses the *Facilities*, including public infrastructure improvements, which are necessary to support the *Development*. The *Property Owner* shall only be responsible for those specific *Facilities* that the *Property Owner* expressly undertakes to install and maintain herein. The remainder of the *Facilities* listed herein shall be installed and maintained by the applicable service providers. Accordingly, letters of coordination with each of these service providers are included in Appendix F.

B. Certification of Completion Concurrent with Impact: Although the nature of this long term *Project* prevents the *Property Owner* from now providing exact completion dates, the *Property Owner* certifies that the specific services and *Facilities*, including public infrastructure improvements, that the *Property Owner* expressly undertakes to install will be in place, or if not fully in place, the cost of their construction fully bonded or letter of credit posted at a sufficient time to ensure availability concurrent with the impacts of the *Development* and consistent with the Schedule of *Development* set forth in section 7 of the *Plan*. Subject to compliance with applicable law and with all provisions of the *Agreement*, the *County* hereby authorizes the *Property Owner* to install all *Facilities* which the *Property Owner* has undertaken to provide herein.

C. Overall Economic and Fiscal Impact: The *Property Owner* has procured an extensive economic and fiscal impact analysis of the proposed *Development*, prepared by the Regional Dynamics and Economic Modeling Laboratory at the Strom Thurmond Institute of Government at Clemson University and attached hereto as Appendix C. Further, a more detailed analysis of the fiscal impact of the *Project* on governmental services and infrastructure, as well as a capital improvements program designed to implement necessary infrastructure improvements as the *Project* progresses, is attached hereto as Appendix D (The Fiscal Impact of Kiawah River Plantation on Charleston County, dated December 18, 2009). Both of these analyses project a positive net fiscal impact for the *County*, with additional revenue received by the *County* as a result of the *Development* more than sufficient to cover the additional expenditure burden for the *County* generated by the *Development*.

D. Traffic Considerations

1. Traffic Study and Mitigation Plan: The *Property Owner* has procured a Traffic Impact Analysis and Mitigation Plan prepared by Kubilins Transportation Group, Inc., a copy of which is attached hereto as Appendix E. This study analyzes the traffic operations within the area of influence and provides recommended access management for the site and intersection improvements needed for mitigating traffic impacts. A proof-of-coordination letter with *DOT* is also included in Appendix F.

2. Scope of Study: The area of influence of the study site, as indicated by *DOT*, includes the following four (4) existing and one (1) proposed intersections:

- a. Maybank Highway (SC 700) and River Road (S-10-91) (signalized);
- b. Maybank Highway (SC 700) and Bohicket Road/Main Road (S-10-20) (signalized);
- c. Bohicket Road/Betsy Kerrison Parkway and River Road (S-10-20) (signalized);
- d. River Road (S-10-91) and Mullet Hall Road/Site Access (unsignalized); and

e. Betsy Kerrison Parkway and Village Site Access (proposed signal).

3. Site Access: The *Development* will be served by two (2) full-movement access points. The primary access point for the *Development* will be located at Betsy Kerrison Parkway. The secondary access point for the *Development* will be located at Mullet Hall Road. There are no recommended improvements to Mullet Hall Road. Unless otherwise required by *DOT* or the *County* for compliance with the *County's* Road Construction Standards as set forth in the *ZLDR*, the *Property Owner* shall use landscaping, turn lane improvements, and other similar devices to induce residents and visitors to use Betsy Kerrison Parkway as the primary access point for the *Real Property*. The Betsy Kerrison Parkway entrance will be used by the *Property Owner* as its "marketing window," and any on-line or other advertisements and marketing materials will direct people to the Betsy Kerrison Parkway entrance. The following improvements are recommended to ensure proper site access at Betsy Kerrison Parkway:

- i. Construct a full-movement access drive with one (1) ingress lane and two (2) egress lanes. The egress lanes should be configured as a separate left turn lane with 150 feet of storage and the through lane shall terminate as a right turn lane. 150 feet of internal protected storage should also be provided.
- ii. Construct a dedicated left-turn lane on the southbound approach of Betsy Kerrison Parkway with 150 feet of storage with appropriate tapers.
- iii. Construct a dedicated right-turn lane on the northbound approach of Betsy Kerrison Parkway with 100 feet of storage with appropriate tapers.
- iv. Install traffic signal control upon meeting the appropriate MUTCD and SCDOT traffic signal control warrants.

The *Property Owner* shall construct or finance the construction of the referenced improvements (or such other improvements as shall be recommended in consultation with *DOT*) after obtaining all applicable permits and approvals from *DOT* as these improvements are deemed necessary by *DOT*. The *Property Owner* shall complete the first three (iii) of the above-stated improvements concurrently with the completion of Phase 1 construction. The *Property Owner* shall complete the final recommended improvement (iv) when required in coordination with *DOT*. The *Property Owner* will dedicate any applicable public improvements associated with this primary access point to the public for maintenance in accordance with applicable law and provide any applicable maintenance bond in coordination with *DOT*.

4. Initial Development Capacity: The study analyzed the amount of *Development* and resultant traffic that can be handled without operational impacts to the major facilities and intersections on Johns Island. The analysis determined that the following amount of *Development* could be constructed over the next several years without any significant impact to the intersections or roadway network that would require improvements:

- 105 Single Family Homes
- 315 Recreational Homes
- 40 Workforce Apartments
- 350 Guest Rooms

- 35,000 square feet of *GLA* in the Bohicket Station Tract, as delineated in Exhibit 4.1 of the Plan
- 20,000 square feet of *GLA* within the Mullet Hall Tract, as delineated in Exhibit 4.1 of the Plan
- An 18-hole golf course

Further, Kublins Transportation Group, Inc. has prepared a land-use equivalency matrix, attached to the *Agreement* as Appendix E-1, which permits a ready conversion of the traffic impact (number of peak hour trips generated) from one proposed use to another. The *Property Owner* shall fund an independent supplemental traffic study (the cost of which shall not exceed \$20,000.00) and provide a proposed mitigation and implementation plan for the *County's* review and approval after the *Development* has reached 2/3 of the "Initial Development Capacity" as set forth in the initial traffic impact analysis, prepared as part of the *Agreement*, as such "Initial Development Capacity" may be converted by Appendix E-1.

E. Wastewater Treatment: The *Property Owner* will provide suitable wastewater treatment or septic to all *Lots* and *Dwelling Units* on the *Real Property* pursuant to the *Agreement* after obtaining all applicable permits and approvals from regulatory agencies and governmental entities. Any wastewater treatment system shall be subject to best management practices. The proposed wastewater treatment facility will comply with the Charleston County 208 Water Quality Management Plan and all BCDCOG and *DHEC* requirements, including the *DHEC* permitting requirements that the *Property Owner* provide financial protections for the continued economic viability of the system and that the system be managed by a class A licensed operator.

