

**PLANNING COMMISSION MEETING**  
**Kiawah Island Municipal Center**  
**Council Chambers**  
**July 6, 2016; 3:00PM**

**MINUTES**

- I. Call to Order:** Mr. Peterson called the meeting to order at 3:00 pm.
- II. FOIA:** Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island

**III. Roll Call:**

Present: Fred Peterson, Chairman  
Dan Prickett, Vice Chairman  
Larry Iwan  
Andy Capelli  
Bill Dowdy  
Jack Koach

Absent: Gale Messerman

Also Present: Stephanie Monroe Tillerson, Town Administrator  
Joel Evans, Director, Charleston County Planning & Zoning  
Andrea Pietras, Deputy Director, Charleston County Planning & Zoning

**IV. Approval of Minutes:**

- A.** Planning Commission Meeting Minutes of June 8, 2016

*Mr. Prickett made a motion to approve the minutes of the June 8, 2016 Planning Commission Meeting as amended. The motion was seconded by Mr. Dowdy and unanimously passed.*

**V. Old Business:**

None

**VI. New Business:**

- A. ZLDR-06-16-00102 - ZONING ORDINANCE TEXT AMENDMENT REQUEST**

- To request to create a new zoning district CS-2: Community Support 2

Mr. Evans gave a PowerPoint presentation which included maps and aerial photographs for the requested text and zoning map amendments for 21 Beachwalker Drive. He indicated the property is currently zoned Community Support but Town Ordinance does not allow for Processional Organizations under the permitted uses. The requested rezoning to CS-2 is to allow Kiawah Island Community Association (KICA), a community organization to expand its office use at 21 Beachwalker Drive once the Town vacates in the spring of 2017.

Mr. Evans stated the applicant (the Town) is requesting to amend the Land Use Planning and Zoning Ordinance, Sec. 12-61 Establishment of Zoning Districts, by creating a new

zoning district: Community Support 2 (CS-2). The purpose of the amendment is to allow the Community Association to operate as the primary user of the facility and property.

Mr. Evans reviewed the new zoning classification, the proposed CS-2 permitted uses and conditional uses. He then reviewed the current Community Support permitted uses, conditional uses and special uses. He also reviewed the current CS standards and the proposed CS-2 standards with a red line document of the newly created Section 12-72.

Mr. Evans reviewed the approval criteria outlined in Section 12-158(3) of the Zoning Ordinance and applicant's response.

**B. ZREZ-06-16-00034 - ZONING MAP AMENDMENT REQUEST –**

- Request to rezone the property located at 21 Beachwalker Drive (TMS 207-05-00-121) from the Community Support (CS) Zoning District to the Community Support 2(CS-2) Zoning District (3.5 acres).

Mr. Evans reviewed the zoning map request to amend the zoning district map for the subject property from the CS, Community Support Zoning District, to the CS-2, Community Support 2 Zoning District. He reviewed the current zoning and land use information for surrounding properties.

Mr. Evans reviewed the approval criteria outlined in Section 12-158(3) of the Zoning Ordinance and the applicant's response.

On behalf of the Town, Ms. Tillerson indicated she would like to have Mr. Mark Permar make a comment on the history of the development on the Island followed by Mr. Bruce Stemerman, the current Board Chairman of the Community Association, to comment on current or future plans for the property.

Mr. Permar gave an overview of the history of the vision and plan of development of the Island. He discussed past zoning, land use patterns, planned development, and identification of zoning classifications for the Island and properties along Beachwalker Drive. He noted that historically Beachwalker Drive was to be a road that allows for the blending of residential and/or commercial activities. He stated it was his conclusion the blending of residential and consideration of non-residential uses is compatible with community use in this area.

Mr. Stemerman stated KICA represents the interests of all the owners and its mission was to preserve and enhance the quality of life, property and the value of real estate on the Island. He noted that any decisions on the use of the property would be made with that mission in mind.

Mr. Stemerman reviewed KICA's need for larger office space and the lack of land available to build new offices. He stated the purchase of the building would provide the ability to expand and would enhance the operations of the Association with any

additional space to be used for meeting space for small groups. He stated KICA had no specific plans for the building and did not have any intention of using the building in any other respect than what was described. He also stated it was extremely unlikely the building would be sold for some alternative use but the zoning change would preserve and protect the value of the property into the future.

Mr. Stemerman stated negotiations for the purchase price of the property was based on three contingences. He noted two have been met with the third being the zoning change essential to the completion of the transaction.

Mr. Stemerman indicated it was the belief that traffic on Beachwalker Drive would not be impacted by any future changes the Community Association would make to the building. He also added the addition of “food and beverage” is envisioned to be for the addition of a small snack bar not a restaurant.

