



**TOWN OF KIAWAH ISLAND**

21 BEACHWALKER DRIVE • KIAWAH ISLAND, SC 29455 • (843) 768-9166 • FAX (843) 768-4764

**Planning Commission Subcommittee  
Wednesday, April 11, 2007, 3:00 PM  
Kiawah Island Municipal Center  
Council Chambers**

William G. Wert, Mayor

Council Members

Alan L. Burnaford

Charles R. Lipuma

Donald H. McIver, Jr.

G. Steven Orban

**AGENDA**

Town Administrator

Tumiko Rucker

- I. **Call to Order**
- II **FOIA:** Notice of this meeting has been published, and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.
- III. **Old Business:**
  - A. Critical Line Setbacks
  - B. Front/Back /and Side Yard Setbacks
- IX **New Business:**
  - A. None
- X. **Correspondence**
- XI. **Commissioner's Report**
- XII. **Citizen's Comments**
- XIII. **Adjournment**



# TOWN OF KIAWAH ISLAND

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**Planning Commission Setback Subcommittees**  
**Wednesday, April 11, 2007, 3:00 PM**  
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Town Administrator

Tumiko Rucker

**DRAFT MINUTES**

- I. **Call to Order: Mr. Colvin called the meeting to order at 3:00 PM.**
- II **FOIA:** Notice of this meeting has been published, and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.
- III. **Roll Call:**

**Present:**

Jo Anne Makely, Chair  
Joe Colvin, Vice Chair  
Wayne Juchatz  
Andrew Capelli  
Fred Peterson  
Joyce Neuman

**Also Present:**

William G. Wert, Mayor  
Alan L. Burnaford, Mayor Pro Tem  
Don McIver, Councilmen  
Charles R. Lipuma, Councilmen  
Tumiko Rucker, Town Administrator  
Amber Simmons, Town Clerk  
Jenny Werking, Chas. Co. Planning  
Brandon White, Chas. Co. Planning  
Amanda Mole, Kiawah Island ARB

Mr. Colvin said that the purpose of this meeting is to bring together two of the Planning Commission Subcommittees to discuss issues pertaining to setbacks. Mr. Colvin noted that Mr. Juchatz is the chair for the Planning Commission Subcommittee dealing for the critical line setbacks. Mr. Colvin is serving as the chair for the subcommittee dealing with front, side, and rear yard setbacks. Mr. Colvin noted that the Planning Commission is awaiting a ruling from the Legal Counsel as to whether the subcommittee meetings under the law require official minutes or official notifications, however by bringing

together both subcommittees; this meeting represents a quorum of the Planning Commission and official minutes will be kept.

#### **IV Old Business:**

##### **A. Critical Line Setbacks**

Mr. Juchatz gave a brief explanation of what has occurred thus far dealing with the critical line setbacks. Mr. Juchatz stated that the subcommittee met on February 27, 2007 and reviewed information that was prepared by Charleston County Staff. At that point, the committee agreed on some changes however; there were some questions and suggestions that were made by Amanda Mole, of the Architectural Review Board, during the meeting that required further clarification. Mr. Juchatz said that the Planning Commission Members received in their packets, March 22, 2007, a written explanation from Amanda Mole and a copy of the draft ordinance for their review. Mr. Juchatz said that since the meeting on February 27, 2007 he has received additional suggestions from Mr. Lipuma and Mr. Capelli pertaining to the critical line setbacks.

Mr. Juchatz summarized the purpose of the proposed ordinance. First, as a general rule it would return the critical line setbacks to thirty feet for all residential lots. Second, it would incorporate critical line setbacks, which are approved by the Architectural Review Board, at the time that the original platted lots were sold. It also makes provision for administrative actions on lots that may have been missed on the first approval. It also establishes buffer zone requirements consistent with the applicable requirements set forth by OCRM.

Subcommittee members posed numerous questions to Ms. Mole, of the Architectural Review Board, pertaining to the critical line setbacks. Ms. Mole answered the questions and offered her suggestions as outlined in the redlined copy of Article 12A-216 Waterfront Development Standards dated February 22, 2007 (see attached). Mr. Juchatz then made some suggestions/edits from the subcommittee for Article 12A-216 Waterfront Development Standards. The Subcommittee approved the draft with the changes discussed at the meeting for recommendation to the full Planning Commission at its next meeting.