F. Potable Water: St. John's Water Company will provide potable water to all *Lots* and *Dwelling Units* on the *Real Property* pursuant to the *Agreement* after obtaining all applicable permits and approvals from regulatory agencies. Water supply for the *Development* will be via two (2) connections: (1) an existing, twenty-four-inch (24") diameter water transmission main on Betsy Kerrison Boulevard; and (2) an existing six-inch (6") diameter water main on Mullet Hall Road. The existing water main on Mullet Hall Road will likely need to be upsized in the future to supply sufficient fire-flow. The new system will be designed and constructed to supply sufficient fire suppressing flow based on the requirements of the Insurance Services Office (ISO), as well as the Charleston County Building Department. A Preliminary Master Water Plan is attached to the *Plan* as Exhibit 14.1. Prior to the construction of Phase 1, a more in-depth water model will be created in order to properly size all mains. The new water distribution system will be designed to meet the requirements of the St. Johns Water Company and *DHEC*. Applicable impact fees will be paid to St. Johns Water Company in order to offset any capital improvement upgrades that will be needed for the system. A proof-of-coordination letter with St. Johns Water Company is included in Appendix F. Unless otherwise provided with respect to *Lots* served by a well, the *Property Owner* shall design and construct facilities necessary for the transmission and distribution of potable water to all *Lots* and *Dwelling Units* on the *Real Property*. The *Property Owner* shall transfer facilities for the transmission and distribution of potable water, including necessary easements, to St. Johns Water Co.

G. Drainage:

1. Stormwater Master Plan: A Stormwater Master Plan for the *Real Property* is attached to the *Agreement* as Appendix H. The *Property Owner* shall provide sufficient drainage for the *Development* of the *Real Property*. The *Property Owner* shall not impair or diminish the drainage currently flowing through the *Real Property*. The *Property Owner* shall not impede such drainage during construction or during land disturbance activities on the *Real Property* and shall provide comparable drainage at a substitute location, if necessary.

2. County Stormwater Ordinance: Notwithstanding any provision in the *Agreement* or the *Plan* which may be construed to the contrary, the *Property Owner* shall comply with the standards for drainage set forth in the *County Stormwater Ordinance*. The *Agreement* and the *Plan* shall not be construed to supersede or contravene the *County Stormwater Ordinance*.

3. Coordination with County Public Works Department: The *Property Owner* will continue to coordinate with the Stormwater Division of the *County's* Public Works Department to ensure that all publicly-dedicated, constructed and accepted drainage-related capital improvements (or portions thereof) and operating expenses relating to drainage directly attributable to the *Project* and the *Development* are paid for, through property tax revenue or otherwise, during the build-out of the *Project* and concurrent with impacts from the *Development*, as well as to ensure that all improvements constructed on the *Real Property* comply with the *County's* Stormwater Ordinance. The *Property Owner* shall obtain all applicable permits and approvals relating to drainage before beginning each phase of the *Project*.

4. Maintenance: Any and all drainage infrastructure designed and constructed by the *Property Owner* may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity; or (3) be dedicated to the public. The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep of the drainage infrastructure and facilities on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public.

H. Fire Protection: All access roads and parking areas will be constructed to facilitate fire equipment access. Representatives of the *Property Owner* have coordinated with the St. John's Fire Department to discuss the *Development*, including proposed road sections. The *Property Owner* will continue to coordinate with St. John's Fire Department through the life of this *Agreement*. The *Property Owner* will provide capital items as stated in section 14.P of this *Plan*.

I. Police Protection: All access drives and parking areas will be lighted to improve security and reduce vehicle thefts. The proposed *Development* will foster community involvement, which will aid in the prevention of crime through citizen activism. Also, the proposed traffic improvements referenced in Appendix E should maintain or improve current response times to this and adjacent sites. A proof-of-coordination letter with the Charleston County Sheriff's Office is included in Appendix F.

J. Emergency Medical Services: Charleston County EMS provides emergency medical services to the citizens of Charleston County. Accordingly, a proof-of-coordination letter with Charleston County EMS is included in Appendix F.

K. Solid Waste Collection: Trash collection will be provided by the *Property Owner* for all residential, commercial, institutional, retail and office parcels on the *Real Property*. Trash collection for single-family parcels will be curbside. Trash collection will be from a central location, such as a Dumpster, for each separate multi-family, commercial, institutional, retail, or office site on the *Real Property*. These Dumpsters (or other containers) will be located out-of-sight in approved areas with appropriate access and screening. A proof-of-coordination letter with Suburban Disposal Services is included in Appendix F. The *Property Owner* will continue to work with the Charleston County Environmental Management Department to coordinate solid-waste related activities.

L. Education: The *Development* will be served by the Charleston County School District and area private schools. The *Development* is planned to be similar in scope and nature to the Kiawah Island and Seabrook communities. The *Development* is expected to generate 39 new students who attend school in

the district by the time of full build-out at year 20. A proof-of-coordination letter was received from the Charleston County School District stating that “all of the referenced schools currently have capacity on site to serve students in their attendance zones.” A copy of this letter is included in Appendix F.

M. Utilities: Utilities, such as electrical and gas services, cable television, high speed internet access, and telephone service, shall be made available and maintained by the appropriate service providers. All utilities shall be installed underground. The *Property Owner* shall furnish necessary easements to utility providers for water, sewer, gas, electricity, telephone, cable television, and other utilities. Adequate easements for utilities shall be reserved by the *Property Owner* in conveyances of *Lots, Dwelling Units, and Development Parcels*. The location and size of such easements shall be determined by the *Property Owner* in consultation with the applicable service provider. Letters of coordination from Berkeley Electric Cooperative, Inc., Comcast, and Bellsouth are included in Appendix F.

N. Hurricane Preparedness Plan: The *Property Owner* has procured a Hurricane Evacuation Plan, which is attached hereto as Appendix I. The *Property Owner* will coordinate with the Charleston County Emergency Preparedness Division and the South Carolina Emergency Management Division to ensure that the *Development* complies with applicable laws and regulations.

