



# MEMORANDUM

**TO:** Mayor Gregg & Members of Town Council  
**FROM:** Tyler Newman, Zoning Administrator  
**SUBJECT:** Annexation & Rezoning Request for 4484 Betsy Kerrison Parkway  
**MEETING DATE:** August 22, 2023

Rezoning #89	
<b>Applicants:</b>	Todd Richardson (Applicant) Bohicket Creek Investors, LLC (Owner)
<b>Location:</b>	4484 Betsy Kerrison Parkway
<b>Tax Map Number:</b>	204-00-00-010
<b>Current Zoning District:</b>	Agricultural Residential (AGR / Charleston County)
<b>Proposed Zoning District:</b>	Mixed-Use (MU)
<b>Purpose:</b>	To annex the subject property into the Town of Seabrook Island with a Mixed-Use (MU) zoning designation.

## Overview

Town Council is asked to review and provide a recommendation on an annexation and rezoning request from Todd Richardson of Synchronicity Land & Architecture, submitted on behalf of the property owner, Bohicket Creek Investors, LLC (collectively, “the Applicants”), for Charleston County Tax Map Number 204-00-00-010, containing approximately 17.75 +/- acres located at 4484 Betsy Kerrison Parkway. The Applicants are seeking to annex the property into the Town of Seabrook Island with a zoning designation of Mixed-Use (MU).

The subject property, which is currently undeveloped, is located in unincorporated Charleston County and has a zoning designation of Agricultural Residential (AGR). To its north, the property abuts a single-family home, which is also in unincorporated Charleston County and zoned AGR. To the south, the property abuts an undeveloped parcel which is located in the Town of Kiawah Island and zoned Planned Development (PD – Freshfields Village). To the west, the property abuts two properties in the Town of Seabrook Island, including Bohicket Marina, which is zoned MU, and a vacant lot zoned LC Limited Commercial. The property is also located across Betsy Kerrison Parkway from Kiawah Island Town Hall, which is located within the Kiawah town limits.

Subject to approval of the annexation request and corresponding MU zoning designation, this property is intended to be utilized as a private yacht club with corresponding amenities, to include:

- A pool house and boat house;

- A “detached hotel” containing ten (10) two-story cottages that provide accommodation for club members as well as the public; and
- Open spaces that are open to the public, including a boardwalk, pathways, and a community crabbing dock.

Pursuant to Development Standards Ordinance (DSO) § 7.4.C.4 the Applicant may offer conditions to be attached to the rezoning request. These conditions may be more restrictive than the requirements of the MU district but shall not alter the intent of the district nor permit uses not otherwise authorized in the MU district.

Per the development conditions provided with the Applicants’ submittal, the permitted uses for the subject property, upon annexation into the Town of Seabrook Island with a MU zoning designation, will be limited to the following (*See Attachment 4, Exhibit B, Development Conditions*):

- Boat docks, landings and launches;
- Fitness clubs and health spas;
- Greenways, boardwalks, and non-motorized trails/pathways;
- Hotels (single building or collection of buildings), not to exceed ten (10) units;
- Indoor recreation facilities, including club buildings, meeting and event facilities, and gymnasiums;
- Offices (general and professional);
- Open air recreation, including boat ramps, docks (including crab docks), piers and swimming pools;
- Open space preserves; and
- Restaurants (not including drive-through facilities)

The proposed development conditions would also allow the following conditional uses, which are expressly allowed in the MU district:

- Establishments serving alcoholic beverages
- Marina facilities
- Outdoor seating at eating/drinking establishments

Pursuant to the development conditions, the Applicants have elected to **remove** all residential uses which would otherwise be permitted in the MU district, including:

- Dwellings on upper floors above businesses
- Home occupations
- Short-term rental units
- Multifamily dwellings
- Townhomes
- Two-family dwellings
- Vacation club unit

In addition to the aforementioned uses, the DSO has a provision for “similar uses” which are uses that are not specifically addressed in the DSO but are determined by the Zoning Administrator to closely approximate one of the allowable uses in the zoning district. In these cases, the Zoning Administrator may allow the proposed use as a “similar use.” Any use so designated is subject to the same conditions and requirements applicable to the use which the Zoning Administrator has determined it most clearly resembles.

## Criteria for Annexation

Pursuant to S.C. Code of Laws 5-3-150:

(3) ... Any area or property which is contiguous to a municipality may be annexed to the municipality by filing with the municipal governing body a petition signed by all persons owning real estate in the area requesting annexation. Upon the agreement of the governing body to accept the petition and annex the area, and the enactment of an ordinance declaring the area annexed to the municipality, the annexation is complete. No member of the governing body who owns property or stock in a corporation owning property in the area proposed to be annexed is eligible to vote on the ordinance. This method of annexation is in addition to any other methods authorized by law.

## Criteria for Zoning Map Amendments

Pursuant to §19.3 of the DSO, in considering amendments to the official zoning map, the Planning Commission shall consider each of the seventeen criteria outlined in §19.3.B, as follows:

- 1) Whether the proposed rezoning is consistent with the goals, policies, and future land use recommendations for the Town's Comprehensive Plan;
- 2) Whether the intended use of the property is consistent with the intent and purpose of the district to which the property is proposed to be rezoned;
- 3) Whether there are, have been, or are anticipated to be (pursuant to the Comprehensive Plan) changing conditions in the surrounding area that would make approval of the proposed rezoning appropriate;
- 4) Whether the range and intensity of uses allowed in the proposed zoning district will be compatible with permitted uses and intensities in the surrounding area;
- 5) Whether adequate utilities, transportation, drainage, and other public or private infrastructure exist, or can reasonably be made available, to serve the range and intensity of uses allowed in the proposed zoning district;
- 6) Whether the range and intensity of uses allowed in the proposed zoning district will exceed the structural capacity of existing soils, and whether the allowable uses can be accommodated within the proposed zoning district without the excessive use of fill;
- 7) Whether the range and intensity of uses allowed in the proposed zoning district will substantially increase the volume of stormwater runoff, overburden existing storm drainage infrastructure, or adversely impact surface water quality, when compared to the range and intensity of uses allowed in the current zoning district;
- 8) Whether the range and intensity of uses allowed in the proposed zoning district will substantially increase the volume of vehicular and pedestrian traffic, or will adversely impact vehicular and pedestrian safety, when compared to the range and intensity of uses allowed in the current zoning district;

