

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

Council Chambers

January 11, 2023; 3:00 PM

Minutes

I. **Call to Order: Mr. Dowdy called the meeting to order at 3:00 pm.**

Mr. Dowdy, the Vice-Chairman, stated that the Chairman, Fred Peterson, had recently notified Town staff and the Commission of his intent to resign after many years of service. In the absence of the Chairman, the Planning Commission's Rules of Procedure states that the Vice-Chairman shall exercise the duties of the Chairman.

II. **Roll Call:**

Present: Bill Dowdy
Larry Iwan
Andy Capelli
Madeleine Kaye
Joanne Hennessy

Also Present: John Taylor, Jr., *Planning Manager*
Joe Wilson, *Town Attorney*
Stephanie Tillerson, *Town Administrator*
Michael Heidingsfelder, *Council Liaison*

III. **Approval of Minutes:**

A. **Planning Commission Meeting Minutes of December 7, 2022**

Mr. Capelli made a motion to approve the minutes of the December 7, 2022, Planning Commission Meeting. Ms. Hennessy seconded the motion, and it was unanimously approved.

Mr. Dowdy asked if there were any Public Comments on any agenda items. No comments were made.

Mr. Dowdy stated that at the December Planning Commission meeting, there were two questions raised by Mr. Michael Heidingsfelder. Mr. Peterson confirmed that Town staff would prepare a response to the questions and that they would be addressed at today's meeting.

The first question was regarding the preliminary plats recently approved by the Planning Commission for Beachwalker Commons and Beachwalker Ocean Parcel 13 Lot 1 and the vested rights period of those approved preliminary plats.

The second question was regarding the Town's Comprehensive Plan and the Kiawah Island Architectural Review Board's (ARB) *Designing with Nature* guidelines, particularly what the applicability is as it pertains to the Town. Staff will address this question during the *Correspondence/Staff Comments* agenda item.

Mr. Dowdy stated that following a discussion with the Town Planning Staff and Attorney, the response to the question regarding the vested rights period could be provided without

needing an Executive Session.

Ms. Hennessy made a motion for the Commissioners to interact with the Town Attorney and receive his comments/legal advice in an open session. Ms. Kaye seconded the motion.

Mr. Capelli questioned if the action would be in violation of Section 7 of the Planning Commission's Rules of Procedure. Mr. Wilson stated that the section dealt with what happens when an Executive Session is held. He explained the option of going into an Executive Session to receive legal advice was based on a variety of reasons and a decision made by the Commission. It was his advice that a reason for an executive session did not exist, and he asked that the Commission vote on the decision to receive the legal advice in an open session.

Mr. Capelli further indicated that vested rights were part of litigation and a previous executive session discussion and questioned the distinction between those discussions and the discussion at this meeting. Mr. Wilson clarified the difference between the contexts of the two discussions.

Following the discussion, the motion to receive the attorney's comments/legal advice in an open session was unanimously approved.

~~IV. Executive Session:~~

~~A. Executive Session to receive legal advice on vested rights related to recently approved Beachwalker Commons Preliminary Plat and Beachwalker Ocean Parcel 13 Lot 4 Preliminary Plat pursuant to S.C. Code Ann. §30-4-70(a)(2).~~

Mr. Wilson indicated the two choices of vested rights were the state law under the Vested Right Act or the Town's ordinance governing vested rights. If it is determined that an application is covered under the Vested Right Act, it preempts Town ordinance; if it is not, then Town ordinance would apply.

Mr. Wilson defined a site-specific development plan as a development plan submitted to a local governing body by a landowner, describing with reasonable certainty the types and density or intensity of uses for a specific property and is covered by the Vested Right Act.

The preliminary plats submitted included information on building footprints, height, and unit numbers, therefore, a site-specific development plan. On the preliminary plat was language stating that approval of the preliminary plat does not constitute approval of proposed buildings, parking spaces, building height, or other site design or use elements. Site plan and site design require site plan review approval of the Town.