Mrs. Makely noted that it has been suggested that the Planning Commission hold a Public Hearing on this issue.

**B. Front/Back /and Side Yard Setbacks**

Mr. Colvin said that having reviewed the information pertaining to Front/Back /and Side Yard Setbacks it seems that there is confusion about the side yard setbacks in particular. Property owners are under the impression that the side yards setbacks, which were understood when property owners brought their property, will change by way of the Development Agreement effective 1-1-2008. Mr. Colvin noted that Article 12 and the Development Agreement were changed to be consistent in reference to setbacks. Planning Commission members have received numerous letters and emails in reference to various properties on the island pertaining to the setbacks. Mr. Colvin said that the concern of owners of properties that have not been built upon or permitted is that they will loss their expectation of what they understood was their setbacks were when they purchased their properties. Another concern is that the building envelope for their properties will decrease, thereby reducing the property values.

Mr. Colvin sought the advice from Ms. Mole, of the Architectural Review Board, and Ms, Werking, of Charleston County Planning, on how to address these issues in a way that is fair and consistent to all property owners.

Mr. Colvin said that the goal is to address this issue without having to make exceptions on a regular basis.

Mrs. Makely said that Charleston County Staff has prepared a recommendation to address this issue however; the subcommittee members did not have time to review the information because it was received on the date of this meeting.

Mr. Colvin suggested that the subcommittee take all the information that has been received, then review the information, and schedule another meeting to discuss possible solutions. Then, a formal recommendation could be made to the Planning Commission.

**IX New Business:**

A. None

**X. Correspondence**

A. None

**XI. Commissioner's Report**

A. None

**XII. Citizen's Comments**


Wendy Kulick, 38 Marsh Edge Lane, asked for clarification pertaining to Exhibit "A's" foot note which references Ordinance 2007-02 as adopted April 10, 2007. Mrs. Kulick asked, "Was there a meeting yesterday, for the purpose of adopting Ordinance 2007-02?"

Mr. Juchatz said, "Exhibit "A" was drafted for that purpose of adopting the ordinance however; the adoption of the ordinance did not occur."

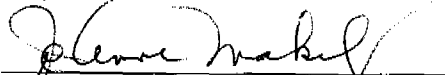
**XIII. Adjournment**

**Mr. Juchatz moved to adjourn the meeting at 4:08 PM; motion seconded by Mr. Capelli. Motion carried unanimously.**

Respectfully Submitted,

  
Amber Simmons, Town Clerk

**APPROVED:**

  
Jo Anne Makely, Chair

**DATE:**

4-26-07

CC: Planning Commission  
Daniel Pennick, Chas. Co. Planning  
Dennis Rhoad, Esq., Town Attorney  
Mayor & Town Council  
Tumiko Rucker, Town Admin  
Joe Bunting, KICA  
Amanda Mole, ARB

# VISITOR SIGN IN SHEET

Planning Commission

Date: 04-11-07

NAME: (Please PRINT)

ADDRESS:

NAME: (Please PRINT)

ADDRESS:

*Nancy Lukut*

*38 Marsh Eghm.*

*CHARLES LIPOMA*

*201 HORNED GREBE*

*Rolie Weir*

*184 Gile Abbey.*

**Planning Commission**

**Wednesday , April 11, 2007 3PM  
Council Chambers**

**Roll Call**

Andy Capelli ✓  
\_\_\_\_\_

Joe Colvin ✓  
\_\_\_\_\_

Wayne Juchatz ✓  
\_\_\_\_\_

Fred Peterson ✓  
\_\_\_\_\_

Joyce Neuman ✓  
\_\_\_\_\_

SoAnne makeley ✓

Mr. Colvin called the meeting to order at 3:00 pm

MR SCHAR moved to adjourn the meeting at 4:00

Motion seconded by Capelli

**12A-216 WATERFRONT DEVELOPMENT STANDARDS APPLYING TO SALTWATER MARSHES/WETLANDS/WATERWAYS**

Purpose and Intent:

The OCRM Critical Line setback and buffer standards of this article are intended to provide a protected area between the furthestmost projection of a structure, parking or driveway area, or any other building elements, and all saltwater marshes/wetlands/waterways other than ocean front, on properties affected by OCRM (saltwater) Critical Lines. The purpose of the required buffer is to provide a visual, spatial, and ecological transition zone between development and the Island's saltwater marshes/wetlands/waterways, and to protect water quality and wildlife habitat.

