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Exhibit 10.1: Traffic Mitigation

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- (1) Both the Property Owner and the Town are concerned with the accessibility of Kiawah Island and mobility thereon. Both understand the practical economies of staging the development of transportation facilities. Both are interested in the continuation of the enforceable agreement of PDD 1a that would permit the developer a certain degree of flexibility in staging the development of transportation facilities, but require those facilities to meet certain performance standards.

This exhibit provides a set of such performance standards or criteria for the Kiawah River Bridge (Bridge) and the Island Parkway (Parkway). The standards are meant to maintain the performance of these facilities in terms of the volume of traffic thereon and the ratio of that volume to the maximum capacity of the facility. Critical traffic volumes and frequencies of their occurrence are used in accordance with paragraph (2) of this exhibit to specify the point at which Traffic Mitigation Plans and Traffic Mitigation Measures will be required.

As traffic volume on any Link of the transportation facilities approaches full capacity, it will become necessary to expand the capacity of that Link. Two important factors should be considered in deciding when Traffic Mitigation Measures are needed.

First, traffic on the Bridge and Parkway should not be required to fully reach capacity volumes before Traffic Mitigation Measures are mandated. Near Capacity Traffic Volumes will result in congestion, delay, and driving discomfort, which can be avoided if sufficient lead time is provided between the decision to build and the actual construction of Traffic Mitigation Measures. Traffic volumes should exceed only a specified percentage of capacity in order to require Traffic Mitigation Measures.

Second, infrequent peaking of traffic volumes at or near capacity due to special events or circumstances does not, alone, justify the expansion of the transportation facilities. Traffic volumes should approach capacity with a specific regularity in order to require Traffic Mitigation Measures.

The Property Owner agreed in PDD 1a to (1) initially provide (a) two-lane roadway to the Island (24' paved width); (b) two-lane bridge over the Kiawah Creek (26' roadway); (c) one of the two-lane roadways of the Kiawah Island Parkway (24' paved width); and (d) set aside right-of-way for expansion of those facilities to four lanes. By this Agreement, Property Owner has been relieved only of the obligation to provide an additional two lanes for the entire length of the Bridge and Parkway. In lieu thereof, Property Owner shall provide Traffic Mitigation Measures approved by the Town whenever a specified traffic volume is reached. A phased construction process whereby the Property Owner will plan and provide approved Traffic Mitigation Measures is described in paragraph (3)

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of this exhibit.

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- (2) Traffic counts will be conducted by the Town on the Bridge and Parkway three (3) times per year in accordance with paragraph (3) of this exhibit. The traffic counts will be used to evaluate the existing traffic conditions during the summer peak and during time periods on each side of the peak season. The exact time and date of the traffic counts are to be determined by the Town, but they shall not coincide with high publicity special events. Each traffic count will be conducted for a two-week period.

If for any three consecutive days during these count periods traffic volume for any peak hour exceeds 70 percent of peak hour capacity (defined herein as "Near Capacity Traffic Volume") of any Link of the Bridge or Parkway, the Property Owner will submit for Town approval (which approval shall not be unreasonably withheld) a Traffic Mitigation Plan for each affected Link. Traffic Mitigation Plans will propose Traffic Mitigation Measures which shall reduce traffic volume below Near Capacity Traffic Volume or increase roadway capacity for each affected Link.

Upon Town approval of a Traffic Mitigation Plan, the Property Owner shall immediately begin construction of improvements and implement approved Traffic Mitigation Measures within six months. The Property Owner may submit Traffic Mitigation Plans and implement approved Traffic Mitigation Measures at any time prior to the above traffic conditions being reached.

Traffic Mitigation Measures include improvements and/or traffic management strategies to restore or maintain acceptable levels of service for a roadway Link or Links including, but not limited to: turn lane additions, acceleration/deceleration lanes, other road widening alternatives, vanpools, and alternatives to decrease traffic volume or increase roadway capacity.

For the purpose of determining when 70 percent of capacity is reached, peak hour capacity per lane shall be (a) 1,700 vehicles per hour (VPH) for the existing Bridge and (b) 1900 VPH for the existing Parkway. Near Capacity Traffic Volume shall be 1,190 VPH for the existing Bridge and 1,330 VPH for the existing Parkway, with both of these volumes measured under conditions of free traffic flow.