Mr. Capelli began the discussion by stating he was not opposed to the adoption of a new zoning category; but, questioned the uses of the property once it becomes part of the new category. He stated he reviewed KICA’s covenants which stated KICA’s purpose was to exercise the functions which are set forth therein. With a series of functions listed, he questioned which one of the functions in the KICA covenants would be carried out at this location. He continued by asking, since the zoning change is only for this location, what permitted or conditional uses would be required to carry out the functions foreseen for this facility.

Mr. Stemerman responded by stating the zoning change is required for KICA to operate at this location, other zoning changes are to protect the value and allow more flexibility going forward. He indicated uses would be for Community Association offices and to create additional meeting spaces for small group gatherings. He stated, with no resources to develop any of the limited parcels of land on the Island, he did not foresee any significant additional uses at this point.

Mr. Capelli stated it would be difficult to determine approval of the appropriate zoning uses without knowing the intended uses. Given Mr. Stemerman’s statement, Mr. Capelli questioned if it was the intention of the Community Association to expand the current uses that already exist in this current building but not to change the uses. Mr. Stemerman responded by stating that essentially the uses would not change. Stating as the ultimate owner of the real estate and the responsibility to the Community, KICA has to maintain the rights to use the property at its highest and best use. He noted all the properties in the surrounding area are zoned for multifamily housing and to have a parcel in the center that is an exception would be detrimental to the value of the parcel over time. Mr. Capelli pointed out that as a not for profit organization there are certain uses allowable and the determination need to be made as to which ones are needed in this new zoning classification.

Mr. Capelli engaged in a discussion of the wording of the request which asks the zoning change be effective at specified time of when KICA takes over the building. He questioned Mr. Evans if the change can be approved in due time but take effect at a later time. He also questioned Mr. Stemerman if the zoning change being effective at the time of occupancy would satisfy the terms of the sales agreement with the Town.

Ms. Tillerson suggested to change the wording to reflect “at closing.” Following an in-depth discussion, both Mr. Evans and Ms. Tillerson agreed the zoning change which is complete with Council’s approval of the second reading of the Ordinance, would take effect at that time.

Mr. Iwan then asked Mr. Stemerman for clarification that the only reason the R3 use was added to the zoning change was to maintain market value for the future potential sale of the property to another entity. Mr. Stemerman agreed with Ms. Tillerson adding that from the Town’s perspective and a land use planning perspective the reason was to create uniformity or consistency of this parcel to parcels along Beachwalker Drive already zoned R3/Commercial or R2.

Mr. Iwan stated the approval of the requested zoning without a plan or vision of what could be developed in this area, should it be sold, leaves an open-ended rezone. He indicated there was the option to present a specific plan for review by the Planning Commission at the time the property requires the R3 rezoning. Ms. Tillerson responded by pointing out that not every “vision change” requires a zoning change or approval by the Planning Commission and not every rezone change comes with a guarantee of what will be developed in that area at that time or in the future.

Mr. Prickett questioned if KICA at the time of the purchase negotiations thought this property was zoned R3. Mr. Stemerman responded the understanding was that the property would be rezoned as being requested by the Town. Mr. Prickett then asked if the rezoning to R3 was a condition of purchase which Mr. Stemerman confirmed. Ms. Tillerson added she did not feel R3 was a condition but rather the appropriate zoning change required to obtain the highest and best use of the property.

Mr. Koach asked if all the uses of the CS-2, with the exception of the R3, are recommended and approved would it defeat the subsequent sale of the property. Mr. Stemerman stated it most likely would, and spoke to an appraisal that evaluated the value of the property based on development as multifamily residential.

Mr. Peterson restated earlier comments made on the appraisal of the property stating the property was negotiated to be sold at a lower rate and now the impression is given by the insistence of the addition of R3 that the Community Association wants to make money. Mr. Stemerman underscored the intention was not to use the property for anything other than the KICA offices and further clarified there was no intent to try “to make money” with a non-profit designation, only to protect the interests of the Community.

Mr. Capelli again questioned the requirement of the sales contract with respect to the zoning. Mr. Stemerman indicated the contingency required a zoning modification to the mutual satisfaction of both the Board of the Community Association and the Town.

Mr. Capelli again questioned if the Board of the Community Association would be satisfied with the understanding that if or when the building is sold KICA would request zoning change at that time. Mr. Stemerman responded by stating he could not support that and would not recommend it to the KICA Board. Ms. Tillerson again stated in order for KICA to occupy the building a text amendment or a zoning classification change is required.

Mr. Capelli stated under consideration was the change of the zoning classification, the question was the permitted and conditional uses to go the classification. Ms. Tillerson clarified the opposition was to the R3 in the permitted uses, and to the question if KICA would consider the zoning removing R3 from the permitted uses, considering previous discussions with Board members she felt reasonably sure the answer would be no. Mr. Capelli questioned if the Town would object to the removal of R3. Mr. Tillerson indicated she did not know if the Town would object, that decision would be left to a Council vote, but the Town did support R3 based on the surrounding parcels being zoned multi-family.