- 9) Whether the current zoning district prohibits or unreasonably restricts all economically beneficial use of the property, provided the hardship was not self-imposed by action of the property owner;
- 10) Whether the proposed rezoning will encourage commercial uses in areas designated for such activities in the Comprehensive Plan;
- 11) Whether the proposed rezoning will encourage the preservation of conversation lands, critical areas, natural resource areas, and open spaces in areas designated for such activities in the Comprehensive Plan;
- 12) Whether the proposed zoning district will adversely impact the enjoyment of natural and scenic features by neighboring property owners or the public at large by allowing development of a certain size, scale, bulk, height, or type that is substantially out of character with the surrounding area;
- 13) Whether the proposed rezoning will threaten the continued presence or integrity of archaeological or historic sites or features;
- 14) Whether the range and intensity of uses allowed in the proposed zoning district will adversely impact air and water quality, natural features, sensitive lands, vegetation, or wildlife habitat, when compared to the range and intensity of uses allowed in the current zoning district;
- 15) Whether the range and intensity of uses allowed in the proposed zoning district will place a disproportionate burden upon, or otherwise exceed the capacity of, existing community facilities, when compared to the range of uses allowed in the current zoning district;
- 16) Whether future development on the property, if rezoned, will be accessible to essential public services, including, but not limited to, police, fire, emergency medical services, and sanitation; and
- 17) Such other factors as may be deemed appropriate by the Planning Commission or Town Council.

### Staff Analysis of Annexation Criteria

The annexation request satisfies the two requirements established by S.C. Law for a 100% annexation:

- The subject property is contiguous to property which is already in the Town limits of Seabrook Island; and
- The petition has been signed by all persons owning real estate in the area requesting annexation.

Should Town Council accept the petition and agree to annex the subject property, it must enact an ordinance declaring the area annexed to the municipality. At that point, the annexation is complete.

### Staff Analysis of Rezoning Criteria Pursuant to DSO §19.3.B

**1) Whether the proposed rezoning is consistent with the goals, policies, and future land use recommendations for the Town’s Comprehensive Plan.**

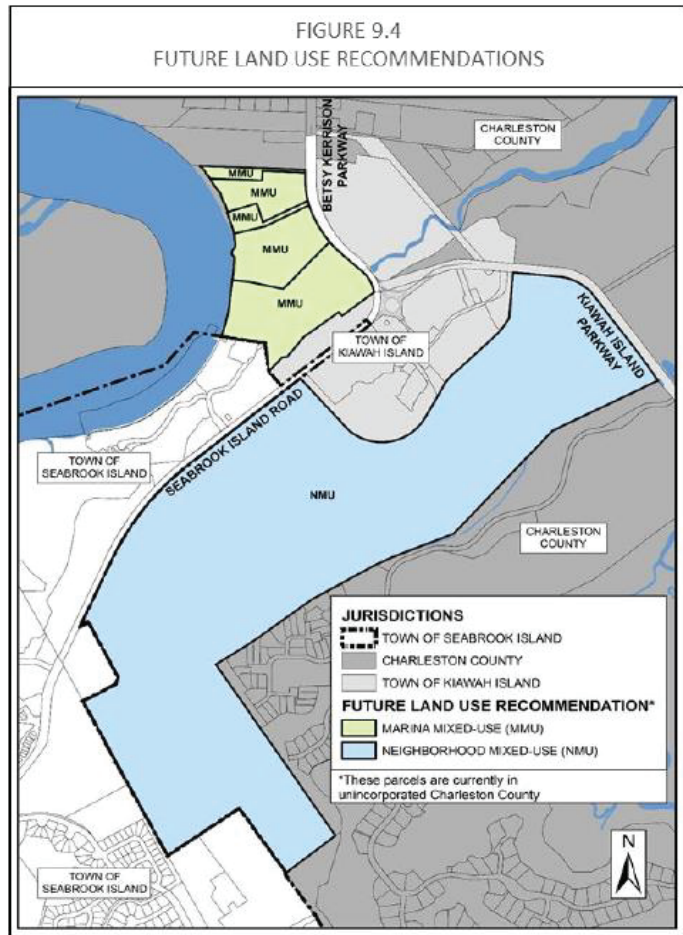
Chapter 9 of the Town’s Comprehensive Plan (adopted July 23, 2019) addresses future land use recommendations for properties on the periphery of the existing town limits. The subject property is specifically highlighted on Figure 9.4 (Future Land Use Recommendations) of the Comprehensive Plan as a property that may potentially be annexed into the town in the future. If an annexation request were to be received in the future, the Comprehensive Plan recommended the following land use category upon annexation: **Marina Mixed-Use (MMU).**

Per the Town’s Comprehensive Plan, the MMU designation is intended to accommodate mixed use development which is primarily commercial in nature. The primary uses envisioned for this designation include commercial activities which are geared primarily toward the support and promotion of tourism, including but not limited to: hotels, bed and breakfasts, restaurants, entertainment, cultural and recreational uses. In the concept plan included with their submittal package the Applicants propose several of these types of uses including a ten-unit hotel, yacht club with corresponding amenities including a restaurant, as well as recreational uses.

It should be noted that the Comprehensive Plan was adopted nearly three years prior to the Town’s new DSO. The new Mixed Use District, which was included in the new DSO, was intended to implement the MMU land use category, as recommended in the Comprehensive Plan.

