



TOWN OF  
*Kiawah Island*

**Mayor**

John D. Labriola

**Council Members**

Maryanne Connelly

John Moffitt

Scott Parker

Dan Prickett

**Town Administrator**

Stephanie Monroe Tillerson

## MEMORANDUM

**TO:** Mayor and Town Council Members

**FROM:** John Taylor, Jr., Planning Director

**DATE:** January 28, 2021

**SUBJECT: ORDINANCE 2021-01 | Zoning Ordinance Text Amendment**

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The request before Council is to amend the Town of Kiawah Island Land Use and Planning Ordinance Sec. 12- 374 *Definitions*. to establish a new term, *Base Building Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*.

Through the adoption of the new FEMA Maps, staff examined potential adverse impacts to homes. As a result of the new FEMA Maps having lower elevations across the island, inconsistent roof heights would now be created and the ability to park below a structure would be compromised. Base flood elevations for the new maps have been lowered from a range of one to five feet across the island. This idea is also contrary to Kiawah resiliency efforts as well as Flood Mitigation and Sea Level Rise data the Town has explored. With lower elevations, many homeowners would lose the ability to park underneath their home and lose ceiling heights within a home.

To avoid site specific height variances, which would be a burden to both property owners and town staff due to the increase in permitting timeline, staff recommended creating a new baseline designation for height to preserve the existing roof heights lines and allow parking under structures. With approval of this recommendation, the existing building height definition would be modified to now be centered on a new term (*Base Building Height Elevation, BBHE*). This new term retains the base flood elevation numerical value of the Flood Insurance Rate Maps dated November 17, 2004.

This zoning text amendment request would not impact FEMA insurance requirements or construction practices. This recommendation was tested and supported by the Kiawah Island Architectural Review Board among stakeholders of Kiawah design and development community. This new designation was presented to Planning Commission for consideration on January 6, 2021, where the Planning Commission recommended approval by a vote of 5 to 0.

# **Town of Kiawah Island Zoning Ordinance Amendment Request** **Case AZO20-000001 History**

**Planning Commission Meeting: January 6, 2021**  
**Public Hearing and First Reading: February 2, 2021**  
**Second Reading: TBD**

## **CASE INFORMATION**

Applicant/Owner: Town of Kiawah Island

Application:

The Town is requesting to amend the Town of Kiawah Island Land Use and Planning Ordinance Sec. 12-374 *Definitions*. to establish a new term, *Building Base Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*.

The *Ordinance* defines “Base Flood Elevation (BFE) as *“The computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.”*

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

*(1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof;*

*(2) The highest point of a mansard roof; or*

*(3) The highest point of the coping of a flat roof.*

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

The Federal Emergency Management Agency (FEMA) released new flood maps which are scheduled to become effective on January 29, 2021. With a net change reducing base flood elevations across the island averaging approximately three feet and five feet in some areas, lower building heights are an unintended consequence and challenge for homeowners and design teams. The lowering of base flood elevations creates challenges for homeowners by restricting the ability to utilize the ground level of a structure for parking. Additionally, the consistency of existing roof lines for neighborhoods would be impacted across the island where base flood elevations are lowered.

This request is a zoning amendment pertaining to building height and does not change the Town’s one-foot freeboard requirement or adjust FEMA requirements for building standards.

Elevations for the proposed amendment will be determined without respect to the flood zone classification and shall only rely on the numeric elevation value expressed within the parenthesis found on the Flood Insurance Rate Maps dated November 17, 2004.

Furthermore, this recommendation provides relief to the development process timeline and to planning staff and Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting site-specific height variances for new construction with desires to maintain consistency to existing

neighborhood roof lines.

Town staff has met with the Kiawah Island Architectural Review Board and others to discuss these impacts and this modified interpretation of building height has received support.

**\*New Term: Base Building Height Elevation (BBHE)**

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

**\*Revised Term: Building Height**

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

*(1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof;*

*(2) The highest point of a mansard roof; or*

*(3) The highest point of the coping of a flat roof.*

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

**RECOMMENDATION BY THE PLANNING COMMISSION**

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

**DECISION ON AMENDMENT BY THE TOWN COUNCIL**

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

**APPROVAL CRITERIA AND APPLICANT’S RESPONSE**

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

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

Whereas the Comprehensive Plan Housing Element Goal 1 states “*Encourage development of a diversity of housing stock, types and styles that meet different needs of the population*” and Implementation Strategy a. states “*provide mechanisms to permit flexibility and innovation in residential project design to promote land use efficiency and environmental protection.*” the proposed amendment is consistent with the purposes and intent of the Kiawah Island Comprehensive Plan

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

The proposed amendment does not change the purposes and the intent of this article as height restrictions are still maintained with the interpretations of measuring height in both feet and stories.

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

The proposed amendment also provide consistency with resiliency strategies of the Town and would result in higher structures where base flood elevations have been lowered by the new FEMA flood maps.