1. The following dimensions have precedence over Base Zoning District standard for properties, which abut a waterway as shown in Table 2M on the following table:

**Table 2M: Waterfront Development Standards**

|                       | OCRM Critical Line Setback | OCRM Critical Line Buffer |
|-----------------------|----------------------------|---------------------------|
| <b>Residential</b>    | 30 ft.                     | 10 ft                     |
| <b>Nonresidential</b> | 50 ft.                     | 35 ft.                    |

2. The following additional provisions shall apply to Waterfront (Saltwater) Development:
  - A. Existing Platted Lots

The OCRM Critical Line setbacks on existing platted lots that are included in the "\*Kiawah Island Property Setback Requirements" dated the date of this ordinance and contained in Article 12G of this Ordinance: "Kiawah Island Property Setback Requirements Appendix," shall apply in lieu of the setback requirements in Table 2M.

- B. Existing Platted Lots not included in Appendix 12 G

Platted lots existing as of the date of this ordinance that contain an OCRM Critical Line setback that are not included in "Kiawah Island Property Setback Requirements Appendix" shall be administratively included by the Planning Director in such appendix if the property owner provides a plat or site plan approved by the Kiawah Architectural Review Board ("ARB" as defined in the Development Agreement between the Town and Kiawah Island Resort Associates, L.P., as amended) prior to the date of this ordinance.

**C. Unplatted Land**

All unplatted land on the date of this ordinance that contain<sup>s</sup> an OCRM Critical Line shall show the required OCRM Critical Line setbacks and OCRM Critical Line buffers on the preliminary and final recorded plats submitted per Article 12C Subdivision Regulations of this Ordinance.

**D. Measurements.**

Required OCRM Critical Line buffers and setbacks shall be measured from the current OCRM Critical Line, whether the Critical Line or saltwater marsh/wetland/waterway is located on, adjacent to, or near the subject parcel. The current OCRM Critical Line is defined as a line delineated on a plat or survey, verified by the DHEC-OCRM, for the term identified by the OCRM Department representative's signature on the plat or survey. The provisions of section 12A-204.A, Contextual Setbacks, shall apply to this section when deemed applicable by the Planning Director.

**E. Lot Width.**

The minimum lot width standards of the underlying zoning district shall apply at the required buffer or setback line.

**F. Prohibited Activities within the OCRM Critical Line Buffer.**

The following activities are specifically prohibited within the required OCRM Critical Line Buffer area:

- (1) Removal excavation, or disturbance of existing vegetation or soil, except for minimal disturbance associated with the planting of additional indigenous vegetation;
- (2) ~~Various species of grass, shrubs and trees requiring fertilization pesticides, herbicides and/or requiring regular maintenance.~~
- (3) Gardens, fences, or structures, except for permitted crossings;
- (4) Paved or other impervious surfaces; and
- (5) Destruction or addition of plant life which would alter the existing pattern of vegetation.
- (6) ~~Activities associated with DHEC-OCRM approved permits shall be exempt from the above-prohibited activities within the required OCRM Critical Line Buffer.~~

G. Variances.

*for parcels adjacent to.*

Any modification or change from the provisions of this Section (12A-216 Waterfront Development Standards Applying to Saltwater Marshes/Wetlands/Waterways) shall only be allowed if a variance is granted by the Board of Zoning Appeals of the Town of Kiawah Island following the procedure outlined in Section 12A-509, Variances, contained within this Ordinance.

THESE ARE SUGGESTIONS FROM AMANDA MOLE OF THE ARB

**12A-216 WATERFRONT DEVELOPMENT STANDARDS APPLYING TO PROPERTIES ADJACENT TO SALTWATER MARSHES/WETLANDS/WATERWAYS**

**Purpose and Intent:**

The OCRM Critical Line setback and buffer standards of this article are intended to provide a separated area between the furthestmost projection of a structure, parking or driveway area, or any other building elements, and all saltwater marshes/wetlands/waterways (other than ocean front) on properties affected by OCRM (saltwater) Critical Lines. The purpose of these required buffers is to provide a visual, spatial, and ecological transition zone between development and the Island's saltwater marshes/wetlands/waterways, and to protect water quality and wildlife habitat.