**2) Whether the intended use of the property is consistent with the intent and purpose of the district to which the property is proposed to be rezoned.**

Per Article 7 of the DSO, the purpose of the MU district is to offer a tool that permits a combination of residential and non-residential uses within a cohesive integrated development. The MU district encourages a variety of housing types along with complementary office, retail, and service uses in scale with the character of the district and surrounding area (*See Attachment 29, Seabrook Island DSO Article 7: Mixed Use District*). While a MU district may incorporate residential uses,



residential uses are not required in order to qualify for MU designation pursuant to §7.5.H(4) of the DSO.

The concept plan associated with this request does not propose any residential development and the corresponding development conditions remove all residential uses from the list of permitted uses on the site. The only way residential uses could be allowed in the future would be to amend the development conditions by ordinance, following two readings and a public hearing. However, there are a variety of uses proposed on site including a private yacht club with corresponding amenities including a pool house and boat house, ten two-story cottages that provide accommodation for club members as well as the public, and open spaces that are open to the public including a boardwalk, pathways, and a community crabbing dock.

Chapter 9 of the Town's Comprehensive Plan (adopted July 23, 2019) acknowledges that while a limited number of multi-family residential units may be permitted in a MU district, the primary uses are intended to be commercial in nature. Additionally, should the property ever be redeveloped in the future there, only those uses expressly allowed in the development conditions would be allowed on the site.

**3) Whether there are, have been, or are anticipated to be (pursuant to the Comprehensive Plan) changing conditions in the surrounding area that would make approval of the proposed rezoning appropriate.**

Chapter 9 of the Town's Comprehensive Plan (adopted July 23, 2019) addresses future land use recommendations outside of the existing town limits. The subject property is specifically highlighted on Figure 9.4 (Future Land Use Recommendations) of the Comprehensive Plan as a property which may potentially be annexed into the town in the future. If annexed, the Comprehensive Plan recommended a future land use category of Marina Mixed-Use (MMU).

Per the Town's Comprehensive Plan, the MMU designation is intended to accommodate mixed use development which is primarily commercial in nature. The primary uses envisioned for this designation include commercial activities which are geared primarily toward the support and promotion of tourism, including but not limited to: hotels, bed and breakfasts, restaurants, entertainment, cultural and recreational uses. In the concept plan included with their submittal package the Applicants propose several of these use categories including a ten-unit hotel, yacht club and corresponding amenities including a restaurant, as well as recreational uses.

It should be noted that the Comprehensive Plan was adopted nearly three years prior to the Town's new DSO. The new Mixed Use District, which was included in the new DSO, was intended to implement the MMU land use category, as recommended in the Comprehensive Plan.

**4) Whether the range and intensity of uses allowed in the proposed zoning district will be compatible with permitted uses and intensities in the surrounding area.**

The subject property is directly adjacent to several properties located within the Seabrook Island town limits, including:

- **1880–1902 Andell Bluff Boulevard** (Bohicket Marina & Market/Zoned MU)
- **1881 Andell Bluff Boulevard Units A–D** (Marina Dry Stack Building/Zoned MU)
- **1884 Seabrook Island Road** (Vacant/Zoned LC)

- **Various Tax Map Numbers associated with the existing boat slips at Bohicket Marina**

The subject property is also directly adjacent to two properties located within the Kiawah Island town limits:

- **1846 Seabrook Island Road** (Undeveloped/Zoned Planned Development – Freshfields Village)
- **4475 Betsy Kerrison Parkway** (Kiawah Island Town Hall)

Additionally, the subject property is directly adjacent to one property located in unincorporated Charleston County:

- **4480-4482 Betsy Kerrison Parkway** (Single-Family Residence/Zoned AGR)



*(Attachment 10, Land Use Map - Existing)*



*(Attachment 11, Land Use Map - Proposed)*

Under the county's Zoning and Land Development Regulations (ZLDR), the subject property is located at the periphery of the Charleston County Urban Growth Boundary. Surrounding properties to the south, east and west, which are all located within the town limits of Seabrook Island or Kiawah Island, are located outside of the county's UGB. Each of these adjacent properties are zoned to allow commercial, institutional and/or mixed use development. In addition to the existing Bohicket Marina, which is in the town limits of Seabrook Island, neighboring PD-zoned parcels in the Town of Kiawah Island allow a wide variety of uses, including: residential, educational services, health care services, museums, postal service, recreation & entertainment (outdoor & indoor), accommodations, financial services, utilities, food services and drinking places, and offices.

It should also be noted that while the county's UGB, as implemented through its ZLDR, limits certain types of development, it does not exist to prohibit development entirely. As mentioned above, the county allows an extensive list of residential and non-residential uses in the AGR district, including many of those contained in the Applicants' proposed development plan.

**5) Whether adequate utilities, transportation, drainage, and other public or private infrastructure exist, or can reasonably be made available, to serve the range and intensity of uses allowed in the proposed zoning district.**

The subject property is adjacent to one private roadway (Andell Bluff Boulevard), and one public roadway (Betsy Kerrison Parkway), and is also directly adjacent to the existing Bohicket Marina Village development. The proposed concept plan intends to create an inter-parcel connection between the two properties, thereby allowing patrons to walk, bike, and drive between the proposed development and the adjacent Bohicket Marina Village development; removing the need to traverse Betsy Kerrison Parkway and Seabrook Island Road in the process. Any improvements, alterations, or encroachments into the public roadway will require review/approval from the South Carolina Department of Transportation (SCDOT). It should be noted that the Applicants are the owners of Andell Bluff Boulevard as well as the adjacent Bohicket Marina Village Development.