- (3) Traffic counts will be conducted annually during the first two weeks of June (June 1-14), the second and third week of July (July 8-22) and the last two weeks of August (August 17-31) at each of the intersections along the Parkway and peak hour travel time runs will be conducted from the Parkway's intersection with Bohicket to its intersection with Governor's Drive. The traffic counts and travel time runs will be used to evaluate Near Capacity Traffic Volume during the summer peak and during periods on each side of the peak season. The data will be used to calibrate the NETSIM traffic simulation model for the Town.

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The NETSIM model will be used to evaluate the impact of proposed development and mitigation measures on the capacity of the Parkway and Bridge between Bohicket Road and the Vanderhorst security gate. The NETSIM model network will be formed using data collected from an inventory of field observations, including: intersection spacing, intersection layout, peak hour turning movement counts, traffic counts and travel time studies throughout the Parkway and Bridge corridor. The network will be segmented into the following individual Links.

The NETSIM Simulation Model, developed and distributed by the Federal Highway Administration (FHWA), is the most recently developed simulation model available for the analysis of road network operations. The programs in the model allow the user to simulate not only the road network itself, but also the actual operating characteristics of individual vehicles such as vehicle acceleration, speed, length, etc. This allows the user to input the road width and traffic control at each intersection. The user can then take into account the differences between a traffic signal or a stop sign as well as the effects of specific signal phasing. The program also allows the user to identify for different types of vehicles (i.e., truck, bus, auto, etc.) the operating characteristics such as speed and acceleration and then determine whether vehicles in the simulation are free-flowing or queued. For the purposes of this Agreement, it allowed the user to analyze the effects of the signals along the Kiawah Island Parkway from Bohicket Road to Governor's Drive and the interaction between them.

Link #	Link Description	Near Capacity Traffic Volume (VPH)
Link 1	Kiawah Island parkway/Bohicket Road to the Bridge.	1,330
Link 2	Kiawah Island Parkway/Beachwalker Drive Intersection including the potential commercial concentration between the Bridge and the General Store.	1,330
Link 3	Kiawah Island Parkway/Kiawah Beach Drive intersection	1,330
Link 4	Kiawah Island Parkway/Surf Watch Drive/Sea Marsh Drive intersection	1,330
Link 5	Kiawah Island Parkway/Green Winged Teal Road intersection.	1,330
Link 6	Kiawah Island Parkway/Sea Forest Drive West intersection	1,330
Link 7	Kiawah Island Parkway/Sea Forest Drive East intersection.	1,330
Link 8	Kiawah Island Parkway/Sanctuary Beach Drive (Conference Center) intersection.	1,330
Link 9	Kiawah Island Parkway/Green Dolphin Way.	1,330
Link 10	Kiawah Island Parkway/Governor's Drive intersection	1,330
Link 11	Kiawah Island Parkway Bridge	1,190

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The above Links include specific intersections along the Parkway and allow the investigation of traffic flow characteristics for each localized area. Traffic flow interruptions for the security gates will be incorporated into the model, with regular model calibration to reflect actual traffic observations.

- (4) The Property Owner shall be liable for implementing the approved Traffic Mitigation Plan and Traffic Mitigation Measures to ensure that the traffic on all Links of the network does not exceed the Near Capacity Traffic Volume; provided, however, that the Property Owner may include in the Traffic Mitigation Plan and Measures an identification of the land uses generating the increased traffic demand. To the extent that the Traffic Mitigation Plan identifies increased traffic generation from land uses and development other than that of the Property Owner, the Town will make all reasonable efforts to seek the participation of such third parties in the Traffic Mitigation Plan and Measures.

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AN ORDINANCE
FOR THE TOWN OF KIAWAH ISLAND

ORDINANCE 2003-5

AN ORDINANCE TO IMPLEMENT NEW DOCK KEY LOCATION STANDARDS
FOR PROPERTIES NOT SUBJECT TO THE DEVELOPMENT AGREEMENT.