1. The following dimensions have precedence over Base Zoning District standard for properties which abut a waterway as shown in Table 2M on the following table:

**Table 2M: Waterfront Development Standards**

| <b><u>Lot Size</u></b> <b><u>Property Type</u></b> | <b><u>OCRM Critical Line Setback</u></b> | <b><u>OCRM Critical Line Buffer</u></b> |
|--|--|---|
| <b>Residential</b>                                 | 30 ft.                                   | 10 ft.                                  |
| <b>Nonresidential</b>                              | 50 ft.                                   | 35 ft.                                  |

2. The following additional provisions shall apply to Waterfront (Saltwater) Development:
  - A. Existing Platted Lots

The OCRM Critical Line setbacks on existing platted lots that are included in the "Kiawah Island Property Setback Requirements" dated February 27, 2007 and contained in Article 12G of this Ordinance: "Kiawah Island Property Setback Requirements Appendix," shall apply in lieu of the setback requirements in Table 2M.

- B. Existing Platted Lots not included in Appendix 12G

~~Platted lots as of the date of this amendment~~ Platted lots as of April 10, 2007 that contain an OCRM Critical Line setback that are not included in the "Kiawah Island Property Setback Requirements Appendix" shall be administratively included by the Planning Director, if the property owner provides a plat or site plan delineating a current, certified OCRM Critical Line and a Critical Line setback approved by the Kiawah Island Architectural Review Board ("ARB") as

defined in the Development Agreement between the Town and Kiawah Resort Associates, L.P., as amended), ~~prior to April 10, 2007.~~

C. Unplatted Land

All unplatted land (i.e. not contained in Appendix 12G of this Ordinance) that contains an OCRM Critical Line shall show the required OCRM Critical Line setbacks and OCRM Critical Line buffers on the preliminary, conditional (?), and final recorded plats submitted per Article 12C Subdivision Regulations of this Ordinance; provided, however, that if any portion of the land is subject to a Stormwater Filter Buffer running adjacent to the OCRM Critical Line, only that portion of the OCRM Critical Line buffer, if any, located outside of the Stormwater Filter Buffer need be delineated on the plat.

D. Measurements.

(i) The certified OCRM Critical Line is defined as a line delineated on a plat or survey, verified by the DHEC-OCRM, that is valid for the term identified by the OCRM Department representative's signature on the plat or survey. The provisions of section 12A-204.A, Contextual Setbacks, shall apply to this section when deemed applicable by the Planning Director.

(ii) The Required OCRM Critical Line buffers and setbacks shall be measured from the ~~current certified~~ OCRM Critical Line as shown on the original recorded final subdivision plat of a property (the "Final Plat"), whether the Critical Line or saltwater marsh/wetland/waterway is located on, adjacent to, or near the subject parcel. If the actual location of the certified OCRM Critical Line changes as a result of OCRM's later relocating the Critical Line for the lot, the originally established OCRM Critical Line setback shall remain the same; provided the remaining distance from the OCRM Critical Line setback to the ~~adjusted~~ OCRM Critical Line is greater than 15 feet; provided however, the OCRM Critical Line setback shall in no event be greater than the OCRM Critical Line setbacks established in Table 2M.

If, however, the adjusted OCRM Critical Line is closer than 15 feet to the originally established Critical Line setback, Planning Department staff may approve a setback of a shorter distance in limited location(s) if staff determines that the adjustment is necessary to allow the owner a reasonable area and location for the siting of structure(s) on the lot. In making such determination staff shall also have the authority to require as a condition of such adjustment that other measures be implemented (such as increasing the width of the critical line buffer or setback from the critical line in other locations on the lot), if staff deems them appropriate. In instances where such adjustments of the setback are approved by staff, the owner shall have a new plat for the lot prepared showing the revised OCRM Critical Line setback and revised buffer requirements, if any, that shall be recorded after written approval by the staff including notation of such approval on the plat. ~~The current OCRM Critical Line is defined as a line delineated on a plat~~