The Planning Commission only approved the roads and easements depicted on the plat, not providing protection of the buildings under the Vested Right Act or any other act. His opinion was that by the terms of the state law, the preliminary plats are governed under the state Vested Right Act providing an initial two years plus five years.

Commissions, along with Mr. Heidingsfelder, further discussed the language included in the fourth amendment to the Development Agreement with regard to Town ordinances applying to all properties in the Development Agreement, state law preempting Town ordinances, and the labeling of a submission as a preliminary plat rather than a site-specific development plan.

V. Old Business:

A. KiawahNext Plan Updates

Mr. Taylor provided an update on the progression and next steps of the KiawahNext Plan. He indicated the consultant team was on Kiawah in December for workshops and a tour of the island, which provided information for survey questions. The Commission will review the survey questions prior to release to the community on the website. The introduction and release of the KiawahNext website signify the start of community engagement, allowing residents and property owners to submit public comments on the Town's Comprehensive Plan and Kiawah in the future.

Mr. Taylor reviewed an outline of the questions proposed for the survey and asked commissioners if there were any additional questions. Commissioner discussed the survey distribution, data gathered from residents, property owners, stakeholders, visitors, or anyone interested in Kiawah, and distinguishing the responses collected.

- What makes Kiawah great?
- What additions or changes would improve your experiences here?
- What best represents the culture of Kiawah?
- What best defines the character of Kiawah?
- What is a place that you love that Kiawah can learn from?
- What risks should we be aware of if we are making changes or improvements to any elements of Kiawah?
- Is there anything else you would like us to know?

Ms. Hennessy suggested adding an open-ended question such as “what are your concerns about Kiawah features?”

VI. New Business:

A. Election of 2023 Planning Commission Officers

Mr. Iwan made a motion to table the 2023 Planning Commission Officers' election until new commissioners were appointed. Ms. Kaye seconded the motion, and it was unanimously approved.

B. 2023 Planning Commission Rules of Procedure Review & Approval

Mr. Dowdy stated that the Planning Commission revised the Planning Commission's Rules of Procedure in September 2022 to include language on the expectations of Commission members and clarified language in virtual meetings.

Mr. Capelli made a motion to approve the 2023 Planning Commission's Rules of Procedure. Mr. Iwan seconded the motion.

Ms. Hennessy expressed her concern that comments and suggested changes made by Mr. Heidingsfelder were not included in the presented Rules of Procedure and asked that the approval be tabled.

Following the discussion, Mr. Iwan withdrew his second of the motion, and Mr. Capelli withdrew his motion.

Ms. Hennessy made a motion to table the approval of the 2023 Planning Commission's Rules of Procedure. Ms. Kaye seconded the motion, and it was unanimously approved.

C. 2023 Planning Department Priorities

Annually, Town Council holds its Council Retreat at which department heads present their priorities for the year. In anticipation of the presentation from the Planning Department, Mr. Taylor provided a recap of the Planning Department's 2022 priorities highlighting those priorities completed and shifting those not completed to the 2023 priorities:

- **Beyond The Gates:**
 - ✓ Regional Transportation Network
 - ▶ Main Road Corridor
 - ✓ Complete Kiawah Island Parkway Corridor and Intersection Study
 - ✓ Review Annexation and Zoning (Planned Development) Procedures
 - Tree Protection Ordinance, Sign Ordinance
- **Resiliency Planning:**
 - ✓ Formalize Marsh Management Plan
- **Long-Range Planning:**
 - Comprehensive Plan Update
 - ✓ Development Analysis: Dwelling Unit Cap Assessment (KP) along with a review of the outline of the 2023 priorities.

In anticipation of the presentation from the Planning Department, Mr. Taylor reviewed the 2023 Planning Department priorities that will be presented at the Retreat.