O. Cultural Resource Areas:

1. Cultural Resources Survey: The *Property Owner* has procured a Cultural Resources Survey of Mullet Hall Plantation, Johns Island, Charleston County, South Carolina, prepared by the Chicora Foundation, Inc., attached to the *Agreement* as Appendix J. The study examined archaeological sites and cultural resources found on the *Real Property*.

a. Cemeteries: Three (3) cemeteries, designated in the study as 38CH1540, 38CH1548, and 38CH1549, will not be developed except as provided herein. Additionally, as recommended in the study, 38CH1540 will have a fifty foot (50') minimum buffer, 38CH1548 will have a twenty-five foot (25') minimum buffer, and 38CH1549 will have a fifty foot (50') minimum buffer. All three cemetery sites will have construction fences erected for their protection during all phases of construction activity. As further recommended in the study, the *Property Owner* will remove all trees in the cemeteries of 5-inches DBH or less in diameter. The remaining trees will be pruned for crown cleaning and overall restoration. No tree survey or other *County* permits shall be required for such clearing and restoration.

b. Archaeological Resources: Upon review and approval by the State Historic Preservation Office (“SHPO”), eligible and potentially eligible archaeological resources may be either green spaced (preserved in place) or subjected to additional investigation (data recovery in the case of eligible sites or additional testing in the case of potentially eligible sites). With additional testing, the potentially eligible sites may be designated as either eligible or not eligible. Contractors shall be advised to report the discovery of any archaeological remains encountered during construction activities to the *Project* engineer, who should, in turn, report the find to SHPO. No further land-altering activities shall take place in the area of the discovery until they have been examined by an archaeologist and, if necessary, processed.

2. Memorandum of Agreement: The *Property Owner* will enter into a Memorandum of Agreement with *DHEC* and SHPO, a proposed draft of which is attached to the *Agreement* as Appendix K, to certify the consistency of the *Development* with the Coastal Zone Management

Plan and to mitigate potential impacts of the *Development* on sites which are eligible for, potentially eligible for, or currently listed in the National Register of Historic Places. The *Property Owner* will continue to coordinate with *DHEC* and *SHPO* to ensure that applicable natural and cultural resource areas on the *Real Property* are investigated, preserved and protected pursuant to state and federal law.

3. Threatened and Endangered Species Assessment: The *Property Owner* has procured a Threatened and Endangered Species Assessment, prepared by Newkirk Environmental, Inc., which, together with a May 21, 2009, update of this assessment, is attached hereto as Appendix L. The assessment was conducted to determine the occurrence of, or potential for, animal and plant species federally listed as endangered or threatened to exist within the *Real Property*. Completion of this survey complied with current state and federal regulations, including the Federal Endangered Species Act, the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and the South Carolina Non-Game and Endangered Species Conservation Act. Field surveys have documented the presence of two (2) bald eagle nests within the boundaries of the *Real Property*. As a result, coordination with the Department of Natural Resources and the United States Fish & Wildlife Service is on-going in an attempt to establish guidelines for activities near the active nests. The proposed *Development* shall comply with these guidelines.

4. Flora and Fauna: The *Property Owner* will use best efforts to maintain and enhance the native plant material on the *Real Property*. Additional considerations in *Lot* configurations will be made to maintain wildlife corridors that connect this property with the surrounding natural environment.

P. Mitigation Provided Directly by the Property Owner to the County: The *Property Owner* shall provide the following amounts to mitigate the impact of the *Development*:

1. Ladder Truck: The *Property Owner* will pay \$800,000 or the actual cost, whichever is lesser, towards the purchase of a ladder truck to service the *Real Property* for St. John's Fire District on or before obtaining a building permit for the construction of any building on the *Real Property* requiring a ladder truck according to National Fire Prevention Association requirements.

2. Dedication of Land: During the term of this *Agreement*, the *Property Owner* shall set aside three (3) highland acres of the *Real Property* at a mutually agreeable location(s). At such time as the *County* requests the use of any or all of this acreage for the construction of a substation(s) for the use of St. John's Fire District, the Charleston County Sheriff's Office, the Charleston County Magistrate's Office, Charleston County EMS, and/or any other police, fire or EMS service which may acquire jurisdiction over the *Real Property* after the *Effective Date* (provided, however, the site(s) shall not be used solely by the Charleston County Magistrate's Office), the *Property Owner* shall dedicate the such acreage to the *County* as necessary for such use(s). If the *County* does not construct a substation on the dedicated site(s) within three (3) years of the dedication, the dedicated site(s) shall revert back to the *Property Owner*; provided, however, the *Property Owner* shall continue to hold the site(s) as set forth in Paragraph 16.X.2 of the *Agreement* and all of the *County's* rights in Paragraph 16.X.2 of the *Agreement* shall continue until the termination of this *Agreement*. The *County* may not request such dedication until after a certificate of occupancy has been issued for the 200th *Dwelling Unit*, unless otherwise agreed by the *Parties*.

Q. Community Ways: As used herein, a "Community Way" means a walkway of any surface type (paved or unpaved), a bicycle lane, bicycle route, bicycle trail, leisure trail, or walking trail designed for pedestrian or bicycle traffic. The *Property Owner* shall install an interconnected system of *Community*

Ways on the Real Property. The *Property Owner* may determine the configuration, location, type, number, size, location, lighting and path surfaces of private *Community Ways* on the *Real Property*. However, any and all public *Community Ways* shall comply with the *County's* Improvement Standards, as they exist on the *Effective Date*. The *Property Owner* shall use best efforts to facilitate a connection with adjacent parcels at the approximate locations delineated in Exhibit 4.1 to the *Plan*. The *Property Owner's* obligation under this section shall not require that the *Property Owner* purchase or otherwise finance the acquisition of any right, title, or interest in and to these adjoining properties. The *County* recognizes the *Property Owner's* abilities under this section are highly dependent upon and constricted by the actions or inactions of third parties. Any and all *Community Ways* designed and constructed by the *Property Owner* may (1) be owned and maintained as *Common Areas*; (2) be owned and maintained by the *Property Owner* or a related entity; or (3) be dedicated to the public. The *Property Owner*, a related entity, and/or a duly constituted *Association* shall perform the maintenance and upkeep of the *Community Ways* on the *Real Property* or any portion thereof unless they have been dedicated to and accepted by the public. Upon tender of a deed from the *Property Owner* approved by the *County* attorney, the public may accept any and all *Community Ways* tendered for dedication by the *Property Owner* provided they comply with the *County's* Improvement Standards, as they exist on the *Effective Date*.

R. Golf Carts and Personal Transportation Vehicles: Golf carts and personal transportation vehicles may be used on any *Thoroughfares*, causeways, *Community Ways*, and parking areas of the *Real Property* or any portion thereof that the *Property Owner* may designate, if consistent with state law.

S. Septic Tanks and Wells: The *Property Owner* may install septic systems and/or wells for drinking water to service *Lots* and *Dwelling Units* on the *Real Property* or portions thereof provided the septic systems and/or wells for drinking water meet state regulatory requirements. The number of *Lots* or *Dwelling Units* on the *Real Property* serviced by wells and/or septic systems shall not exceed any applicable state regulatory requirements. Any such *Lots* and *Dwelling Units* on the *Real Property* that are serviced by a septic system or well meeting applicable regulatory requirements shall not be considered non-conforming under the *County's* *Laws* because of such septic system or well.

T. Streetlights: The *Property Owner* shall have the right to decide the location, design and number of streetlights, if any, on the *Real Property*. Any and all streetlights designed and installed on the *Real Property* may (1) be owned and maintained as *Common Areas* or (2) be owned and maintained by the *Property Owner* or a related entity. If the location of any streetlight is to be in a public right-of-way, the location must be approved by the *County's* Director of Public Works.

U. Stoplights, Traffic Control, and Other Street Signage: The *Property Owner* may determine the configuration and location of all street and traffic control signs on the *Real Property*, the standards of which shall be determined in consultation with *DOT*. All traffic control devices within a public or private right-of-way must meet the requirements of the Manual on Uniform Traffic Control Devices.

V. Parks, Common Spaces and Buffers on the Real Property: Certain portions of the *Real Property* may contain parks, common spaces, and buffers. The *Property Owner* reserves the right to limit access and use of these to select owners, tenants or lessees on the *Real Property*, their guests, and others who may be their invitees.

W. Common Area Maintenance: Any *Association* established with respect to the *Real Property* or any portion thereof shall be responsible for maintaining the *Common Areas*, as described in any applicable *Covenants* and/or the *Agreement*.

SECTION 15 – STATEMENTS OF COMPLIANCE

15.1 Agreement to Proceed with Development

The Property Owner intends to proceed with the proposed Development in accordance with the Plan, Agreement, ZLDR and Comprehensive Plan.

15.2 Statement of Compliance with ZLDR

This Plan complies with processes in the ZLDR.

15.3 Variances

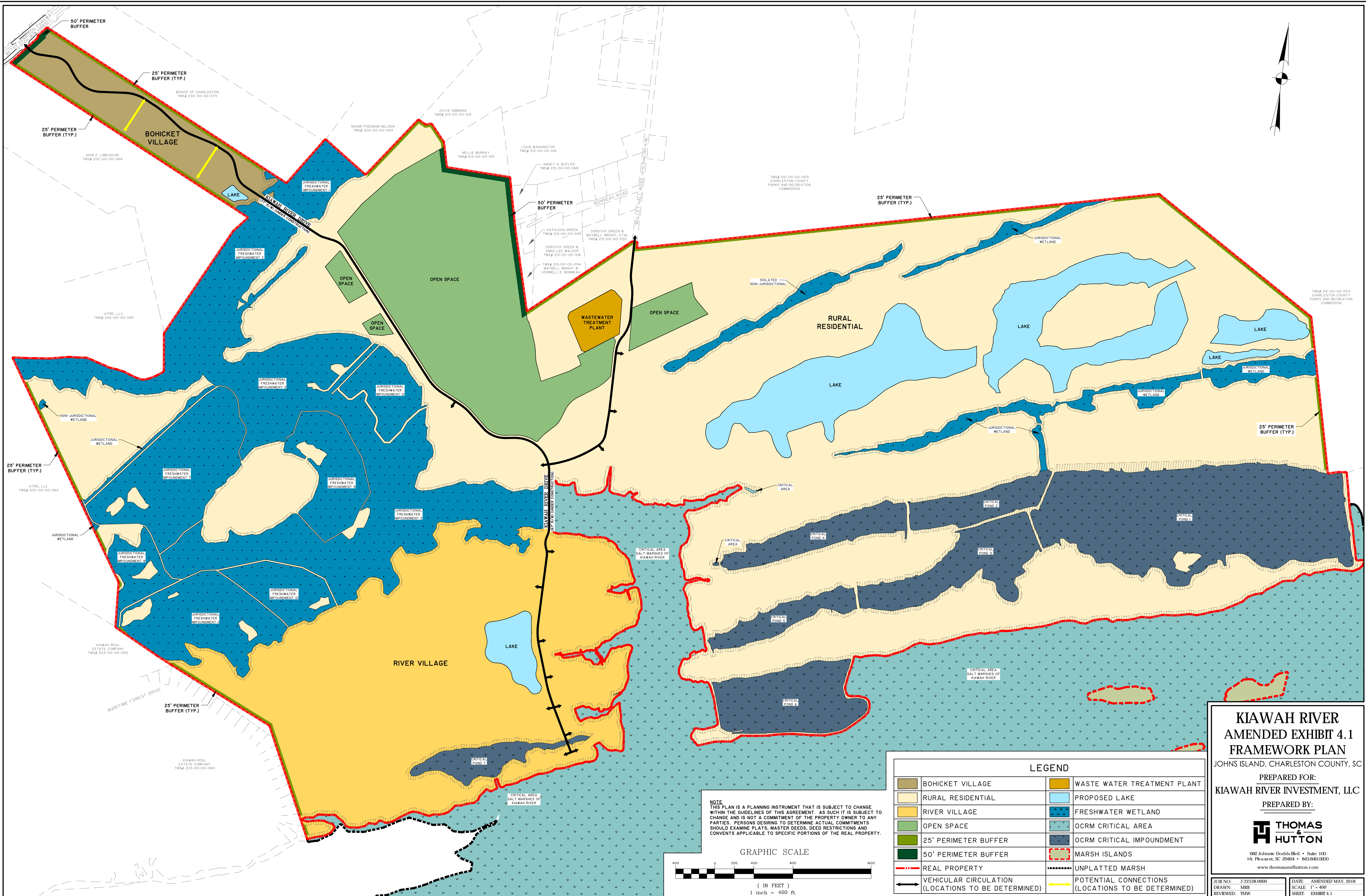
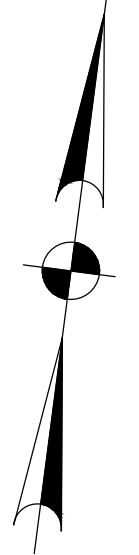
The provisions of Article 3.10 of the ZLDR, relating to variances, shall not apply to the planned Development. All major changes to the planned Development must be approved by County Council. Variances from the tree regulations in the Plan may be granted in accordance with the processes in the Plan.

15.4 Interpretation with Development Agreement

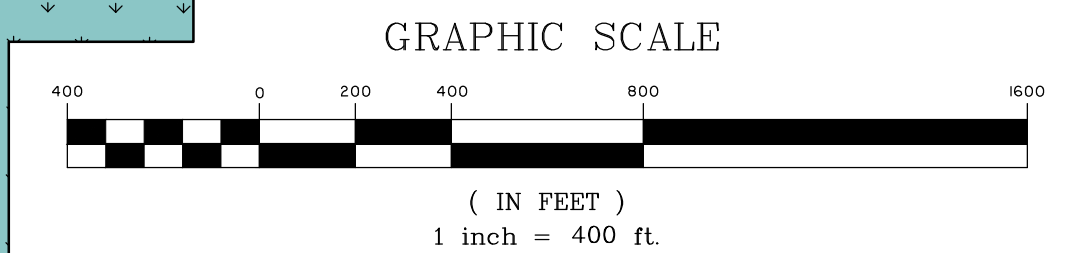
Whenever express substantive provisions of the *Agreement* are inconsistent or in conflict with the substantive provisions of this *Plan*, the more restrictive provision shall apply.