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

The proposed text amendment provides relief to the extension of the development process timeline and to planning staff and the Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting a site specific height variance for every new construction with desires to maintain consistency of existing roof lines.

**PLANNING COMMISSION MEETING**

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island. On January 6, 2021, the Planning Commission recommended approval by a vote of 5 to 0.

# Town of Kiawah Island Town Council

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



## February 2, 2021

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## Town of Kiawah Island Zoning Text Amendment Applications

Planning Commission Meeting: January 6, 2021  
**Public Hearing and First Reading: February 2, 2021**  
Second Reading: TBD

Notification letters were sent to individuals on the Kiawah/Seabrook Community Interest Group on January 18th.  
Additionally, this request was noticed in the Post & Courier on January 15, 2020.

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## Application Information

### Zoning District Text Amendment Application

### Case # AZO20-000001:

Request a text amendment to create a new term “Base Building Height Elevation” and redefine “Building Height” within Section 12-374. Definitions.

**Purpose and Intent:** The proposed text amendment is intended provide relief to maintain existing building heights as a result of FEMA's new flood insurance rate maps reduction to base flood elevations. This recommendation provides relief to the development process timeline and to planning staff and Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting site-specific height variances for new construction with desires to maintain consistency to existing neighborhood roof lines.

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## Proposed Text Amendment #AZO20-000001

### EXISTING TERMS

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

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

(1) *The average height level between the eaves and ridge line of a gable, hip or gambrel roof;*

(2) *The highest point of a mansard roof; or*

(3) *The highest point of the coping of a flat roof.*

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

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## Proposed Text Amendment #AZO20-000001

### **\*New Term: Base Building Height Elevation (BBHE)**

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

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## Proposed Text Amendment #AZO20-000001