Efforts by the Applicants to reduce the volume of stormwater runoff associated with the proposed development include placing construction activities on areas of previous residential construction and on less sensitive areas of the site, having shared parking lot areas to limit the amount of impervious coverage, retaining grand trees, and incorporating Low Impact Development stormwater management practices, such as pervious pavement systems, bio-swales, and large passive open spaces capable of processing stormwater runoff and general site drainage. Prior to the issuance of any town permits for this project, the Applicants will first need to submit the proposed project to the South Carolina Department of Health and Environmental Control (SCDHEC) Bureau of Water Coastal Stormwater Permitting for review and approval to ensure compliance with all environmental requirements, including stormwater runoff/drainage.

If the property were to be developed under the current Charleston County AGR zoning designation, water services would be provided by St. John's Water Company Inc. and electricity would be provided by Berkeley Electric Cooperative. Annexing the property into Seabrook Island will result in no change to the water and electric provider.

If the annexation request is approved, sewer service will be provided by the Seabrook Island Utility Commission (SIUC). Based on calculations provided by the Applicants and reviewed by SIUC, the



development will result in approximately 11,055 gallons per day, or the equivalent of less than 40 equivalent residential units (ERU's). As an added layer of protection for the town and SIUC, any changes to the development plan which will result in more than 40 ERU's would be considered a major change to the development conditions. Major changes may only be approved by ordinance following two readings and a public hearing.

On May 17, 2023, during a Joint Work Session between the Town of Seabrook Island Town Council and Planning Commission pertaining to this specific request for annexation and rezoning representatives of the Seabrook Island Utility Commission indicated that the proposed development would have a "negligible impact on overall capacity" for the operations of the Utility Commission. (<https://www.youtube.com/watch?v=h4aEQAM1iO0&t=3449s>)

Prior to any development occurring on site, the Applicants will be required to provide documentation that they have received "will serve" letters from all relevant outside agencies, including Berkeley Electric Cooperative, St. John's Water Company Inc., and SIUC.

**6) Whether the range and intensity of uses allowed in the proposed zoning district will exceed the structural capacity of existing soils, and whether the allowable uses can be accommodated within the proposed zoning district without the excessive use of fill.**

Per the Applicants' narrative, the subject property "sits upon a high bluff, with sandy soils that drain very well". Additionally, the Applicants' contracted geotechnical engineers have indicated that the proposed buildings can be supported on conventional shallow foundation systems. Prior to the issuance of any town permits for this project the Applicants must first submit the proposed project to the South Carolina Department of Health and Environmental Control (SCDHEC) for review and approval to ensure compliance with all environmental requirements.

**7) Whether the range and intensity of uses allowed in the proposed zoning district will substantially increase the volume of stormwater runoff, overburden existing storm drainage infrastructure, or adversely impact surface water quality, when compared to the range and intensity of uses allowed in the current zoning district.**

Per the Applicant's narrative, the proposed design places an emphasis on saving grand trees, maintaining existing site resources, and preserving naturally undisturbed areas.

Further efforts by the applicant to reduce the volume of stormwater runoff associated with the proposed development include placing construction activities on areas of previous residential construction and on less sensitive areas of the site, having shared parking lot areas to limit the amount of impervious coverage, and incorporating Low Impact Development stormwater management practices, such as pervious pavement systems, bio-swales, and large passive open spaces capable of processing stormwater runoff and general site drainage.

In addition to the efforts listed above, the development conditions associated with the proposed annexation and corresponding Mixed-Use zoning designation require a 75-foot vegetative buffer from Betsy Kerrison Parkway. The requirement of the 75-foot buffer is an effort by staff as well as the Applicants to maintain the existing Charleston County buffer requirements that are applied to new development along Betsy Kerrison Parkway. It should be noted that the town's DSO does not require the installation of a streetscape buffer, so the proposed 75-foot buffer is a concession that was made by the Applicants at the town's request. The county's ZLDR notes that the purpose

of the buffer is to provide transition between neighboring properties and streets, foster balanced streetscapes, and to moderate climatic effects.

Prior to the issuance of any construction permits for this project, the Applicants will first need to submit the proposed design to the South Carolina Department of Health and Environmental Control (SCDHEC) Bureau of Water Coastal Stormwater Permitting for review and approval to ensure compliance with all environmental requirements including stormwater runoff and drainage.

**8) Whether the range and intensity of uses allowed in the proposed zoning district will substantially increase the volume of vehicular and pedestrian traffic, or will adversely impact vehicular and pedestrian safety, when compared to the range and intensity of uses allowed in the current zoning district.**

Under the current Charleston County AGR zoning designation, there are a wide range of permitted uses that are allowable, either by-right or as conditional uses or special exceptions (*See Attachment 27, Charleston County ZLDR Table of Uses*). It is difficult to definitively state the volume of traffic that would be generated by each individual use without a site-specific plan showing the proposed density and scale of each possible use. However, several of the uses allowed under the current AGR zoning designation would likely generate comparable, or perhaps even higher, daily and/or peak-hour traffic volumes than the uses proposed by the Applicants, including:

- Boat ramps, commercial docks and marinas
- Golf course or country club
- Medical office
- Parks and recreation facilities
- Primary or secondary school
- Religious assembly (church, mosque, synagogue, etc.)

The town contracted with an outside traffic engineer, Reveer Group, to conduct an independent review of the Traffic Impact Analysis (TIA) that was provided with the Applicant's submittal (*See Attachment 18, Traffic Impact Analysis - Bihl Engineering*). In their review of the Applicant's TIA, Reveer Group came to the following conclusions (*See Attachment 19, Traffic Impact Analysis Third-Party Review - Reveer Group*):

- The TIA provided by the Applicant was performed to industry standards.
- The project is predicted to have minimal impact on local roadways and maintain acceptable levels of service.
- 20% of the project is predicted to use Seabrook Island Road with resulting traffic delay being less than one second.
- During weekdays, the PM-peak hour has the highest amount of traffic added to the roadways, being 34 total trips. Spread over the hour, this is an additional car on the road at two-minute increments.
- On Saturday at midday the amount of traffic added to roadways is about 46 in total, which is about a car each minute.