WHEREAS, the Town of Kiawah Island adopted Key Locations Ordinances 91-2 on February 28, 1991 and 92-1 on January 16, 1992, both regulating floating and fixed docks on Kiawah Island's waterways; and,

WHEREAS, the Town of Kiawah Island entered into a Development Agreement with Kiawah Resort Associates on September 26, 1994, and said Agreement incorporated Ordinance's 91-2 and 92-1 which address dock key locations; and,

WHEREAS, considerable development, including the construction of both floating and fixed docks Island-wide has taken place to date; and,

WHEREAS, most Key Locations have been utilized and some closed out by the developer; and,

WHEREAS, the Planning Commission has surveyed and inventoried all Key Locations, with and without docks installed as of December 31, 2002, updated dock standards and developed a new Key Locations map with detailed descriptive supporting tables; and

WHEREAS, the Planning Commission reviewed the updated Dock Key Locations map and proposed new standards with Town Council in a workshop meeting on February 4, 2003, and subsequently incorporated Council's comments; and

WHEREAS, the Planning Commission held a public hearing on May 5, 2003, taking note of and acting on public testimony in a workshop meeting on May 22, 2003; and

WHEREAS, the Town Council held a public hearing on August 12, 2003.

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.

This Ordinance is adopted to implement new dock key location standards for properties not subject to the Development Agreement between the Town and Kiawah Resort Associates entered into on September 26, 1994. This ordinance is not intended to supersede the Development Agreement. It is acknowledged that the Development Agreement shall continue to control dock key locations and design criteria for properties subject to the Agreement until such time as it expires on January 1, 2008.

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Section 2. Ordinance.

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By passage of this Ordinance, the Town of Kiawah Island adopts the following Dock Key Locations standards.

DOCK KEY LOCATIONS

I. PURPOSE AND INTENT

Kiawah Island is bordered by the Atlantic Ocean on the south, and the Kiawah and Stono Rivers on the north and east respectively. Creeks, streams and marsh are also an integral part of the Island's ecosystem.

Key Locations are specific shoreline and marsh sites where floating and fixed docks are permitted to be constructed. The purpose and intent of this Key Location zoning is to strictly control location and installation of all docks, floating and fixed, so as to prevent their uncontrolled proliferation along the Island's river and stream frontage.

II. DOCK LOCATIONS & DESIGN CRITERIA

Permitted dock locations and general design criteria are as follows:

1. The "Town of Kiawah Island Key Locations Map," dated April 1, 2003, shows all sites where authorized docks currently exist or may be permitted to exist in the future. The two tables "Town of Kiawah Island Key Locations Floating Docks" and "Town of Kiawah Island Key Locations Fixed Docks," both dated April 1, 2003, provide detailed information as to current and future docks. These are the Town's official zoning documents and are kept at the Town's municipal offices.

The maps and the tables show and detail the specific locations of installed docks on developed lots by identifying lot number and dock type. For property not yet platted, linear footage of shoreline is shown where construction of future docks may be authorized.

In addition to these official documents, the Town will catalog new docks as they are installed at undeveloped Key Locations. This information will be periodically incorporated into the official Key Locations map.

2. Two basic types of docks are authorized using alphanumeric coding. Authorized dock sites identified by letters (i.e. "A", "F", "AA", etc.) are pre-designated to be "Fixed Docks". These are generally intended for fishing and crabbing and have no movable parts to them. Authorized dock sites identified by numerals (i.e. "3", "12",

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“21”, etc.) are pre-designated to be “Floating Docks”. These normally have a separate floating pontoon or platform attached to them, which rises and falls with the tides. Floating Docks are suitable for mooring small watercraft.

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3. The “Town of Kiawah Island Key Locations Map” and the two Town of Kiawah Island Key Locations tables, used in conjunction with one another, describe the dock type and Lot numbers of authorized and in-place dock locations. True orientation of floats attached to Floating Docks is shown on the Map. Floats on both sides at the end of a single pier usually indicate a pier structure shared by two adjacent lots with separate floats provided for each lot owner.

Undeveloped shorelines authorized as future Key Location dock sites are shown by color-coding on the Maps to indicate dock type, with authorized shoreline given in linear feet in the Tables.

4. For undeveloped properties and subdivisions where platting is not complete, a developer may, with approval of the Planning Commission, trade-off linear footage of shoreline from one permitted location to another permitted location with no net gain in total authorized footage. Further, transfer of footage may not cause a Key Location to be lengthened by more than 50%. In a trade-off event, the developer “borrows” from one Key Location to supplement another Key Location that does not have sufficient linear footage to meet development requirements. Some “tradeoffs,” which have occurred in the past, resulted in the deletion of Key Locations once authorized in the original Key Location Ordinances, 91-2 and 92-1. These deletions are identified and described on both the Map and in the Tables.
5. It is the intent of this ordinance that construction of community docks, subdivision (neighborhood) docks, and joint use docks shared by adjacent lot owners be encouraged versus a single installation per lot. This approach serves to minimize the ultimate number of docks built and is more environmentally compatible.
6. The following criteria shall be applied in the design of any authorized dock structure:

A. Overall dock length.

No dock shall be erected greater than 600 lineal feet in length.