SECTION 16 – EXHIBITS

- Exhibit 1.1 Illustrative Master Plan
- Exhibit 1.2 Conceptual Lot Lines
- Exhibit 2.1 Plat
- Exhibit 2.2 Aerial
- Exhibit 2.3 Wetland Survey
- Exhibit 4.1 Framework Plan
- Exhibit 5.1 Proposed Development Plan
- Exhibit 6.1 Waterfront Development Standards
- Exhibit 6.2 Dock Plan
- [Exhibit 6.3 Illustration of Lots Fronting on Open Space \(Vehicular access across rear lot line\)](#)
- Exhibit 7.1 Phasing Diagram
- Exhibit 8.1 Conceptual Open Space Master Plan
- Exhibit 8.2 Park Types
- [Exhibit 8.3 Illustration of Village Green Intrusion into OCRM Buffer Line](#)
- [Exhibit 8.4 Letter from United States Army Corps of Engineers dated April 4, 2017](#)
- Exhibit 11.1 Typical Utility Placement Diagram
- Exhibit 11.2 Typical Street Cross-Sections
- Exhibit 11.3 Vehicle Lane & Parking Assemblies
- Exhibit 11.4 Conceptual Road Framework Plan
- Exhibit 11.5 Charleston County Parks & Recreation Commission Coordination Letter
- Exhibit 12.1 Illustration of Architectural Style
- Exhibit 12.2 Illustration of Landscape Architectural Style
- Exhibit 14.1 Water Distribution Master Plan
- Exhibit 15.1 Alternative Sketch Plans
- Exhibit 15.2 Alternative Sketch Plans
- Exhibit 15.3 Alternative Sketch Plans



NOTE
THIS PLAN IS A PLANNING INSTRUMENT THAT IS SUBJECT TO CHANGE WITHIN THE GUIDELINES OF THIS AGREEMENT. AS SUCH IT IS SUBJECT TO CHANGE AND IS NOT A COMMITMENT OF THE PROPERTY OWNER TO ANY PARTIES. PERSONS DESIRING TO DETERMINE ACTUAL COMMITMENTS SHOULD EXAMINE PLATS, MASTER DEEDS, DEED RESTRICTIONS AND CONVENTS APPLICABLE TO SPECIFIC PORTIONS OF THE REAL PROPERTY.



LEGEND	
	BOHICKET VILLAGE
	RURAL RESIDENTIAL
	RIVER VILLAGE
	OPEN SPACE
	25' PERIMETER BUFFER
	50' PERIMETER BUFFER
	REAL PROPERTY
	VEHICULAR CIRCULATION (LOCATIONS TO BE DETERMINED)
	WASTE WATER TREATMENT PLANT
	PROPOSED LAKE
	FRESHWATER WETLAND
	OCRM CRITICAL AREA
	OCRM CRITICAL IMPOUNDMENT
	MARSH ISLANDS
	UNPLATTED MARSH
	POTENTIAL CONNECTIONS (LOCATIONS TO BE DETERMINED)

**KIWAH RIVER
AMENDED EXHIBIT 4.1
FRAMEWORK PLAN**

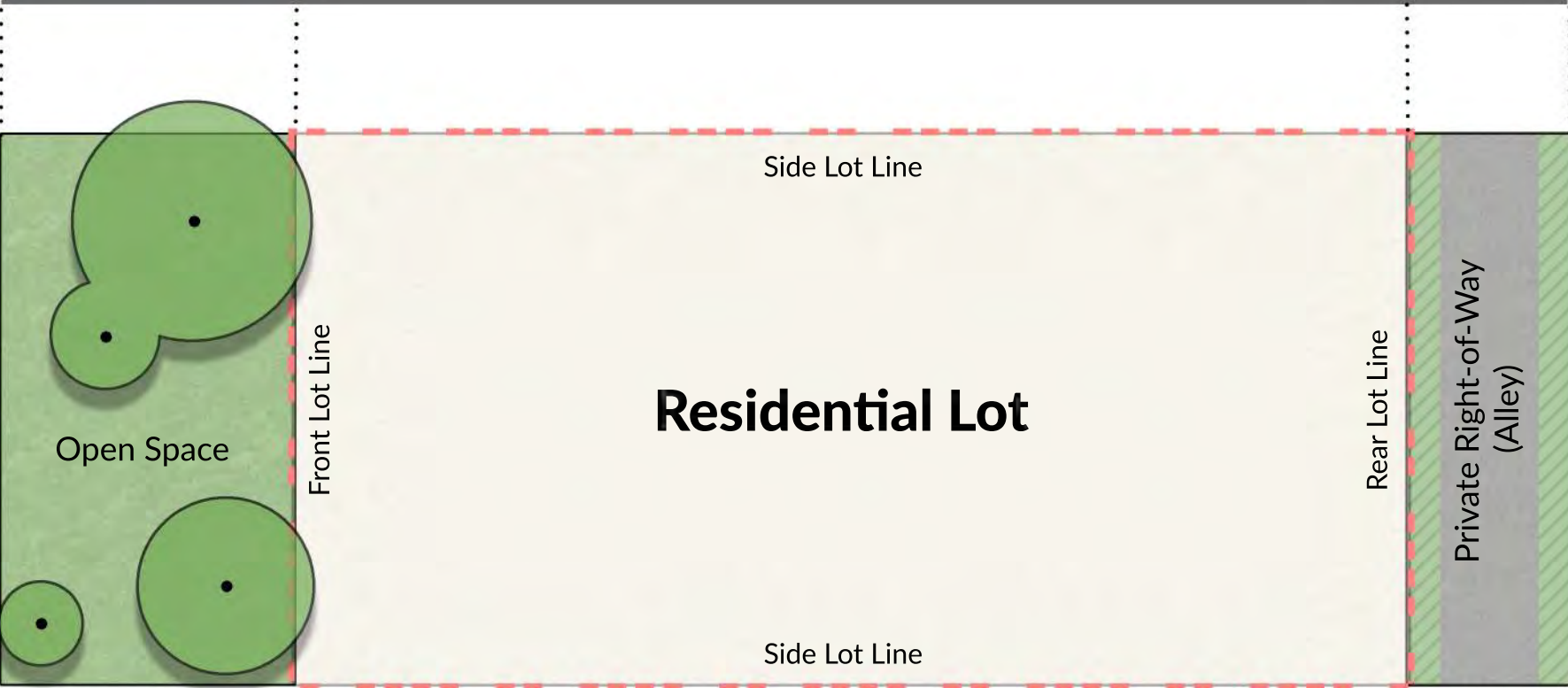
JOHNS ISLAND, CHARLESTON COUNTY, SC

PREPARED FOR:
KIWAH RIVER INVESTMENT, LLC

PREPARED BY:
THOMAS & HUTTON

682 Johnnie Dodds Blvd. • Suite 100
Mt. Pleasant, SC 29464 • 843.849.0200
www.thomasandhutton.com

JOB NO: J-22538.0000	DATE: AMENDED MAY, 2018
DRAWN: MRB	SCALE: 1" = 400'
REVIEWED: TMW	SHEET: EXHIBIT 4.1



Residential Lot

Note: Exhibit is conceptual. Front lot line may also abut a thoroughfare, with the rear lot line abutting open space per the "front lot line" definition.

EXHIBIT 8.3 | VILLAGE GREEN CONCEPTUAL PLAN

Notes:

- 1. This diagram is for conceptual illustration purposes only, and is not the final design of the proposed improvements. The structures are currently shown within the OCRM line to illustrate possible dimensions of the structures within the buffer; however, the structures may extend beyond the OCRM line if the required permits are obtained by the Property Owner.
- 2. Per the PD plan, section 8.2.B.2.d., a pervious Community Way is allowed within the OCRM buffer.

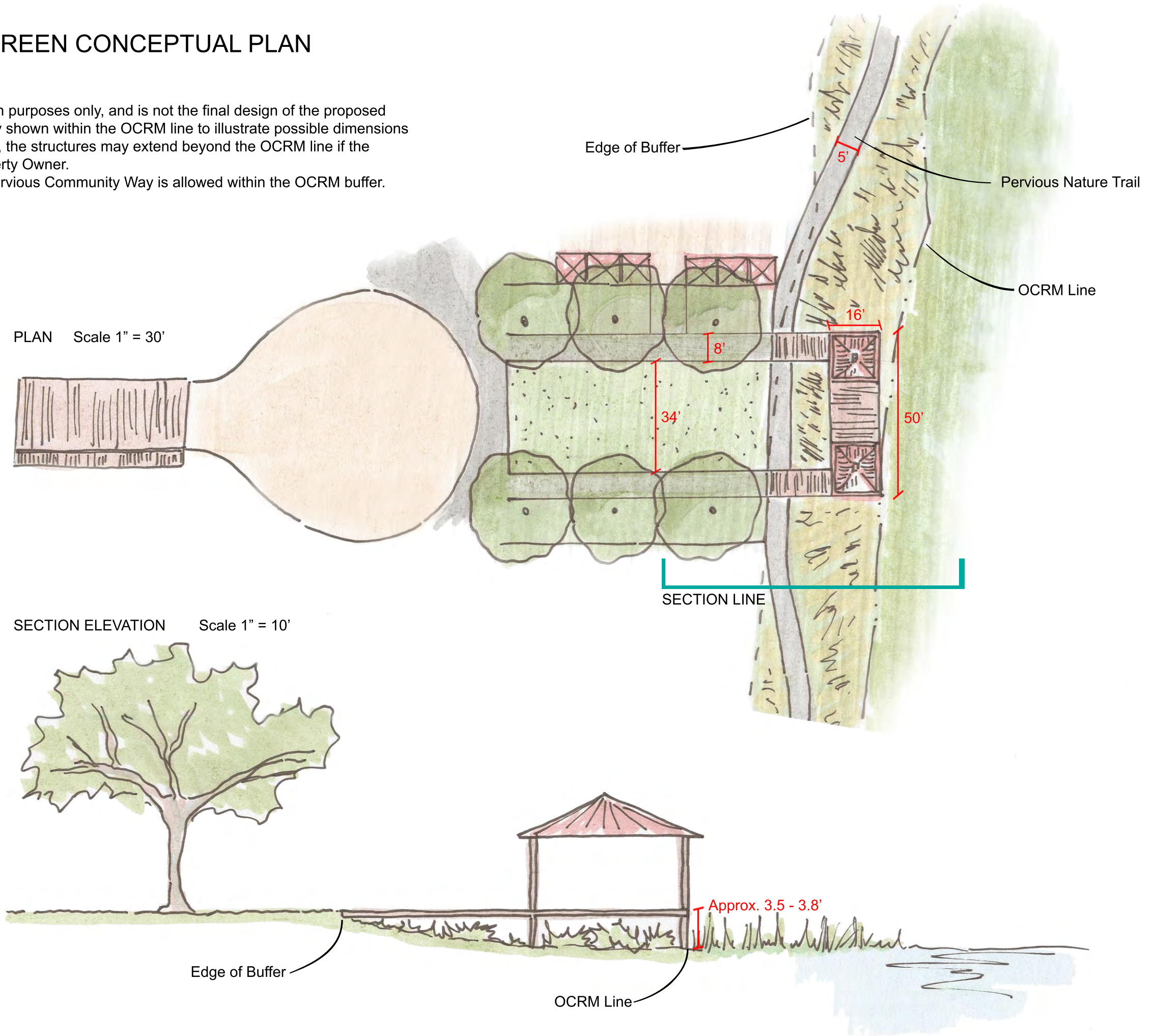


EXHIBIT 8.4

United States Army Corps of Engineers Approval of Saltwater Wetlands
Mitigation Plan



DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A HAGOOD AVENUE
CHARLESTON, SOUTH CAROLINA 29403-5107

APR - 4 2017

APR - 7 2017

Regulatory Division

Kiawah River Plantation Holdings, L.P.
c/o Mr. Ryan Clarey
Newkirk Environmental, Inc.
P. O. Box 746
Charleston, South Carolina 29465-0746

Dear Mr. Clarey:

**PLEASE READ THIS LETTER CAREFULLY AND
COMPLY WITH ITS PROVISIONS**

This is in response to your letter dated February 7, 2017, requesting modifications to the onsite saltwater mitigation plan authorized by Department of the Army (DA) permit (SAC-2008-01605) to construct a master-planned community on Johns Island, South Carolina. The authorized project is for the construction of an economically viable resort destination that will offer multi-family and single family residences; a commercial village; a golf course; access to the Kiawah River and its natural amenities; and guest accommodations to include a resort hotel, villas, and conference facilities. The project is located on the Kiawah River on a 1,382.6 acre tract of land located between the marshes of the Kiawah River, River Road, and Betsy Kerrison Parkway and accessed by Mullet Hall Road, on John's Island, Charleston County, South Carolina, (Latitude: 32.6362 °N, Longitude: -80.1228 °W).