- SCDOT requires the project's entrance from Betsy Kerrison Parkway to be directly across from the existing entrance to Kiawah's Municipal Center. This driveway relocation is warranted from a safety standpoint.
- Using data from the Applicant's TIA, the maximum delay experienced by drivers at each of the four studied areas is:
  - Traffic Circle – 1.6 second in the morning
  - Seabrook Island Road at Andell Bluff intersection – 0.3 seconds in the afternoon
  - Andell Bluff at Marsh Oak Lane intersection – No change
  - Betsy Kerrison at the project's main entrance – 17.8 seconds in the morning and 18.0 seconds in the afternoon. It should be noted that this delay is only felt by the cars making a left turn out of the project's main driveway and onto Betsy Kerrison Parkway. There is no impact to motorists traveling along Betsy Kerrison Parkway.
- The Applicant's TIA suggests that the existing two-way left turn lane striping on Betsy Kerrison Parkway be extended to the south to accommodate the drivers coming from the islands and turning left into the new main entrance. This recommendation is supported and should be included with the project's proposed improvements. These improvements will require the approval of SCDOT and would be considered along with the Applicant's encroachment permit request.
- The Applicant's TIA assessed the need for a right turn lane off Betsy Kerrison Parkway into the main entrance and the conclusion that one is not necessary is correct.
- Sight distance was not evaluated in the TIA and is a concern.

In their narrative, the Applicants state that when needed, they intend to allow the internal driveway that connects Andell Bluff Boulevard to Betsy Kerrison Parkway to serve as a means for emergency access to Seabrook Island, traffic redirection, and a secondary evacuation route. This connectivity would serve as a benefit to the Town of Seabrook Island as currently the only access to the island is provided via Seabrook Island Road.

**9) Whether the current zoning district prohibits or unreasonably restricts all economically beneficial use of the property, provided the hardship was not self-imposed by action of the property owner.**

The subject property is currently zoned Agricultural Residential (AGR) per the Charleston County zoning map. Allowable uses in the AGR district include (*See Attachment 27, Charleston County ZLDR Table of Uses*):

- Apiculture (Bee Keeping)
- Horticultural Production
- Community Garden
- Farmers Market
- Manufactured Housing Units
- Single-Family Dwelling Units
- Court of Law
- Safety Services
- Group Home
- Primary & Secondary Schools
- Library
- Museum

- Botanical Garden
- Community Recreation
- Fishing/Hunting/Recreational Guide Services
- Religious Assembly
- Minor Utilities
- Recycling Collection

There are also various conditional uses (C) and uses permitted through the granting of a special exception (S) in the AGR district including:

- Aquaculture (C)
- Mariculture (C)
- Animal & Insect Production (C)
- Hemp Crop Production & Processing (S)
- Winery (C)
- Agricultural Processing (C)
- Agricultural Sales/Services (C)
- Roadside Stand/Sweetgrass Basket Stand (C)
- Bona Fide Forestry Operation (C)
- Lumber Mill (S)
- Assisted Living (S)
- Group Dwelling (C)
- Short-Term Rental: Limited Home Rental (C)
- Short-Term Rental: Extended Home Rental (S)
- Child Caring Institution (S)
- Affordable/Workforce Housing Dwelling Units (C)
- Group Residential (S)
- Farm Labor Housing (S)
- Adult Day Care Services (S)
- Family Home (C)
- Cemetery (C)
- Pre-school (S)
- Higher Education Facility (S)
- Medical Office (S)
- Community Residential Care Facility (S)
- Counseling Services (S)
- Intermediate Care Facility (S)
- Home Health Agency (S)
- Residential Treatment Facility for Children (S)
- Nature Exhibition (C)
- Zoo (S)
- Postal Service (C)
- Golf Course or Country Club (C)
- Parks & Recreation (C)
- Golf Driving Range (S)
- Solar Farm (S)
- Major Utility (S)

- RV Park (S)
- Campground (S)
- Commercial or Private Stable (C)
- Kennel (S)
- Small Animal Boarding (C)
- Veterinary Services (S)
- Catering Services (S)
- Charter Boat or Other Recreational Watercraft Rental Service (C)
- Boat Yard (C)
- Hair/Nail/Skin Care services (C)
- Boat Ramp (C)
- Community Dock (S)
- Marina (S)
- Artisan and Craftsman (C)
- Resource Extraction/Mining (S)
- Water Transportation (S)

While there are a wide range of uses that are currently possible under the county's AGR zoning designation, many of these are agricultural or light industrial uses that are not allowable under the proposed MU zoning designation.

The uses that are allowable under the proposed MU zoning designation are aligned with the goals outlined in Chapter 9 of the Town of Seabrook Island Comprehensive Plan (adopted July 23, 2019) for the subject property to accommodate mixed-use development that is primarily commercial in nature.

**10) Whether the proposed rezoning will encourage commercial uses in areas designated for such activities in the Comprehensive Plan.**

Chapter 9 of the Town's Comprehensive Plan (adopted July 23, 2019) addresses future land use recommendations outside of the existing town limits. The subject property is specifically highlighted on Figure 9.4 (Future Land Use Recommendations) of the Comprehensive Plan as a property that could potentially request to annex into the town and if annexation were to be requested the Comprehensive Plan identified the subject property as a viable property for a Marina Mixed-Use (MMU) zoning designation.

Per the Town's Comprehensive Plan, the MMU designation is intended to accommodate mixed use development which is primarily commercial in nature. The primary uses envisioned for this designation include commercial activities which are geared primarily toward the support and promotion of tourism, including but not limited to: hotels, bed and breakfasts, restaurants, entertainment, cultural and recreational uses. In the concept plan included with their submittal package, the Applicants propose several of these types of uses, including a ten-unit hotel, yacht club with corresponding amenities including a restaurant, as well as recreational uses.