B. Float Design:

Floats attached to such docks shall be limited in size and configuration as the South Carolina Department of Health and Environmental Control’s office of Ocean and Coastal Resource Management (DHEC/OCRM) and the U. S. Corps of Engineers shall permit.

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C. Spacing between adjacent docks:

The minimum distance between adjacent docks shall be 150 feet. However, for adjacent Key Locations properties on river or stream bends, the waterside terminus of adjacent docks may be at a minimum distance of 75 feet.

D. Maximum extension of the dock structure into a river, stream, or channel:

The leading edge (edge nearest the river, stream or channel center) of a pier head and/or float structure shall not extend out into a river or stream more than one-quarter of the river or stream width measured at mean low water, or 50 feet, whichever is less. This projection is to be measured from water's edge at mean low water.

E. Minimum river or stream width.

No dock shall be erected, whether an authorized Key Location or not, if the stream or river on which it is to be erected is 25 linear foot or less in width measured from the marsh grass edge on one bank to marsh grass edge on the opposing bank directly across the waterway.

7. The following approvals shall be required before construction on any dock can proceed:

A. Town of Kiawah Island.

An initial written request to construct shall be submitted to the Town of Kiawah Island Planning Director prior to any other requests being made. The intent is to confirm to the lot owner whether, in fact, the proposed site is a Key Location before the lot owner spends time and money in developing drawings, etc. for a non-viable project.

B. Design approval by DHEC/OCRM and the Town of Kiawah Island.

The second step shall be for the applicant or his contractor to submit dock design to DHEC/OCRM using the appropriate forms and following accepted procedures. During this process, the Town of Kiawah Island will have an opportunity to review the design prior to DHEC/OCRM returning the approved or disapproved application to the applicant. No construction shall start until this approval is forthcoming.

TOWN OF KIAWAH ISLAND KEY LOCATIONS
FLOATING DOCKS

Key Location		Auth.	Docks Authorized	
Designation ^(a)	Location	Shoreline (Lin. Ft.)	No.	Site ^(b) /Use
1	Beachwalker Park	100	TBD	Beachwalker Park
2	Inlet Cove		1	Inlet Cove Neighborhood Dock ^(c)
3	Kiawah River Cmns.	600	TBD	Kiawah Riv. Cmns.
4	Little Rabbit	400	TBD	Little Rabbit
5	Mingo Point	1,200	1	Mingo Point Commercial Dock ^(d) and Boat Launch
6	Old Dock Road		10	Lot #'s 489, 490, 491, 492, 493, 495, 496, 497, 498, & 499
7	The Settlement West	800	TBD	The Settlement West
8	Rhett's Bluff, North		24	Lot #'s 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51/52, and the Rhett's Bluff Park Community Dock ^(e) and Boat Launch
9	Capt. Maynard's, N.	280	1	Lot # 1
10	Capt. Maynard's, S.	930	1	Lot # 1
11	Rhett's Bluff, South		6	Lot #'s 7/8, 9/10, 11/12, 13/14, 15/16 & 17/18
12	Vanderhorst House	50	1	Tracts A & B
13	Terrapin Island		6	Lot #'s 7A/8B, 9/10, 11, 12, 13, & 14
14	Preserve, N.E. Tip	100	1	Lot # 85
15	Cormorant Island, N.		2	Lot #'s 23/24, & 25/26
16	Eagle Point, Central		5	Lot #'s 226/228, 230/232, 234/236, 238/240, and the Eagle Point Neighborhood Dock
17	Eagle Point, West		2	Lot #'s 222/224 and the Eagle Point Dock and Boat Launch
18	Salt Cedar Lane, East Tip		1	Lot # 62
19	Salt Cedar Lane, East		2	Lot #'s 60 & 61
20	Preserve, South		4	Lot #'s 42, 44/46, 48/50 and the Preserve Neighborhood Dock
21	Salt Cedar Lane, Cent.	500	2	Lot #'s 57 & 58