- **Beyond The Gates:**
 - Regional Transportation Network
 - ▶ Main Road Corridor
 - Tree Protection Ordinance, Sign Ordinance
- **Resiliency Planning:**
 - Phase I of Implementation for Marsh Management Plan
 - Betsy Kerrison Parkway Corridor
- **Long Range Planning**
 - Comprehensive Plan Update Completion
 - Development Analysis: Dwelling Unit Cap Assessment (KIGR)
 - Land Use Planning & Zoning Ordinance Review

VII. Correspondence/Staff Comments:

Mr. Taylor addressed the question raised by Mr. Heidingsfelder at the last Planning Commission meeting regarding the Town's Comprehensive Plan and the Kiawah Island Architectural Review Board's (ARB) *Designing with Nature* guidelines.

Mr. Taylor stated the purpose of the Comprehensive Plan was as a guiding document and the vision of the Town. He noted that one of the goals listed in the Natural Resources Element is to complete the island's development in a way that maintains the island's environmental integrity and natural beauty and is consistent with the Town's vision.

Reference to the ARB can be found in the Natural Resources Element, implementation strategy 1a:

Utilize site design and construction standards, methods, and practices to minimize natural area disturbance resulting from building design, location, and construction. Standards in the ARB Building and Landscaping Guidelines, "Designing with Nature," should be used as a guide.

The answer to the question raised is that the elements of the "Designing with Nature" document are used as a reference and a guide during the review process.

Mr. Heidingsfelder indicated that the question he raised was the contradiction between "Designing with Nature," though not created by the Town, was used as a guideline and a reference to a comment made by Mr. Wilson that the "Designing with Nature" was a private document and not relevant to the Town. He stated that since the document is referenced in the Comprehensive Plan and is used by the Town as a guideline and reference, does it not make it relevant to the Planning Commission when considering preliminary plats? Ms. Hennessy stated that since a project is reviewed to determine if it is consistent with the Comprehensive Plan, and the ARB is referenced in the Comprehensive Plan, regardless of being a private entity, the Town can and should enforce the guidelines that are represented in the Comprehensive Plan.

Ms. Tillerson indicated that the Comprehensive Plan is a guiding document from which ordinances are created and allow the Town to enforce them. To enforce the referenced "Designing with Nature" document, the Town must create an ordinance that includes those or its own guidelines. Ordinance recommendations are presented to Council for review and approval.

VIII. Council Liaison Comments:

Mr. Heidingsfelder reported that Town Council approved the first reading of the Marsh Management Plan. Mr. Capelli attended the Council meeting, sharing his concerns on Inter-Entity Executive Committee recommended in the Plan. He suggested adding language to clarify roles and responsibilities and that the Town should take the leading role of the Committee. The concerns were discussed by Council, who directed staff to make the changes for the second reading in February.

Mr. Heidingsfelder reported that at the Council meeting, the Mayor read a letter from Mr. Corrada, principal of Riverstone Properties, regarding the status of the Andell West project. The letter stated that all the concerns raised had been addressed and worked into the Plan, except for the connection points between the Freshfields and Andell West properties, which are still in discussion.

IX. Public Comments:

None

X. Commissioner Comments:

Ms. Hennessy thanked Mr. Peterson for his many years of service and leadership on the Planning Commission and wished him well in future endeavors.

Ms. Kaye echoed Ms. Hennessy's comment.

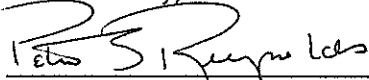
Mr. Dowdy, having spent nine years on the Planning Commission, stated that Mr. Peterson worked very hard, could be depended on to be in attendance, and was always prepared.

Mr. Iwan echoed the comments made.

Mr. Capelli echoed the comments and was disappointed Mr. Peterson could not receive the acknowledgments personally.

Ms. Kaye made a motion to adjourn the meeting at 4:07 pm. Ms. Hennessy seconded the motion, and it was unanimously approved.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



Bill Dowdy, Vice-Chairman

6-7-2023

Date