

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

Council Chambers

October 5, 2022; 3:00 PM

Minutes

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

II. **Roll Call:**

Present: Fred Peterson, *Chairman*
Larry Iwan
Andy Capelli
Bill Dowdy
Madeleine Kaye
Joanne Hennessy

Present via Zoom: Dr. Michael Heidingsfelder

Also Present: Joe Wilson, *Town Attorney*
Stephanie Tillerson, *Town Administrator*
John Moffitt, *Council Liaison*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of September 7, 2022

Mr. Kaye made a motion to approve the minutes of the September 7, 2022, Planning Commission Meeting. Mr. Dowdy seconded the motion, and the minutes were unanimously approved.

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

Mr. Peterson stated that letters were received from Mr. Adam Barr, the attorney representing Riverview Homes and Riverview Townhomes, and Mr. Todd Boney forwarded from Preserve Kiawah. Both letters would be included as part of the record of the meeting.

Brad Belt – 151 Bobcat Lane

Mr. Belt stated he was a property owner in the Riverview Development and was appearing on behalf of the Riverview HOA (Home Owners Association), along with Mr. John Grierson, the President of the HOA, also noting that he was on the Board of Preserve Kiawah.

Mr. Belt reviewed items that he felt needed clarification regarding the two preliminary subdivision plat applications being considered for approval:

- Development review period
 - Site-specific development plan and vested right criteria
- Preliminary subdivision plat application for Lot #1:
 - Substantial site work has already been done
 - A concern of a violation of the Development Agreement
- Beachwalker Parcels:
 - Including conditions in conjunction with any preliminary approval
 - March 2022 memorandum from the Kiawah Conservancy outlining development concerns.

V. Old Business:

None

Mr. Peterson stated that Mr. Taylor, the Town's Planning Manager, could not attend the meeting; therefore, Ms. Tillerson would be presenting the application materials.

VI. New Business:

A. Subdivision Applications:

- 1) **#SBD22-000012: Kiawah Resort Associated, LP & Beachwalker Office Park, LLC
A Preliminary Subdivision Plat: Beachwalker Commons
TMS #207-05-00-004;-120;-116 and -117**

Ms. Tillerson stated the preliminary subdivision plat application for Beachwalker Commons, or Upper Beachwalker, includes four parcels (Common names used Parcel 8, Parcel 9, Parcel 11 and Former Church Parcel) that are zoned R-2/Commercial & R-3/Commercial and have a total of 12.09 acres. The presentation included future land use maps, parcel entitlements, and a review of the former uses of the properties.

Ms. Tillerson reviewed preliminary plat review and consideration for approval process. Commissioners may consider approval, disapproval, or approval with conditions. Any application and supplemental materials unaddressed for 60 days are automatically deemed approved. Approving the preliminary plat does not constitute approval of proposed buildings, parking spaces, building heights, or other site use or design elements. This is administratively completed through the site plan review approval process.

The Planning Department did a technical review of the application for preliminary approval of this subdivision to be known as A Preliminary Subdivision Plat of Beachwalker Commons (TMS#207-05-00-004;-116;-117 and -120) and found that it is consistent with *Article 12c, Subdivision Regulations*.

Planning staff has recommended that the PC consider as a condition of approval: Prior to the issuance of zoning permits and final plat approval, proposed access easements across parcels and the vehicular access easement granting access to Parcel #207-05-00-120 across #207-05-00-004 via Beachwalker Drive shall be formally recorded with the Register of Deeds.

Mr. Iwan asked for clarification on the inconsistencies with regulations pointed out in Mr. Belt's comments. Ms. Tillerson stated that she was unaware of any inconsistencies or errors regarding the Upper Beachwalker application, and that the staff's site plan review process would address building standards.

Ms. Hennessy asked for clarification of the approval criteria. Mr. Wilson reviewed the process and requirements for the preliminary plat approval. Commission members engaged in an in-depth discussion of the application development review period and Town Ordinance interpretation vs. State Law. During the discussion of the staff's site plan review process, it was noted that the final plat would be submitted to the PC for approval. Conditions could be added to a conditional plat approval but could not add or set new standards.

Also discussed were Dr. Heidingsfelder's questions on the staff's site review process and what consideration is given to ARB's (Architectural Review Board) *Designing with Nature*

development standards, compliance with the Comprehensive Plan, and the assessment of traffic impact of the two developments being considered.