TOWN OF KIAWAH ISLAND KEY LOCATIONS
FLOATING DOCKS

Key Location		Auth. Shoreline (Lin. Ft.)	Docks Authorized	
Designation ^(a)	Location		No.	Site ^(b) /Use
22	Salt Cedar, West		2	Lot #'s 53/54 and the Salt Cedar Community Dock
24	Cougar Island, West	1,150	TBD	Cougar Island, West
25	Cormorant Island, S.		2	Lot #'s 28/29, & 30/31
26	Cougar Island, W. Tip	300	TBD	Cougar Island, W. Tip
27	Otter Island, East		1	Lot # 91
28	Summer Islands, East		4	Lot #'s 12/13, 14/15, 17, and the Summer Islands Neighborhood Dock
29	Summer Islands, West		4	Lot #'s 1/2, 3/4, 5/6, & 7
30	Otter Island, Savanna Point		3	Lot #'s 82, 83/84, & 85/86
31	Otter Island Rd., West		2	Lot #'s 70/71, & 72/73
32	Otter Island Rd., West Tip		2	Lot #'s 68 & 69
33	Ocean Course Drive	500	1	Lot # 65
34	Club Cottages		3	Lot #'s 6, 7, & 8
35	Cougar Island, E. Tip	1,100	TBD	Cougar Island, E. Tip

DELETED KEY LOCATIONS/DOCK SITES

Key Location/Site		
Designation ^(a)	Location	Original Authorized Shoreline (l.f.)
6 ^(f)	Old Dock Road - Lot #495	N.A.
23 ^(g)	Preserve, Southwest	700

- Notes:
- (a) Numerals indicate Floating Docks - Letters indicate Fixed Docks.
 - (b) "21/22" Typically indicates that two lots share a single dock
 - (c) Neighborhood Docks serve just the local area or regime.
 - (d) Commercial Dock is owned by Kiawah Island Golf Resort.
 - (e) Community Docks are KICA property and serve the entire island.
 - (f) Lot #'s 494 & 495, each with docks in place, combined into a single Lot #495. Once dock is authorized and the second dock is "grandfathered."
 - (g) 700 l.f. originally authorized for Key Location 23 transferred to Key Location 20.

TOWN OF KIAWAH ISLAND KEY LOCATIONS
FIXED DOCKS

Key Location		Auth. Shoreline (Lin. Ft.)	Docks Authorized	
Designation ^(a)	Location		No.	Site ^(b) /Use
A	Old Dock Rd./ Ruddy Turnstone		6	Lot #'s 500, 512, 513, 514, 515, & 517
B	The Settlement, East	1,050	TBD	The Settlement, East
C	Bass Pond, East		1	Bass Pond Community Dock ^(c)
D	Terrapin Island		1	Lot # 15
E	Blue Heron, North		1	Lot # 158
G	Eagle Point, East	1,100	TBD	Eagle Point, East
H	Falcon Point Rd., East		1	Lot # 67
J	Blue Heron, West		1	Blue Heron Community Dock
K	Cougar Island, West	250	TBD	Cougar Island, West
N	Ocean Course Drive		1	Lot # 64
O	Falcon Point, East		1	Falcon Point Neighborhood Dock ^(d)
R	Shell Crk. Lndg., East		1	Lot # 5
S	Shell Crk. Lndg., S.		2	Lot #'s 1/2 & 3/4
T	Club Cottages		3	Lot #'s 9, 10, and the Club Cottage Neighborhood Dock
U	Marsh Cottages		2	Lot #'s 25/26, and the Marsh Cottages Neighborhood Dock
V	Ocean Oaks		1	Ocean Oaks Neighborhood Dock
W	Ibis Pond		1	Ibis Pond Community Dock
X	Willet Pond		1	Willet Pond Community Dock
Y	Blue Heron, North	800	TBD	Blue Heron, North
Z	Osprey Entry		1	Canvasback Pond Community Dock
AA	Bass Pond, West	100	TBD	Bass Pond, West
BB	Egret Pond		1	Egret Pond Community Dock

DELETED KEY LOCATIONS/DOCK SITES

Key Location		Orig. Auth. Shoreline ^(e)
Designation ^(a)	Location	(l.f.)
F	Blue Heron Pond Rd.	600
I	Salt Cedar	100
L	Summer Islands, N.	300
M	Summer Islands, S.	300
P	Falcon Point, West	200
Q	Shell Crk. Lndg., N.	400

Notes:

^(a) Numerals indicate Floating Docks.

Letters indicate Fixed Docks.

^(b) "21/22" typically indicates that two lots share a single dock.

^(c) Community Docks are KICA property and serve the entire Island.

^(d) Neighborhood Docks serve just the local area or regime.

^(e) Shoreline footage no longer eligible for use or transfer.

Section 3. Severability.

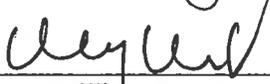
If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such part had not been included.

If said Ordinance, or any provision thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property, or circumstances.

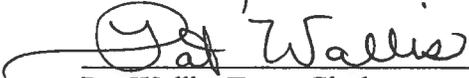
Section 4. Effective Date and Duration.

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

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS 12th DAY OF August, 2003.



Mayor William G. Wert



Pat Wallis, Town Clerk

First Reading: July 8, 2003

Second Reading: August 12, 2003

Draft
10.03.13

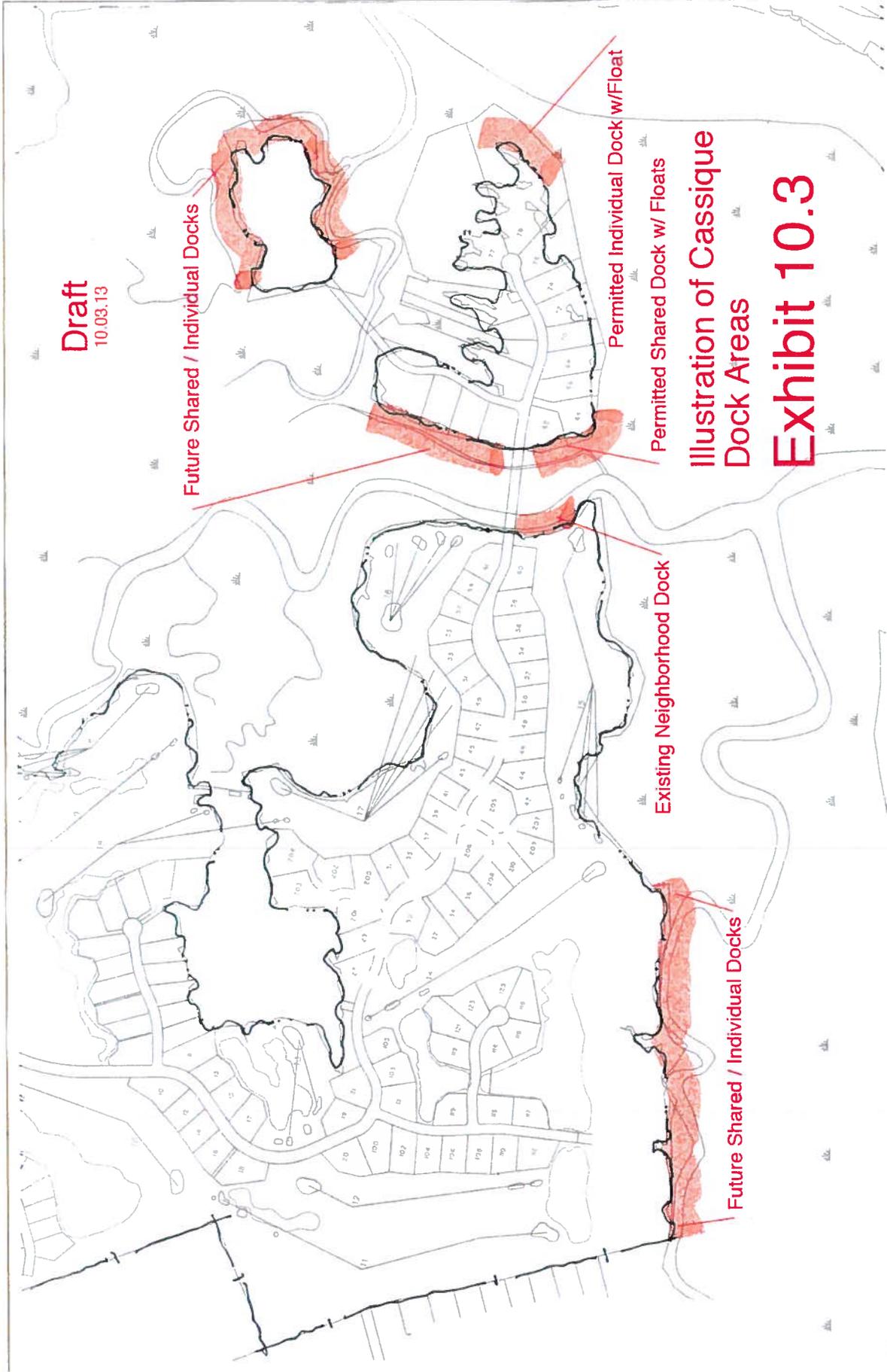


Illustration of Cassique Dock Areas

Exhibit 10.3

EXHIBIT 10.4

The following standards related to subdivision and roads that are currently provisions of the County's subdivision and road ordinances shall apply to the Real Property situated at Cassique and Freshfields. To the extent there is a conflict between the Town's ordinances and these standards, these standards shall control. All references to County or Charleston County in these standards shall be understood to refer to the Town. Other defined terms shall have the same meaning as in the current Zoning and Land Development Regulations ("ZLDR") of Charleston County.

§8.4.3 PLANNING DIRECTOR---- REVIEW AND REPORT

A. Upon receipt of a complete application for Preliminary Plat approval, the Planning Director shall have 30 calendar days to (1) review the proposed Preliminary Plat; (2) compile a staff report on the proposed plat (which includes the comments and recommendations of the Public Works Director and other affected agencies);

B. Major Subdivisions (Preliminary and Final) are reviewed by the Planning Director and approved when in compliance with requirements of this Chapter. Within the 30 calendar day review period the Planning Director has the option of forwarding the Major Preliminary Subdivision Plat application, along with his report and any recommendations, to the Planning Commission for its review and approval in order to determine whether or not the proposed Subdivision is in compliance with all of the requirements of this Chapter.

C. The Planning Director shall advise the Planning Commission at the regular scheduled Planning Commission meeting of all Preliminary Plats approved (for information purposes only).

