

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

December 6, 2023; 2:00 pm

Minutes

I. Call to Order: *Mr. Iwan called the meeting to order at 2:13 pm.*

II. Roll Call:

Present: Bill Dowdy
Andy Capelli
Ronald Curran
Luke Farrell
Joanne Hennessy
Larry Iwan
Madeleine Kaye

Also Present: John Taylor, Jr., *Planning Manager*
Joe Wilson, *Town Attorney*

III. Approval of Minutes:

A. Planning Commission Meeting Minutes of September 6, 2023

Mr. Capelli made a motion to approve the Planning Commission meeting minutes of September 6, 2023. Dr. Curren seconded the motion.

Ms. Kaye and Mr. Capelli noted typographical errors and minor changes that needed to be made.

Following the discussion, the minutes were unanimously approved.

B. Planning Commission Meeting Minutes of October 4, 2023

Ms. Kaye made a motion to approve the Planning Commission meeting minutes of October 4, 2023. Dr. Curren seconded the motion, and it was unanimously approved.

IV. Public Comments: *(Agenda Items Only)*

Alex Fernandez – 418 Snowy Egret

Mr. Fernandez stated that it was good to see tree preservation come to fruition after a long time and a lot of discussion. He congratulated the Commissioners on coming to the stage of presentation to the Council.

Mr. Fernandez stated that he liked the phased implementation and questioned if there would be permitting on any of the Beachwalker projects.

V. Old Business:

A. Zoning Ordinance Amendments

1) #AZO23-000004 | Request to amend the Town of Kiawah Island's Land Use Planning and Zoning Ordinance to establish tree preservation and landscape standards.

- Establishes § 12-129 Tree Preservation and Landscaping Standards.
- Amends § 12-162. Site Plan Review.
- Amends § 12-165. Zoning Permits.

- Amends § 12-374. Definitions.
- Amends § 12-165. Zoning Permits.
- Establishes § 12-24.1 Tree Preservation Board.

Mr. Taylor indicated that he would provide an overview of the progression of the tree preservation ordinance, highlight takeaways of the draft ordinance, and then review any proposed amends or requested changes to the language.

Mr. Taylor's presentation included a review of:

1. Why establish a landscape and tree preservation ordinance
2. Who can establish the standards
3. Current Town standards
4. Resulting benefits of protecting trees
5. Elements that might be considered in a landscape and tree preservation ordinance

Mr. Taylor stated that a subcommittee of the Planning Commission was established to develop a recommendation full commission to study and then recommend to the Council for their consideration and approval. Some factors the subcommittee considered during the development process were:

- "Designing with Nature" Existing Standards and Guidelines
- Native Plants
- KiawahNext
- Applicability to Contrasting Neighborhoods
- Capacity Building for Enforcement
- Standards for Rights of Way

Mr. Taylor stated that the Tree Preservation subcommittee broke down the ordinance into two components: tree preservation standards and landscaping standards, setting a priority to focus on tree preservation standards for Phase One with the intent to develop landscape standards in the next phase.

The ordinance format, structure, and factors to consider were reviewed based on the following:

- Issues relevant to the Kiawah community
- Kiawah Context
- *Designing with Nature*
- Ordinance Implication Analysis
- Design Community Input

Mr. Taylor indicated that several public workshops were held in which design and tree care professionals were instrumental in providing substantive comments and feedback. He noted that the ordinance language was presented and revised after each of the workshops.

Mr. Taylor reviewed the current draft of the ordinance, discussing comments and questions provided by the Commissioners. Included in the current draft were:

- The purpose and intent of establishing the ordinance
- Key Factors
 - Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island
 - Applicable to all non-single-family residential developments.
 - Aims to be less restrictive than Kiawah Island ARB guidelines
 - Exempts normal tree maintenance/pruning
 - Introduces Tree Preservation Board for an additional layer of review and mechanism for relief from standards if needed
 - Aims to avoid duplication of process
 - Aims not to significantly impact the permitting/construction timeline, resulting in delay.

- Defines additional key terms related to trees
- Promotes Kiawah's Grow Native initiative
- Folded into current Site Plan Review Process

Commissioners engaged in an in-depth discussion of the language included in the ordinance, the use of "all properties" and its application to signal-family homes or undeveloped properties, and the subcommittee decision to only apply the ordinance to non-single-family residential developments at this time.

Mr. Taylor reviewed the *Next Steps*, which included a proposed Planning Commission's recommendation to the Town Council, consideration for phased implementation, and preparation of Phase II of the ordinance focusing on landscape standards. During the review of a phased implementation, he addressed the earlier comment made on determining a grace, when the ordinance should take effect, the impact of new standards on projects going through the permitting process, and the communication of the new standards through scheduling Open House meetings.

Mr. Capelli suggested that prior to imposing a regulation, a legal opinion is obtained to provide clarity as to what is allowed with respect to regulating the landscaping of single-family homes.

Ms. Hennessy made a motion to accept the document and recommend to the Town Council the amendment of the Town of Kiawah Island's Land Use Planning and Zoning Ordinance to establish tree preservation and landscape standards. Ms. Kaye seconded the motion.