This is to inform you that your request for modifications to the saltwater mitigation plan is granted. The authorized modifications are described in the revised saltwater mitigation plan entitled "Mitigation Plan for Saltwater Creation at Kiawah River Plantation" last revised March, 2017. The modifications to the previously authorized mitigation plan consist of relocating the saltwater creation site from Critical Pond 1 to Critical Pond 4 to avoid an archaeological site and live oaks; reducing the creation area from 1.88 acres to 1.58 acres to be consistent with the reduced critical area impacts authorized in the final permit and to be consistent with the OCRM permit; and to allow for utilization of plant material from a nursery in lieu of or as a supplement to borrowed material as is feasible during planting of the site.

This letter and the referenced modified drawings should be attached to your copy of the signed permit. This permit was issued under the provisions of the Federal laws for the protection and preservation of the navigable waters of the United States. These laws provide that after the proposed work has been approved by the issuance of a Department of the Army permit,

**IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER
BEFORE OR AFTER COMPLETION OF THE WORK,**

unless modification of said plans has previously been submitted to and received the approval of the Department of the Army. All other conditions to which the work is made subject remain in full force and effect. In that this work appears subject to the jurisdiction of the South Carolina Department of Health and Environmental Control, it is highly recommended that you contact that agency to ascertain their requirements in this matter.

Your cooperation in the protection and preservation of our navigable waters and natural resources is appreciated. In all future correspondence concerning this matter, please refer to file number SAC-2008-01605. If you have any questions concerning this matter, please contact Mary Hope Green at (843) 329-8044.

FOR THE DISTRICT ENGINEER:

Sincerely,

Robin Collier-Socha
Chief, South Branch

Enclosures

"Mitigation Plan for Saltwater Creation at Kiawah River Plantation"
Last revised March, 2017
Notification of Appeal Options

Copies Furnished:

Mr. John Darby
Kiawah River Plantation Holdings, L.P.
211 King Street, Suite 300
Charleston, South Carolina 29401

South Carolina Department of
Health and Environmental Control
Bureau of Water
2600 Bull Street
Columbia, South Carolina 29201

South Carolina Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

**Mitigation Plan
For
Saltwater Creation at Kiawah River Plantation**

April 2013

Revised: March 2015

Revised: March 2017

1.0 Background

The applicant and owner of the subject property, Kiawah River Plantation, LP (KRPLP) has applied to the USACE and SCDHEC for the appropriate permits and certifications to construct a masterplanned community on Johns Island, South Carolina (Figure 1). The project site, Kiawah River Plantation (KRP), consists of 1,382.61 total acres comprised of 1,005.89 acres of upland and 376.72 acres of aquatic resources. The aquatic resources at Kiawah River Plantation include a network of saltwater impoundments totaling 135.81 acres. These impoundments are intensely managed for fish and waterfowl and as such are subject to current impoundment management practices such as manipulating water regime.

Figure 1



Based on the landscape of the site and the position of the saltwater impoundments in relation to useable upland, it is necessary to supplement the current dike roads at KRP with fill material to satisfactorily meet design standards and anticipated carrying capacities of the development's roads. To accomplish this task, the project engineer has determined that it will be necessary to impact 0.79 acres of the saltwater impoundments to facilitate the needed road footprints.

In order to compensate for the loss of 0.79 acres of saltwater impoundment, KRPLP has proposed to create 1.58 acres of saltwater resources by expanding an area within one of the on-site impoundments, specifically Critical Pond 4 as depicted in Figure 2. The acreage of creation will meet the mitigation criteria set forth in *Section 30-4* of SCDHEC-OCRM's Critical Area Permitting Regulations, which requires a 2:1 ratio of mitigation acres to impact acres. This acreage also meets the compensatory mitigation requirement set forth by the USACE Charleston District SOP (Attached as Appendix A). This plan includes the proposed restoration activities, methods of implementation, monitoring and success criteria anticipated to meet the compensatory mitigation requirements for the proposed saltwater impacts associated with development at KRP.

Figure 2



2.0 Restoration Activities

The vegetation within the proposed creation area is currently dominated by a dense scrub layer of wax myrtle (*Myrica cerifera*), juvenile loblolly pine (*Pinus taeda*), groundsel trees (*Baccharis glomeruliflora*) and occasional live oaks (*Quercus virginiana*). The soils in the selected mitigation area are classified as Wando loamy fine sand and Seabrook loamy sand by the Natural Resource Conservation Service, which are characterized by sandy soils with small quantities of loam present throughout the upper horizons.

Upon approval of the mitigation activities presented in this plan and issuance of the required permit and certification from the USACE, SCDHEC and OCRM, the applicant will definitively identify the 1.58 acres of creation. This will be accomplished by locating grand trees as well as other significant live oaks and establishing a creation area boundary that will avoid these trees. This area will then be enclosed with construction fencing.

Once the boundary of the creation site is established, KRP will establish an elevation at which the creation area is expected to inundate with saltwater based on elevations in the adjacent vegetated portion of Critical Pond 4. The applicant will then excavate the creation area to the established elevation for inundation. Because of the dynamics of managed impoundments, it may be necessary to draw-down the water level in Critical Pond 4 to facilitate both excavation and planting in the creation area.

Once the established elevation is achieved within the creation area, the restoration site will be re-vegetated using *Spartina alterniflora* and/or *Juncus roemerianus* sprigs. As appropriate and necessary sprigs will either be "borrowed" from the adjacent impoundment, planted with nursery stock or a combination of both methods. Borrowed sprigs will be hand dug from random locations within adjacent areas so as not to borrow too much material from one location. Sprigs will be hand-planted on three (3) foot centers throughout the creation area. Combined with volunteer species provided by the seed and rhizome sources from the adjacent impoundment, it is anticipated that the planted species will successfully populate the creation area.

Upon approval of these restoration activities and corresponding issuance of the appropriate permits and certifications, KRPLP will schedule the activities to begin the following spring so as to validate the timing of a six-month follow up monitoring after the growing season.

3.0 Monitoring

Following planting, four random plots will be established within the creation area. The center of each plot will be marked with PVC pipe and will serve as a basis for the evaluation of future monitoring designed to document the establishment and success of the created site. In addition, two plots will be established within any borrow areas to monitor and document re-growth. Finally, a reference plot will be established as a basis for the evaluation of success criteria.