§8.4.4 PLANNING COMMISSION—REVIEW AND DECISION

Within 30 calendar days of receipt of a report from the Planning Director, the Planning Commission shall review the proposed Preliminary Plat and act to approve, approve with conditions, or deny the Preliminary Plat based on whether it complies with all applicable requirements of this Ordinance and the adopted Charleston County Comprehensive Plan.

§A.1.11 ROAD CLASSIFICATIONS

A. PRIVATE ROADS

Any road dedicated to an individual or entity other than Charleston County with an Ingress/Egress Easement (Maximum of 10 Lots) or a right-of-way dedicated to a Homeowners' Association. The easement holder retains ownership and maintenance responsibility for access and drainage.

ARTICLE A.2 PRIVATE ROAD STANDARDS

§A.2.1 GENERAL INFORMATION

A. INTRODUCTION

The private road standards provide the landowner/developer flexibility to determine the level of access and service provided to lots being created. The private road standards require the landowner/developer to be responsible for the extent and quality of property access and drainage. The landowner/developer is responsible for the establishment of standards for design, construction, and maintenance of the roadway and drainage systems and for items such as access for emergency service vehicles, school buses, mail couriers, and coordination of utilities. Note that public services are not guaranteed by Charleston County. The private right-of-way shall be dedicated to a legally recognized or chartered entity. Private right-of-way shall not be dedicated to the public. Further, Charleston County is neither obligated nor responsible for private right-of-way maintenance.

B. LANDOWNER/DEVELOPER RESPONSIBILITIES

The landowner/developer is responsible for determining the type of access to be provided for his subdivided property. The landowner/developer shall be responsible for oversight and coordination of design and construction and for obtaining required approvals or permits from the appropriate agencies.

The landowner/developer is responsible for informing prospective property owners, whether solicited or unsolicited, of all conditions and responsibilities, or lack thereof, that have been placed on the property.

If access or drainage connects with a County right-of-way or easement, an encroachment permit shall be obtained prior to construction.

§A.2.2 INGRESS/EGRESS EASEMENT (Maximum of 10 Lots)

ADDITIONAL LANDOWNER/DEVELOPER RESPONSIBILITIES:

The landowner/developer shall determine the location of easement(s) and the type of access to be provided. The location of the easement(s) shall be clearly depicted and labeled on submitted plats or plans.