It should be noted that the Comprehensive Plan was adopted nearly three years prior to the Town's new DSO. The new Mixed Use District, which was included in the new DSO, was intended to implement the MMU land use category, as recommended in the Comprehensive Plan.

**11) Whether the proposed rezoning will encourage the preservation of conservation lands, critical areas, natural resource areas, and open spaces in areas designated for such activities in the Comprehensive Plan.**

The gross acreage of the subject property is 17.754 acres. Of that, approximately 12.52 acres (70%) is designated as “high ground.” Per the open space chart provided on the Applicants’ concept plan, approximately 13.79 acres (78%) of the subject property will serve as open space and will remain undeveloped, while the areas proposed for development (private club & amenities, ten guest cottages, driveway & parking) will take up approximately 3.96 acres (22.3%) of the site (*See Attachment 13, Open Space Plan*)

The Applicants have requested a reduction in the critical area setbacks to accommodate the alignment of a new driveway with the entrance to Kiawah Town Hall, for the existing boardwalk to be extended from Bohicket Marina to the edge of the subject property, and to allow buildings to avoid conflicts with existing grand trees on the site. Neither the driveway nor any commercial building will encroach into the critical area itself. While the proposed plan calls for limited encroachments into the **setback area**, no structure, including the proposed crab dock, boardwalk or marina slips, may be allowed to encroach into the **critical area** itself unless reviewed and approved by SCDHEC-OCRM, which has jurisdiction within the marsh areas and Bohicket Creek. As with any other project within a critical area, the Applicants shall be required to comply with all requirements imposed by SCDHEC-OCRM.

**12) Whether the proposed zoning district will adversely impact the enjoyment of natural and scenic features by neighboring property owners or the public at large by allowing development of a certain size, scale, bulk, height, or type that is substantially out of character with the surrounding area.**

The subject property is currently undeveloped and inaccessible to neighboring property owners or the public at large. The Applicants are proposing to extend/enhance the waterfront boardwalk experience from the neighboring Bohicket Marina property. Additionally, the Applicants are proposing several open space features that will be accessible to the public, including a marsh-front pathway for walking and biking, a community crabbing dock, and meandering green spaces shaded by preserved trees.

Per the Applicant’s narrative, the proposed buildings will be appropriately scaled and thoughtfully situated. The DSO allows commercial buildings to increase the maximum allowable height by one additional foot for each three feet of additional front yard setback that is added to the required setback, with a maximum height of 40 feet above the required design flood elevation. The Applicants have provided a 75-foot setback from Betsy Kerrison Parkway rather than the required 20-foot setback for parking and building that is required in the DSO. Therefore they, would be permitted to build to a maximum height of 40 feet above ground level as the proposed buildings are in a Shaded X flood zone.

The Applicants are seeking approval for several “modifications” from the setback requirements of the DSO including (*See Attachment 4, Exhibit E, Modifications Exhibit*):

- **Project Entry Location:** A modification from DSO § 10.5.A.1 and § 10.5.A.2 to permit the proposed turn lanes, roadways, sidewalks, and retaining wall adjacent to the critical line

to encroach up to 25 feet into the required 25-foot critical area setback and 25-foot waterbody setback. The estimated area of encroachment is 2,070 square feet (+/-).

- **Crabbing Dock & Marsh Walking Trail:** A modification from DSO § 10.5.A.1 and § 10.5.A.2 to permit the proposed crabbing dock and walking trail to encroach up to 25 feet into the required 25-foot critical area setback and 25-foot waterbody setback. The estimated area of encroachment is 5,775 square feet (+/-). Encroachments that are shown beyond the critical line fall under the purview of SCDHEC-OCRM and will be reviewed and approved by those governing bodies.
- **Rear Outdoor Seating for Eating/Drinking Establishments:** A modification from DSO § 10.5.A.1, § 10.5.A.2, § 10.5.B.1, and § 7.3.C to permit portions of the pool house, yacht club, and boat house buildings to encroach up to 10 feet into the required 25-foot critical area setback, 10 feet into the required 25-foot waterbody setback, and up to 25 feet into the 40-foot rear property setback. The estimated area of encroachment for the proposed pool house building is 494 square feet (+/-) into the required rear property setback and 396 square feet (+/-) into the critical area setback. The estimated area of encroachment for the proposed yacht club building is 1,717 square feet (+/-) into the required rear property setback and 404 square feet (+/-) into the required critical area setback. The estimated area of encroachment for the proposed boat house building is 579 square feet (+/-) into the required rear property setback and 104 square feet (+/-) into the required critical area setback.
- **Rear Boardwalk:** A modification from DSO § 10.5.A.1, § 10.5.A.2, and § 7.3.C to permit the proposed board walk to encroach 25 feet into the required 25-foot critical area setback, 25-foot waterbody setback, and 40-foot rear property setback. The area of encroachment for the proposed boardwalk is 7,070 square feet (+/-).

If approved, these modifications will allow the Applicants to deviate from the setback requirements of the DSO. While staff acknowledges that the proposed encroachments exceed the DSO setback standards, the resulting development is not “substantially out of character” with the surrounding area including, specifically, the neighboring Bohicket Marina.

**13) Whether the proposed rezoning will threaten the continued presence or integrity of archaeological or historic sites or features.**

Per the South Carolina Department of Archives and History, there are no known archaeological or historic sites, structures, or districts on the property, or in its immediate vicinity.

**14) Whether the range and intensity of uses allowed in the proposed zoning district will adversely impact air and water quality, natural features, sensitive lands, vegetation, or wildlife habitat, when compared the range and intensity of uses allowed in the current zoning district.**

Per the Applicants’ narrative, in considering the design shown on the proposed concept plan careful consideration was taken into account by saving grand trees, maintaining existing site resources, and preserving naturally undisturbed areas.

Of the 17.754 acres on the subject property a total of approximately 3.96 acres (22.3%) will be developed (private club & amenities, ten cottages, driveway & parking). An additional approximately 13.79 acres of the site (78%) will serve as open space and remain undeveloped.