A follow-up discussion included Ms. Hennessy's comment that the ARB's *Designing with Nature* development standards are incorporated into the Development Agreement (DA); therefore, the Town has oversight to ensure the standards are enforced. Mr. Wilson clarified that the DA references that the ARB had exclusive jurisdiction over interpreting and enforcing the *Designing with Nature* guidelines. It is not a governmental function to enforce private agreements, making clear that the Town does not have the authority to enforce the ARB's guidelines. Mr. Capelli added that the Town's responsibility is to ensure an applicant has ARB approval before submitting permitting documents.

Mr. Dowdy made a motion to approve the preliminary subdivision plat application for Beachwalker Commons, with the additional condition that prior to the issuance of zoning permits and final plat approval, proposed access easements across parcels and the vehicular access easement granting access to Parcel #207-05-00-120 across #207-05-00-004 via Beachwalker Drive shall be formally recorded with the Register of Deeds. Mr. Iwan seconded the motion.

Following further discussion, the motion was passed by a vote of 5 to 1. Ms. Hennessy abstained from voting. Dr. Heidingsfelder voted "No".

#SBD22-000013:

Kiawah Resort Associates, LP

A Preliminary Subdivision Plat: Beachwalker East

TMS #207-05-00-018

Ms. Tillerson stated the preliminary subdivision plat application for Parcel 13 Lot #1 includes 6.993 total acres and is zoned R-3/Commercial. The presentation included future land use maps, a review of the agreement with the Community Association, DA parcel entitlements, and a review of the plat submitted for the site plan review process.

The Planning Department did a technical review of the application for preliminary approval of this subdivision to be known as a preliminary subdivision plat of Beachwalker East - Parcel 13 – Lot 1 (TMS#207-05-00-118) and found that it is consistent with *Article 12c, Subdivision Regulations*, and that no additional conditions are required.

Discussion included that the PC is not involved in the staff's site plan review process that would address building standards, but there will be a final plat submitted to the PC for approval.

Dr. Heidingsfelder made a motion to table the approval of the preliminary subdivision plat until the new Comprehensive Plan is completed incorporating the community concerns. Ms. Kaye seconded the motion.

Ms. Tillerson stated that as part of the preliminary plat approval process discussed earlier, if the PC fails to act on the application within 60 days, it is automatically deemed approved. An agreement with the applicant for an extension would be required.

In response to Ms. Hennessy's question, if conditions could be placed on the preliminary plat approval, Ms. Tillerson clarified that staff placed no conditions following the technical review of the application and that any suggested conditions could not create new standards.

Dr. Heidingsfelder withdrew his motion, and Ms. Kaye withdrew the second.

Mr. Dowdy made a motion to approve the preliminary subdivision plat application for Beachwalker East, Parcel 13 Lot #1. Mr. Capelli seconded the motion.

The motion passed by a 4 to 2 vote. Ms. Hennessy abstained from voting. Dr. Heidingsfelder and Ms. Kaye voted “No.”

VII. Correspondence/Staff Comments:

Ms. Tillerson stated that the Andell West Planned Commercial Development application public hearing is scheduled for Monday, November 10th, and encouraged the community to attend.

VIII. Council Liaison Comments:

None

IX. Public Comments:

Brad Belt – 151 Bobcat Lane

Mr. Belt expressed his concern with what he perceived as a clear misreading of the Town’s ordinances and the Development Agreement. After reading the language in the DA, he stated the ARB does not have complete and exclusive jurisdiction, discretion, and executive authority. He disagreed with the Town’s insistence that it can’t enforce a private agreement. He continued by reviewing additional concerns with violations by the ARB on other developments.

X. Commissioner Comments:

Ms. Hennessy thanked Mr. Belt for his comments and expressed her concerns about understanding why rights under the DA are granted but the rules are not enforced, and she would like the counsel’s opinion on why it has been happening. She also indicated that she was uncomfortable approving items without knowing under which regulatory approval is given.

Ms. Hennessy also questioned when the last sewer capacity analysis was done. Ms. Tillerson later responded that regarding the preliminary plat approval, Kiawah Island Utility must submit a letter stating they can handle the development capacity.

Mr. Capelli asked Mr. Belt if his earlier comments on the DA with the Partners would also equally apply to the DA with the Resort. Mr. Belt responded that, in his view, it would, discussing specifics in the separate Development Agreements.

XI. Adjournment:

Mr. Iwan made a motion to adjourn the meeting at 4:45 pm. Ms. Hennessy seconded the motion, and it was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Fred M. Peterson, Chairman

Date

DRAFT