An initial baseline monitoring will be conducted upon completion of planting the site to document planted species as well as proper inundation. This documentation will be submitted to OCRM and the USACE. After six months, a second monitoring and report will be completed to determine the success of the initial plantings. Monitoring will then occur annually for five years. In each successive year, percent coverage of volunteer vegetation and survivability of individual planted species within a 1 meter by 1 meter plot will be recorded in an annual report to be provided to OCRM and the USACE. Annual reports will include results of monitoring, general site descriptions and conditions, photographs of the site and any recommendations by the monitor that would improve timely success of the site. If after a monitoring event in which it has been determined that the site has completely established and meets success criteria before the end of the five year period, future monitoring may be suspended following consultation between KRP and the permitting agencies.

4.0 Success

The creation effort will be considered successful and complete if at the end of five years a minimum of 75% survival of planted species or suitable volunteer replacements exists within the creation area and mean stem densities of the monitoring plots is $\geq 90\%$ of the

mean stem density of the reference plot.

5.0 Contingency

If, at the end of the five year monitoring period, success criteria have not been met, the permittee will consult with the appropriate permitting agencies to determine what specific remedial actions should be taken. Remedial action may include replanting and/or re-grading and continued monitoring.

Appendix A: SOP Mitigation

Calculation Worksheets

**Kiawah River Plantation
Saltwater Creation Mitigation
March 2017**

PROPOSED WETLAND MITIGATION CREDIT TABLE

Factors	Options			
Net Improvement	0.0**-----to-----3.0 (see Section 3.0 for examples of potential values)			
Upland Buffer	0.0**-----to-----1.0 (see Section 3.0 for examples of potential values)			
Credit Schedule	Not Applicable 0**	After 0.1	Concurrent 0.3	Before 0.5
Temporal Loss	Not Applicable 0**	0 to 5 Years -0.1	5 to 10 Years -0.2	10 to 20 Years -0.3
Kind	Out of Kind 0		In Kind 0.4	
Location	Case by Case 0	Drainage Basin 0.1	Adjacent 8-Digit HUC 0.2	8-Digit HUC 0.4

**Use this option to calculate credits for Preservation.

PROPOSED WETLAND MITIGATION CREDITS WORKSHEET

Factor	Area 1	Area 2	Area 3	Area 4	Area 5
Net Improvement	3.0				
Upland Buffer	0.0				
Credit Schedule	0.5				
Temporal Loss	-0.1				
Kind	0.4				
Location	0.4				
Sum of Factors	M₁ = 4.2	M₂ = 1.3	M₃ =	M₄ =	M₅ =
Mitigation Area	A₁ = 1.58	A₂ =	A₃ =	A₄ =	A₅ =
M x A =	6.636				

Proposed Wetland Mitigation Credits = $\sum (M \times A) =$

6.6

Area 1 = Creation

**Kiawah River Plantation
Saltwater Creation Mitigation
March 2017**

REQUIRED WETLAND MITIGATION WORKSHEET

Determination of Wetland Credits (Last Revised, October 7, 2010)

Factors	Options					
	Lost Type	Type C 0.2	Type B 2.0			Type A 3.0
Priority Category	Tertiary 0.5	Secondary 1.5			Primary 2.0	
Existing Condition	Very Impaired 0.1	Impaired 1.0	Partially Impaired 2.0	Fully Functional 2.5		
Duration	0 to 1 year 0.2	1 to 3 years 0.5	3 to 5 years 1.0	5 to 10 years 1.5	Over 10 years 2.0	
Dominant Impact	Shade 0.2	Clear 1.0	Drain 2.0	Dredge 2.5	Impound/Flood 2.5	Fill 3.0
Cumulative Impact	<0.25 Acre 0.1	0.25-0.99 Acres 0.2	1.0-2.99 Acres 0.5	3.0-9.99 Acres 1.0	≥10.0 Acres 2.0	

Note: The cumulative impact factor for the **overall** project should be included in the sum of factors for each impacted area on the Required Wetland Mitigation Credit Worksheet.

Required Wetland Mitigation Credit Worksheet

Factor	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6
Lost Type	0.2					
Priority Category	2.0					
Existing Condition	1.0					
Duration	2.0					
Dominant Impact	3.0					
Cumulative Impact	0.2					
Sum of m Factors	R ₁ = 8.4	R ₂ =	R ₃ =	R ₄ =	R ₅ =	R ₆ =
Impacted Area	A ₁ = 0.79	A ₂ =	A ₃ =	A ₄ =	A ₅ =	A ₆ =
R x AA =	6.636					

Required Wetland Mitigation Credits = $\sum (R \times A) =$

6.6

Area 1= Saltwater Impoundment Fill



SAC 2008-01605-2IG
 Project #: 01-2535b Date: February 2017
 Created by: RC



Final Proposed Saltwater Creation Site
 Kiawah River Plantation
 SAC 2008-01605-2IG





100



4

The Real Property is not included in an overlay or special purpose district. Therefore, Articles 5.1, 5.2, and 5.4 through 5.9 shall not apply. Article 5.3 shall apply as set forth herein.

ARTICLE 5.3 WDU, WATER-DEPENDENT USE OVERLAY DISTRICT

§5.3.1 DESCRIPTION

The WDU, Water-Dependent Use Overlay District is intended to accommodate community docks, boat ramps, marinas and commercial docks and other nonresidential uses that require locations near water bodies.

- A. Private docks intended for the private use of one family shall be exempt from the requirements of this Ordinance.
- B. Joint use docks intended for the private use of two to four families shall be exempt from the requirements of this Article.

§5.3.2 USES

Community docks, boat ramps, marinas and commercial docks and other uses that require locations near water bodies may be allowed in the WDU District, if approved in accordance with the procedures of this Ordinance.

§5.3.3 COMMUNITY DOCKS

A community dock(s) is any docking facility that provides access for more than four families (greater than or equal to 5 watercraft slips and less than or equal to 10 watercraft slips) and is not a marina. All community docks shall be considered a Water-Dependent Use.

Community dock(s) shall be subject to the following standards:

1. All proposed community docks shall comply with the Site Plan Review procedures contained within this Ordinance;
2. All proposed community docks shall comply with all applicable regulatory requirements of State and Federal agencies including but not limited to South Carolina Department of Health and Environmental Control (SCDHEC) and U.S. Army Corps of Engineers;
3. ~~All proposed community docks that provides access for more than four families (greater than or equal to 5 watercraft slips and less than or equal to 10 watercraft slips) shall require review and approval in accordance with the Special Exception procedures of this Ordinance.~~
4. All proposed community docks must have a minimum of 75 feet of lot frontage at the marsh edge (OCRM Critical Line) and a minimum of 75 feet between its extended property lines at the location in the waterbody of the proposed dock;
5. No leasing or other transfer of space to individuals who do not reside in the residential community or other commercial uses are allowed at community docks;