§A.2.3 PRIVATE RIGHT-OF-WAY DEDICATED TO A HOA WITH NO ROAD CONSTRUCTION REQUIRED (Maximum of 10 Lots)

ADDITIONAL LANDOWNER/DEVELOPER RESPONSIBILITIES:

The landowner/developer shall determine the location and size of proposed rights-of-way to be provided. All rights-of-way shall be clearly depicted on submitted plats or plans. The landowner/developer is responsible for determining the construction suitability and the accessibility of the defined right-of-way.

§A.2.4 PRIVATE RIGHT-OF-WAY CONSTRUCTED AND DEDICATED TO A HOA
ADDITIONAL LANDOWNER/DEVELOPER RESPONSIBILITIES:

The landowner/developer shall determine the location and size of rights-of-way to be provided and the standards for the design and construction of the roadway and drainage systems. The landowner/developer shall secure the necessary licensed, professional personnel to prepare designs, obtain required approvals and permits, and oversee construction.

§8.4.11 CONDITIONAL PLAT APPROVAL

A. Prior to approval of a Final Plat, the developer shall install all required public improvements or post an approved financial guarantee of performance, in accordance with the requirements of this Ordinance. If financial guarantees are posted, the Planning Director shall be authorized to grant conditional plat approval on plats that involve two (2) or more guaranteed public improvements, with final approval contingent upon completion and acceptance of all required improvements. No Certificates of Occupancy shall be issued until all required improvements have been installed and accepted, and the Final Plat has been recorded by the Charleston County Register of Mesne Conveyance. Conditional Plat approval shall be valid for a period not to exceed two years from the date Conditional Plat Approval is granted.

B. Where plats are submitted under an approved financial guarantee for Conditional approval the following three (3) notes shall be placed on the plat:

1. Approval of this plat does not authorize occupancy;
2. Duration of approval shall be limited to two (2) years; and
3. The approval of this plat in no way obligates the County of Charleston to accept for continued maintenance any of the roads or easements shown hereon.

C. The duration of the financial guarantee for a conditional plat shall be no longer than twenty-four (24) months unless extended by the Planning Commission. No later than two (2) months before the expiration, the applicant shall notify the County that the applicant has completed the final plat or is securing a replacement bond to be issued within 30 days of expiration of the original bond. If no action is taken by the applicant, the County shall execute the provisions of the performance bond.

ARTICLE 8.14 FINANCIAL GUARANTEES (SURETY)

§8.14.1 PERFORMANCE GUARANTEES

A. In lieu of completing the required subdivision improvements of this Chapter, a financial guarantee in the form of a no-contest, irrevocable bank letter of credit, or performance and payment bond underwritten by an acceptable South Carolina licensed corporate surety, subject to County attorney approval of the guarantee to determine that the interests of Charleston County are fully protected.

B. The applicant shall submit to the appropriate governmental agency a detailed itemized unit cost estimate for the proposed public improvements to be included in the financial guarantee. Performance Guarantees are for Public Improvements only: Public Roads, Public Water and Public Sewer. (Example: public roads constructed to County Road Standards dedicated to the public and accepted into the road system by Charleston County Council, or a public water system approved and accepted by another public entity). Charleston County will only accept a Financial Guarantee (Surety) for two (2) or more of the above public improvements. The amount of the financial guarantee shall be verified by the appropriate governmental agency that exercises operational control (Commissioners of Public Works for public water, Commissioners of the appropriate Public Service Districts for street name signs and public sewer, and the Public Works Director for all other public improvements covered in this Chapter). The amount shall be sufficient to guarantee completion of the required improvement (125 percent of the actual cost of the improvements with a minimum of \$10,000) within a time period specified by the government agencies, not to exceed two years. The governmental agencies determining the amount of financial guarantee shall provide a letter to the Planning Director (copy to the applicant) setting forth the amount of bond, conditions of acceptance and the period covered. The Planning Director will inform all interested governmental agencies, particularly the County Building Inspection Director.

C. Upon completion of the improvements as required by this Chapter, written notice thereof shall be given by the applicant to the bond holder, who shall cause an inspection of the improvements to be made. The bond holder will, within 30 days of the date of notice, authorize in writing the release of the security given, provided improvements have been completed in accordance with the required specifications. Should the improvements not be completed in accordance with the required specifications by the date originally stipulated in writing by the bond holder, the funds derived from said bond will be used by the bond holder to complete the improvements according to required specifications, at the earliest reasonable time. Where it appears that the bond was insufficient to finance the required improvements after the applicant has defaulted, County Council will assess the individual applicant the cost of the improvements over and above the surety amount.

END