Commissioners reviewed their suggested amendments, edits, or modifications to the presented draft of the ordinance.

Mr. Capelli suggested adding or deleting language that is misleading in a number of places in the document with respect to its intent and the coverage with respect to properties on Kiawah.

Mr. Capelli made a motion for the amendment to eliminate the words "for all properties" in the first and second lines of the Purpose and Intent of the document. Ms. Kaye seconded the motion.

Commissioners, along with Mr. Wilson, engaged in an in-depth discussion of Mr. Capelli's suggested amendment.

Following the discussion, the motion failed by a 1 to 6 vote, with Mr. Farrell, Mr. Iwan, Ms. Kaye, Ms. Hennessy, Mr. Dowdy and Dr. Curran voting "No."

Commission Members discussed Mr. Farrell's recommendation that in the *Mitigation Standards* (1), the number of 20 trees per acre was too small. Ms. Hennessy noted the subcommittee's change from combined DBH (diameter breast height) to 70% of the number of trees was not reflected in the draft.

Mr. Iwan made a motion on page 2- Required Permit (a) read " abuse any protected or specimen tree." Ms. Kaye seconded the motion; it was approved by a 6 to 1 vote, with Mr. Capelli voting "No."

Mr. Capelli made a motion that on page 3 (c.)(1) to strike "and" and substitute "or." Mr. Farrell seconded the motion.

Commissioners agreed to the substitution and further discussed if an assessment should require both a certified arborist and Tree Risk Assessment Qualified Arborist, suggesting to strike "and Tree Risk Assessment Qualified Arborist."

Following the discussion, the motion was approved by a 5 to 2 vote, with Ms. Hennessy and Dr. Curran voting “No.”

Mr. Iwan made a motion to approve and recommend the ordinance to the Town Council as amended. Ms. Kaye seconded the motion, and it was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

Mr. Taylor stated that in addition to the actual framework of the ordinance, other sections of the Municipal Code are being amended to ensure consistency. In Section 12-162.-Site Review language was added in subsection (4) requiring a tree survey, tree preservation plan, and or landscape plan as part of the site plan review process.

Mr. Farrell made a motion to approve Section 12- 162. – Site Review as amended. Mr. Iwan seconded the motion.

Mr. Capelli made a motion to remove Section 12-162 (1)(b) if the intent is not to include single-family detached residential.

Mr. Taylor clarified that this section is part of the current site plan review process, and if (1)(b) was struck from this section, there would be nothing in the code that administers how single-family residential projects are reviewed.

Mr. Farrell seconded Mr. Capelli’s motion.

Following discussion, Mr. Capelli withdrew his motion, and Mr. Farrell withdrew his second.

Following the discussion, the motion to approve the amendment of Section 12- 162. – Site Review was unanimously. approved

In Section 12-165. - Zoning Permits language is added to include tree removal as one of the requirements to obtain a zoning permit.

Ms. Hennessy made a motion to accept Section 12-165. – Zoning Permits as amended. Ms. Kaye seconded the motion.

Mr. Capelli made a motion that the first line reads, “The purpose of the zoning permit is for non-single family residential to conform it with the intended fully use.....”

Mr. Taylor again clarified that this was part of the existing Zoning Permits section, that the additional language would change the entire intent of this section, and that he would not recommend voting on the motion that had just been made.

Following discussion, Mr. Capelli withdrew his motion.

Following the discussion, the motion to approve the amendment of Section 12- 165. – Zoning Permits was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

In Section 12-374. – Definitions presented were the clarifications of existing definitions and the additional new definitions that, when approved, would be incorporated into all the definitions within Section 12-374.

Ms. Hennessy made a motion to accept the addition of new definitions to Section 12-374 – Definitions. Mr. Iwan seconded the motion.

Dr. Curran explained a noted inconsistency in the protected tree definition with the ordinance.

Dr. Curran made a motion to amend the definition of protected tree in Section 12-.374 so that the diameter protected tree would be defined as any tree with a diameter breast height of eight (8) inches or greater, making it consistent with the ordinance. Ms. Hennessy seconded the motion, and it was unanimously approved.

Dr. Curran made a motion to add the additional language “Invasive species may be found in the Nonnative Invasive Plants of Southern Forests registry published by the US Department of Agriculture or list provided by Clemson University Cooperative Extension” the definition of Invasive Species in Section 12-374. – Definitions. Ms. Hennessy seconded the motion, and it was unanimously approved.

Following the discussion, the motion to accept Section 12-374. – Definitions, as amended, was unanimously approved.

Mr. Taylor stated that Section 12-24.1 – Tree Preservation Board was the framework that would establish a Tree Preservation Board for the Town. He reviewed the outlined administrative guidelines, rules of procedure, and the functions and powers of the Board. The board would model the structure of the Board of Zoning Appeals as being an independent body of approval decisions, so any applicant who may feel that the ordinance has been too strict in application can request that the Tree Preservation Board hear that case and make a determination.