In addition to the efforts listed above, the development conditions associated with the proposed annexation and corresponding Mixed-Use zoning designation require a 75-foot vegetative buffer from Betsy Kerrison Parkway as well as a 20-foot vegetative buffer from the adjacent AGR zoned parcel. The requirement of the 75-foot buffer is an effort by staff as well as the Applicants to maintain the existing Charleston County buffer requirements that are applied to new development along Betsy Kerrison Parkway. The town's DSO does not require the installation of any vegetative buffer along Betsy Kerrison Parkway, so the proposed 75-foot buffer is a concession that was made by the Applicants. The Charleston County Zoning and Land Development Regulations Ordinance notes that the purpose of the buffer is to provide transition between neighboring properties and streets, foster balanced streetscapes, and to moderate climatic effects.

Additionally, under the current Charleston County AGR zoning designation there are a variety of agricultural and light industrial uses that may be permitted on site which could have significantly greater impact on the existing natural features than the proposed development shown on the Applicant's concept plan.

Lastly, upon annexation, the property will be eligible to tie into the town's public sewer system. Should the property remain in the county, future development (whether residential or commercial) would be served either by a private utility or a septic system. Septic systems have been found to pose a significant threat to water quality in several nearby communities due to system failure, seepage, and rising water tables. The State of South Carolina has no requirements for inspections or repairs to septic systems, which has resulted in significant environmental concerns, specifically due to fecal coliform, in neighboring coastal communities, such as Shem Creek in Mount Pleasant, James Island Creek on James Island, and large sections of Folly Beach. (See, for example [https://www.postandcourier.com/septic-tanks/amid-growth-and-lax-rules-a-menace-beneath-lawns-threatens-sc-waterways-health/article\\_ff78c926-d875-11ed-a26d-e3a7f9419349.html](https://www.postandcourier.com/septic-tanks/amid-growth-and-lax-rules-a-menace-beneath-lawns-threatens-sc-waterways-health/article_ff78c926-d875-11ed-a26d-e3a7f9419349.html))

**15) Whether the range and intensity of uses allowed in the proposed zoning district will place a disproportionate burden upon, or otherwise exceed the capacity of, existing community facilities, when compared to the range of uses allowed in the current zoning district.**

Per Chapter 7 of the Comprehensive Plan (adopted July 23, 2019), "Community Facilities" in the context of this criterion includes the buildings, amenities, lands, and services needed to serve the public health, safety and welfare which comprise things such as adequate fire and police protection, access to health and emergency medical care, emergency preparedness, places for recreation and quality schools.

Police and emergency medical services for the subject property are currently provided by Charleston County and that will remain the case regardless of whether or not the property is annexed into the Town of Seabrook Island. Fire services are currently provided by St. John's Fire Department and that will also remain the case if the property is annexed into the town. Additionally, if the property were to be developed under the current Charleston County AGR zoning designation, water services for the subject property would be provided by St. John's Water Company Inc. This, too, will remain the case if the property is annexed into the town.

If the annexation request is granted, sewer service will be provided by the Seabrook Island Utility Commission. On May 17, 2023, during a Joint Work Session between the Town of Seabrook Island



Town Council and Planning Commission pertaining to this specific request for annexation and rezoning representatives of the Seabrook Island Utility Commission indicated that the proposed development would have a “negligible impact on overall capacity” for the operations of the Utility Commission (<https://www.youtube.com/watch?v=h4aEQAM1iO0&t=3449s>).

In terms of recreation, the primary use of the proposed development is intended to function as a private yacht club with corresponding amenities including a pool house and boat house, ten two-story cottages that provide accommodation for club members as well as the public, and open spaces that are open to the public including a boardwalk, pathways, and a community crabbing dock.

Members of the proposed private club will not have access to any community or recreational facilities that are owned/operated by the Seabrook Island Property Owners Association (SIPOA) or the Seabrook Island Club. Annexing the property will also have no impact on current access restrictions behind the SIPOA security gate. However, members of those organizations will have the opportunity to become members of the proposed private yacht club if they choose to do so.

The Applicants have elected to remove all residential uses from the MU district. Therefore, the annexation and proposed development conditions should have no impact whatsoever on existing schools.

Regarding emergency preparedness, the Applicants state that, when needed, they intend to allow the internal driveway that connects Andell Bluff Boulevard to Betsy Kerrison Parkway to serve as a means for emergency access to Seabrook Island, traffic redirection, and a secondary evacuation route. This connectivity would serve as a benefit to the Town of Seabrook Island as, currently, the only access to and from the island is provided via the traffic circle and Seabrook Island Road.

The addition of a new private club with corresponding amenities, as well as the proposed open spaces that will be open to the public, could help to alleviate any current burden on existing community and recreational facilities. Furthermore, the development of the site will provide an additional emergency access route when needed.

**16) Whether future development on the property, if rezoned, will be accessible to essential public services, including, but not limited to, police, fire, emergency medical services; and sanitation.**

Police and emergency medical services for the subject property are currently provided by Charleston County and that will remain the case if the property is annexed into the Town of Seabrook Island. Fire services are currently provided by St. John’s Fire Department and that will also remain the case if the property is annexed into the town. Additionally, if the property were to be developed under the current Charleston County AGR zoning designation water services for the subject property would be provided by St. John’s Water Company Inc. and that will remain the case if the property is annexed into the town.

If the annexation request is granted, sanitation (sewer & wastewater) services will be provided by the Seabrook Island Utility Commission. On May 17, 2023, during a Joint Work Session between the Town of Seabrook Island Town Council and Planning Commission pertaining to this specific request for annexation and rezoning representatives of the Seabrook Island Utility Commission indicated that the proposed development would have a “negligible impact on overall capacity” for the operations of the Utility Commission.