***Mr. Capelli made a motion to move item IX. Public Comments to this point in the meeting. The motion was seconded and unanimously passed.***

**VII. Public Comments:**

**Townsend Clarkson – 7 Cottage Club Way**

Mr. Clarkson pointed out that the purchaser of the property was the Community Association which is a representation of all the residents and governed by a Board elected by the residents of the Island. He stated he felt it was the responsibility of the Commission and the Community Association Board to make sure the Community Association has the most flexible options available with respect to the property, is consistent with intent of the original master plan and with the adjacent properties. He requested the Commission recommend the most flexible zoning allowable for the property.

**Linda Leffler – 60 Sunlet Bend, President of the Inlet Cove HOA**

Ms. Leffler gave an overview of the events leading up to the current amendment application. She stated the residents of Inlet Cove opposed the commercial zoning and were thankful for the request being changed to the CS-2 zoning. The residents felt it was appropriate for KICA to purchase the building for offices and meeting space but were concerned and objected to the R3 designation, the ARB (Architectural Review Board) not

having any jurisdiction over the property and communications towers being a permitted use.

Mr. Clarkson stated as a member of the KICA Board he would request the Board consider the reinstatement the ARB's jurisdiction over the property as part of the closing.

Mr. Evans confirmed communications towers are a permitted use in the current zoning and a carryover to the new zoning district.

Mr. Capelli expressed his concern with what he felt were the unnecessary additions of "park land" and "restaurant" to the permitted uses with intent stated by KICA.

***Mr. Dowdy made a motion to recommend to Town Council the approval of the CS-2 Text Amendment. The motion was seconded by Mr. Koach.***

**Mr. Capelli** expressed his reservation on the addition of the "park" rezoning to the Permitted uses and the apparent interpretation that the sales contract requires the rezoning as a condition of the sale. He indicated he would like to see legal opinion of the interpretation.

**Mr. Iwan** expressed his reluctance to give open-ended approval on something that has yet to be defined. He indicated if in the future KICA presented a request for approval with a specific plan, he could not see it not being approved. He added that he supported everything except the addition of R3.

**Mr. Prickett** expressed his concern with the speculation on the need for addition of R3. He questioned if it was necessary; why the property is not zoned Community Support/R3 which it is not currently zoned.

**Mr. Dowdy** stated if he were purchasing the land he would want the R3 zoning designation for the future options it provided. He also agreed that the Community Association Board are also Kiawah residents whose judgement should be trusted. He indicated he had no issue with the recommendation.

**Mr. Koach** agreed with Mr. Dowdy's statement and the statement made by Mr. Stemerman that the R3 designation was vital to KICA and the purchase agreement. He also indicated he had no issue with the recommendation.

**Mr. Peterson** stated that in his opinion if zoning is defined as Community Support, it should be designated what it does, Community Support. If the addition of parks is to be added then it should be; Community Support / Parks. If R3 is added then it should be Community Support / Parks / R3. He stated that if the CS-2 was to be used again, the R3 designation would come with the zoning. He stated he did not know if Council could make changes to the request but indicated he felt the Planning Commission should be

allowed to have the ability to provide input and make it a better document. He stated he would vote against the request as written.

Mr. Capelli stated it was specifically stated that the Community Association was formed for the preservation of values, not of the Association, but of the Community, and for the maintenance of common facilities and services, a vehicle for the administration and enforcement of covenants and restrictions. He stressed KICA is not a business, but a not-for-profit organization formed for that specific purpose, not to purchase property to enhance its value to earn a future profit. KICA does not have the responsibility to enhance its own values but has a responsibility to enhance and maintain the values of the entire Community.

***Following discussion, Mr. Peterson called the question on the motion to recommend to Town Council the approval of the CS-2 Text Amendment. The motion failed by a 4-2 vote. Mr. Capelli, Mr. Iwan, Mr. Prickett, and Mr. Peterson voting no.***

***There was no vote on the zoning map amendment request. With the CS-2 text amendment failing, the members of the Planning Commission agreed the map amendment request was moot.***

**VIII. Correspondence/Staff Comments:**

None

**IX. Council Liaison Comments:**

None

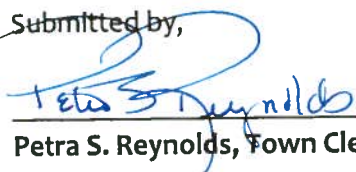
**X. Commissioner Comments:**

None

**XI. Adjournment:**

***Mr. Dowdy made a motion to adjourn the meeting at 4:22 pm. The motion was seconded by Mr. Prickett and was unanimously passed.***

Submitted by,

  
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Petra S. Reynolds, Town Clerk

10-5-2016  
Date