Mr. Capelli suggested changing the heading to Landscape and Tree Preservation Board, assuming the intent of a future landscape ordinance.

Ms. Hennessy made a motion to accept Section 12-24.1 – Tree Preservation Board for approval. Mr. Farrell seconded the motion.

Mr. Capelli made a motion to change the title of Section 12-24.1 to Landscape and Tree Preservation Board. Mr. Iwan seconded the motion. Following discussion, the motion was passed by a 5 to 2 vote, with Ms. Kaye and Ms. Hennessy voting “No.”

Mr. Ferrall made a motion to include one Planning Commissioner as a permanent office holder on the Tree Preservation Board.

Commissioners asked for input from Mr. Taylor, who noted complications with being judicial versus being quasi-judicial versus being a legislative recommending body, with Mr. Wilson noting the rule against holding dual offices.

With no second, Mr. Ferrall’s motion failed.

Mr. Capelli made a motion to change the term ‘nonresident member’ in the last sentence of Section B, which is inconsistent with state law.

Mr. Taylor stated that the language comes directly from the current code, and the intent was to make sure that those are residents who are primarily on Kiawah most of the year. He suggested tabling this until further research can be done. Commission members further discussed the term and agreed that for purposes of this board, “resident member” means a person who resides on Kiawah at least eight months a year.

Following the discussion, the motion was approved unanimously.

VI. New Business:

VII. Correspondence/Staff Comments:

Mr. Taylor provided an update on the Comprehensive Plan, stating that he was redlining some working documents that were shared with him. These included specific element data points and would be shared with the Commissioners for review. More than likely, in the New Year, there will be a formal review of the next steps.

Mr. Taylor provided updates regarding area development:

- The Medical Village being proposed on Betsy Kerrison Parkway is going before Charleston County Council for a public hearing, and the Town will be providing information in its eBlasts.
- The two Beachwalker projects are still under site plan review, and the Town is engaging with its third-party consultant, going back and forth on some questions they have had as part of their review. The status of the projects will continue to be provided to update the community on those two particular projects.

Mr. Taylor stated that next year, the first order of business outside of the Comprehensive Plan may be to take a holistic look at the Town's zoning code to clean up different areas and sections.

VIII. Public Comments:

None

IX. Commissioner Comments:

Ms. Kaye requested that Mr. Taylor put an update on the Comprehensive Plan as part of the next Planning Commission working agenda. She noted that it had been a couple of months since the last update, and there had been other priorities, but it was time to focus attention on that again.

Ms. Kaye reported on an action at yesterday's Town Council meeting pertaining to the Marsh Management Plan. The subcommittee made a proposal to the Town Council on the Kiawah Island Parkway bridge, in which three various options were examined. The one that the full committee proposed was to consider at least the construction of a ramp that would come off to the right side of that and head down to the marsh with some platforms and perhaps some benches that would allow fishing and crabbing. Town Council put that on the back burner, feeling that there were a lot of safety and enforcement issues along with some concerns expressed by the Conservancy. The subcommittee will go back to the drawing board and plan to meet again soon.

Ms. Kaye stated that the new ARB (Architectural Review Board) plan has been released to the community, noting it is pretty intense, complicated, complex, and requires some reading by all of us. The committee would really appreciate the candid feedback, so she asked the Commissioners to take a look at it and please provide the committee with constructive feedback because they have a unique perspective that will be extremely helpful in helping the committee make further revisions.

Mr. Farrell thanked Mr. Taylor and the Tree Subcommittee for all the work done on the ordinance.

Mr. Capelli responded to Ms. Hennessy's earlier question in reference to caliper and DBH. He stated on page 11, footnote number seven, that the use of the caliper and DBH in the same sentence is the

same, and she may want to consider recommending Mr. Taylor change that before it is finalized.

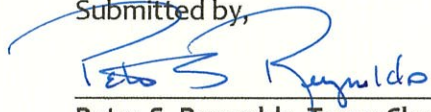
Mr. Capelli also followed up on the comments regarding the Marsh Management Plan recommendation. He stated that option one was included because the money to widen the roadway and build the cut-off came from the Green Belt funds with the condition that we allowed fishing and crabbing. Option two is favored by the subcommittee so that there would be no access to the marsh or the river from the platform. The platform would be used for viewing but not allow for fishing, kayaking, or anything else in the marsh. In trying to preserve the marsh, right now, the problem that is going to be faced is keeping people off the marsh. He noted that another consideration is the terms of the original grant. There may have to be an extension out there to let people crab and fish, but the intent was to eliminate any activity on the marsh to maintain and preserve the marsh.

Ms. Hennessy added that she thought there was a movement by some in the Conservancy to eliminate the parking, redo the landscaping, and give the money the Green Belt money back so that there is no access.

X. Adjournment:

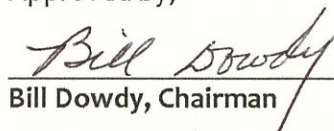
Mr. Iwan made a motion to adjourn the meeting at 4:01 pm. The motion was seconded and was unanimously approved.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



Bill Dowdy, Chairman

2-16-2024
Date