No development will occur on the subject property until the Applicants have obtained “will serve” letters from all necessary outside agencies including St. John’s Water Company Inc. and the Seabrook Island Utility Commission.

**17) Such other factors as may be deemed appropriate by the Planning Commission or Town Council.**

At the time of the writing of this staff report, Town staff are not aware of any other factors deemed appropriate by the Planning Commission or Town Council.

### Staff Recommendation

Although future annexation of this property is contemplated in the town’s Comprehensive Plan, the question of whether or not to annex the property is a policy decision which rests solely with Town Council.

The proposed development conditions are generally consistent with the requirements of the DSO and, in many instances, the proposed development conditions are more restrictive than the DSO requirements and provide greater protections than would otherwise apply under other zoning districts.

It should be noted that the modifications contained in section 18 of the proposed development conditions are inconsistent with the requirements of the DSO. While there is a rational basis for most of these modifications, the DSO provides that development conditions may be more restrictive, but not less.

While the Town Council has the authority to authorize project-specific modifications (as long as the modifications are approved by ordinance, which would supersede the conflicting ordinance), this is purely a policy decision; staff makes **NO RECOMMENDATION** on the proposed modifications.

Should Town Council desire to annex the subject property, based upon our review and analysis of the criteria established in §19.3.B of the DSO, staff recommends in favor of **APPROVAL** of the Mixed-Use zoning designation, subject to the proposed development conditions and concept plan included in the Applicant’s submittal package, and subject to our comments above regarding the modifications contained in section 18 of the proposed development conditions.

### Planning Commission Recommendation

During its meeting on July 12, 2023, the Planning Commission voted 4-1 in favor of **APPROVAL** of the annexation request and also voted 4-1 in favor of **APPROVAL** of the Mixed-Use zoning designation, subject to the proposed development conditions and concept plan included in the Applicant’s submittal package, and subject to the following conditions:

- 1) The Applicants must revisit trip generation assumptions in the TIA to reflect maximum project impact, specifically if the maximum number of trips (based on building occupancy) were to take place during the peak traffic hours;
- 2) The Applicants must explore the feasibility of providing a right-turn deceleration lane at the project entry from Betsy Kerrison Parkway;
- 3) The Applicants must confirm the design and feasibility of the internal road connection to Andell Bluff Boulevard; and

- 4) The Applicants must seek final site plan approval from the Planning Commission prior to the issuance of any development permits.

In the attachments you will find revised concept plans (rendering, technical, open space, and modifications) as well as a "Peak Occupancy Memo" that the Applicants have provided to address the Planning Commission's conditions. Additionally, you will find an updated copy of the Applicants' development conditions which reflect a reduction of the maximum allowable Equivalent Residential Units (ERU's) that the site can produce from 45 ERU's to 40 ERU's.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TN', is written over a horizontal line.

Tyler Newman  
Zoning Administrator

## Attachments

The following supplemental items have been attached for review:

#		
1	Application for Annexation	p. 21-22
2	Application for Rezoning	p. 23-24
3	<u>Ord. 2023-06</u> : An ordinance annexing Charleston County Tax Map Number 204-00-00-010 containing approximately 17.75 +/- acres at 4484 Betsy Kerrison Parkway	p. 25-33
4	<u>Ord. 2023-07</u> : An ordinance adopting a Mixed-Use Concept Plan and Development Conditions for the Andell Mixed Use project <b>(Updated)</b>	p. 34-35
	<u>Exhibit A</u> : Legal Description	p. 36
	<u>Exhibit B</u> : Development Conditions <b>(Updated)</b>	p. 37-54
	<u>Exhibit C</u> : Concept Plan <b>(Updated)</b>	p. 55-56
	<u>Exhibit D</u> : Development Standards Ordinance	p. 57-58
	<u>Exhibit E</u> : Modifications Exhibit	p. 59-60
	<u>Exhibit F</u> : Modifications Summary	p. 61
5	Planning Commission Recommendations <b>(New)</b>	p. 62-64
6	Applicant's Response to Planning Commission Recommendations <b>(New)</b>	p. 65-66
7	Applicant's Project Summary	p. 67-70
8	Applicant's Discussion of Criteria for Map Amendments (DSO §19.3.B)	p. 71-79
9	Survey of Existing Conditions	p. 80-83
10	Land Use Map – Existing	p. 84
11	Land Use Map – Proposed	p. 85
12	Concept Rendering <b>(Updated)</b>	p. 86
13	Open Space Plan <b>(Updated)</b>	p. 87
14	Permeability Exhibit <b>(New)</b>	p. 88
15	Architectural Renderings	p. 89-97
16	Property Deed	p. 98-103
17	Traffic Impact Analysis – Bihl Engineering	p. 104-194
18	Traffic Impact Analysis Third-Party Review – Reveer Group	p. 195-203
19	Email from SCDOT	p. 204-206
20	Peak Occupancy Memo – Bihl Engineering <b>(New)</b>	p. 207-208
21	Peak Occupancy Memo Third-Party Review – Reveer Group <b>(New)</b>	p. 209-210
22	Sewer Calculations & Correspondence – Kimley-Horn	p. 211-212
23	SIUC Willingness to Serve Letter <b>(New)</b>	p. 213
24	Summary of Outside Agency Status	p. 214
25	Charleston County UGB Exhibits – 1999, 2008 & 2019 <b>(New)</b>	p. 215-217
26	Charleston County ZLDR Table of Uses	p. 218-227
27	Seabrook Island Comp. Plan (2019) – Future Land Use Recommend. <b>(New)</b>	p. 228
28	Seabrook Island DSO Article 7 – Mixed-Use Zoning District	p. 229-242
29	FEMA Flood Map Information <b>(New)</b>	p. 243
30	USDA Soil Survey Information <b>(New)</b>	p. 244-257
31	SCDHEC Shellfish Harvest Classification Areas <b>(New)</b>	p. 258-262
32	Original Seabrook Island PUD (08-16-1971)	p. 263