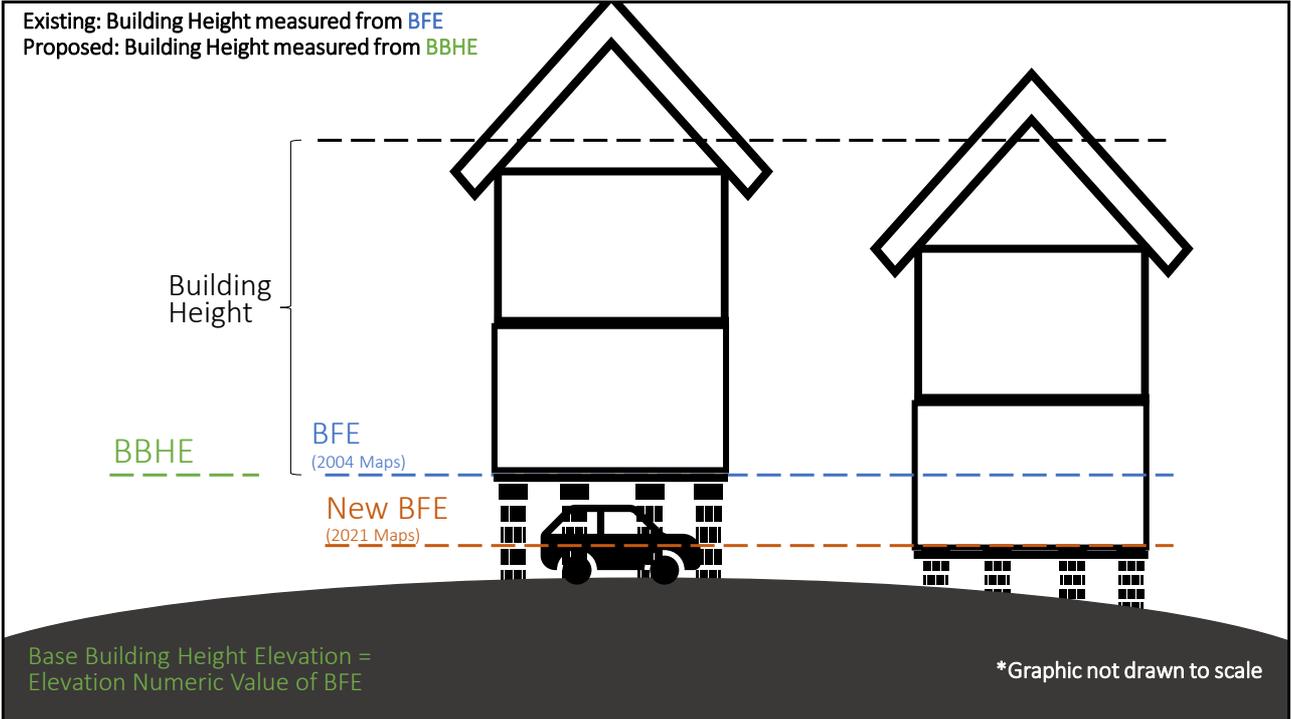
### **\*Revised Term: Building Height**

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

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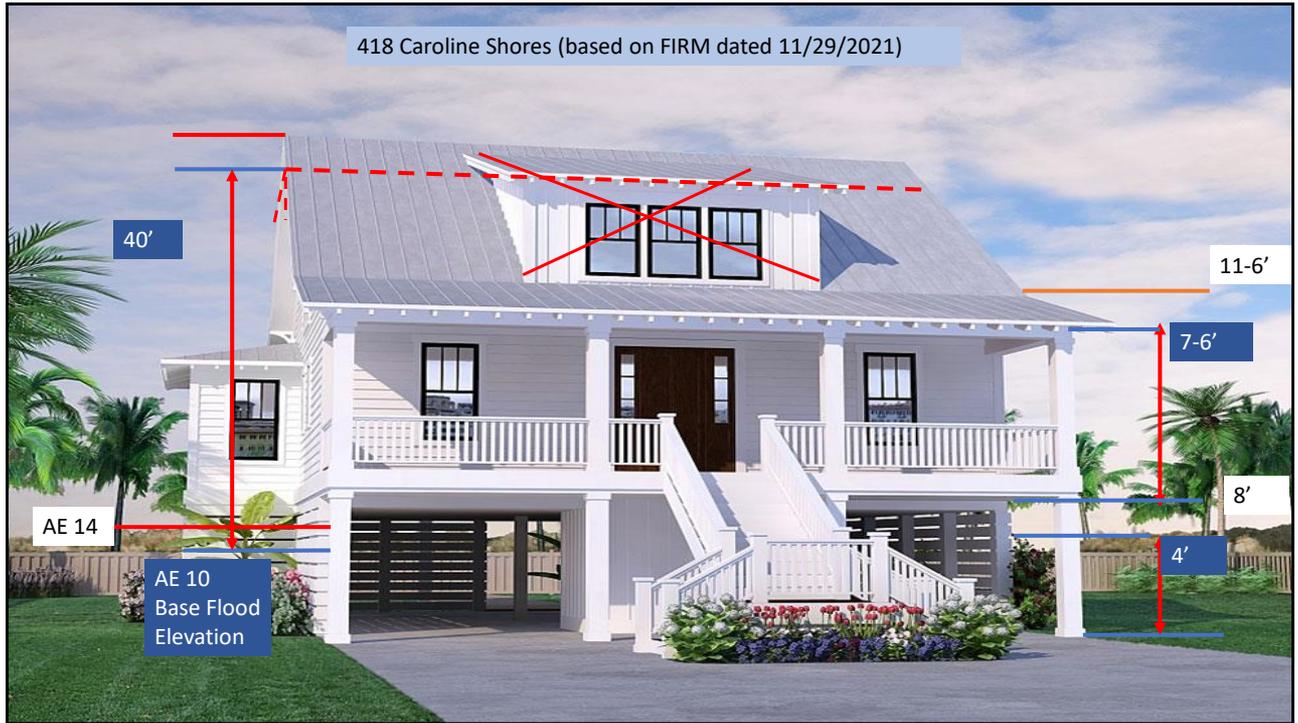
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## Base Building Height Elevation (BBHE)

- Base Building Height Elevation is the elevation using the NGVD 29 Datum as shown on the Flood Insurance Rate Map dated November 17, 2004. Such elevations will be determined without respect to flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the stated map.

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

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

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

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

TOWN OF KIAWAH ISLAND

**ORDINANCE 2021-01**

**AN ORDINANCE TO AMEND CHAPTER 12 - LAND USE PLANNING AND ZONING - ARTICLE 4 – SECTION 12-374 - DEFINITIONS.**

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

**WHEREAS**, the Federal Emergency Management Agency (FEMA) released new flood insurance rate maps, dated January 29, 2021 with a net change reducing base flood elevations across the island ranging from approximately one foot to five feet; and

**WHEREAS**, the lowering of base flood elevations creates challenges for homeowners by establishing inconsistent roof lines and restricts the ability to utilize the ground level of a structure for parking; and

**WHEREAS**, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to establish a new definition term *Building Base Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*; and

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

**WHEREAS**, the Planning Commission held a meeting on January 6, 2021, and subsequently voted to recommend approval to Town Council.

**WHEREAS**, Town Council held a Public Hearing on February 2, 2021, providing the public an opportunity to comment on the proposed amendment.

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

**Section 1                      Purpose**

The purpose of this ordinance is to amend the Town of Kiawah Island Municipal Code, Chapter 12 - Land Use Planning and Zoning - Article 4 – Section 12-374 – Definitions.

**Section 2                      Ordinance Amendments**

**Article 4 – Section 12-374 – Definitions shall be amended with the addition of the new definition of *Base Building Height Elevation* as follows:**

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

**Article 4 – Section 12-374 – Definitions, *Building Height*, shall be amended as follows:**

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

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

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

**Section 3                      Severability**

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

**Section 4                      Effective Date and Duration**

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

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2021.**

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

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

First Reading:

Public Hearing:

Second Reading: