

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center
Council Chambers
September 7, 2022; 3:00PM

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
Dr. Michael Heidingsfelder

Present via Zoom: Madeleine Kaye
Joanne Hennessy

Also Present: Joe Wilson, *Town Attorney*
Stephanie Tillerson, *Town Administrator*
John Taylor, Jr., *Planning Director*
Amanda Mole, *Kiawah Island Architectural Review Board*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of August 3, 2022

Mr. Capelli made a motion to approve the minutes of the July 2, 2022, Planning Commission Meeting. Mr. Dowdy seconded the motion, and the minutes were unanimously approved.

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

None

V. **Old Business:**

A. **Planning Commission Rules of Procedure Proposed Amendment**

- Consideration of Virtual Meeting Protocol and Professional and Ethical Standards

Mr. Taylor presented the staff recommended amendments to the rules of procedure. He reviewed, in detail, the proposed changes that were recommended at the last meeting.

Mr. Capelli made a motion to approve, as presented, the proposed amendments to the Planning Commission Rules of Procedure. The motion was seconded by Mr. Dowdy.

Ms. Hennessy expressed her concerns with the word “unlawful” in Section 8 – Executive Sessions, questioning the law it referenced and if there was no law that could be referenced, the word should be removed.

In-depth discussion included the meaning of the word “unlawful”. It was shared that the language was sourced from the Town’s Code of Ordinances, and executive session procedures. Mr. Wilson provided clarity on the purpose and procedures of executive sessions.

Ms. Hennessy made a motion to eliminate the word “unlawful” from the first sentence in Section 8 – Executive Sessions and replace it with “A Planning Commissioner should not disclose any confidential attorney/client information.”

Ms. Hennessy also expressed her concern with the word “substance” in the same sentence and the overall wording in the section. Dr. Heidingsfelder agreed with removing “unlawful,” substituting the word “inappropriate.”

Dr. Heidingsfelder made a motion to change the word “unlawful” to “inappropriate” and to also include a reference to Town’s Code of Ordinances. Ms. Hennessy seconded the motion.

In further discussion, Ms. Hennessy stated that municipal training speaks to the expectation that executive session confidentiality is to be maintained, but a justification of vote can be given without violating the attorney/client privilege.

Mr. Iwan expressed his concern that the word “inappropriate” was not strong enough to protect the confidentiality of an executive session resulting from a majority vote. As a group activity, what is appropriate should not be left to individual consideration, and a better word would be “expected.”

With other language being considered, Dr. Heidingsfelder and Ms. Hennessy withdrew their motions.

Ms. Kaye made a motion that in Section 8 – Executive Sessions, the word “unlawful” be replaced by “a violation of Town Ordinance.” The motion was seconded by Dr. Heidingsfelder.

Following further discussion, the motion was unanimously passed.

Dr. Heidingsfelder made a motion to replace “the substance of a” with the word “any.” The motion was seconded by Mr. Iwan.

Following further discussion, the motion was approved by a 6 to 1 vote, with Ms. Hennessy voting “no.”

Dr. Heidingsfelder reviewed comments he made in an email to staff prior to the meeting.

Dr. Heidingsfelder made a motion to amend Article II – Section 7 to include language that the Town is committed to making any possible effort to allow an uninterrupted and productive virtual session of a Commission meeting, but the Town can not guarantee that members attending virtually may be able to hear everything that is said.

Mr. Wilson stated that the Planning Commission could not commit Town Council to spend money or anything in a code of conduct for the Planning Commission. Ms. Tillerson added that the Town Council had approved funding in the budget for upgrading the audio/visual system in Council Chambers.

Dr. Heidingsfelder withdrew his motion.

Dr. Heidingsfelder expressed his concern with the language in Article VII – Loyalty, bullet point four “I don’t oppose final decisions once they have been made by the decision-makers, except through internal lines of communication.” He indicated he felt the language violated his right to free speech.

Mr. Capelli made a motion to replace Article VII with a Preamble to the Planning Commission Rules of Procedure of seven items, not intended as a rule of the meeting but rather a position or principle to which Commission Members should adhere to. Dr. Heidingsfelder seconded the motion.

PREAMBLE
PRINCIPLES OF SERVING AND STANDARDS OF INTEGRITY

Members of the Planning Commission should adhere to the following values when serving in the public interest:

- (1) Remember that their role is first and foremost to serve the community;
- (2) Be at all times truthful with my colleagues, the public, and others;
- (3) Avoid any actions that would cause the public to question whether my decisions are based on personal interests instead of the public's interest;
- (4) Do not accept any gifts or other special considerations because of my public position;
- (5) Do not knowingly use false, inaccurate, or biased information in support of my position;
- (6) Do not use their public positions for personal gain;
- (7) Carefully consider any promises made and keep them.

Commission Members discussed if the items in the proposed preamble were comprehensive enough and considered suggestions to include the language of Sections 1 and 2 along with other bullet points in Article VII. Mr. Iwan expressed his view that a code of conduct should not be included as part of the Commission's rules of procedure but rather part of Council's appointment process.

Following the discussion, the motion was approved by a 6 to 1 vote, with Mr. Iwan voting "no."

Mr. Capelli made a motion to amend the second sentence of Article II, Section 5 – Voting to read "A member attending virtually via video conferencing, teleconferencing, or web conferencing is considered present." and deleting Section 7. Ms. Kaye seconded the motion.

Following further discussion, the motion was unanimously passed.

Mr. Dowdy made a motion to approve the proposed amendments to the Planning Commission Rules of Procedure as amended. Mr. Capelli seconded the motion, and it was unanimously approved.

B. Zoning Ordinance Text Amendments:

1) Zoning Ordinance Text Amendment Request:

#AZO22-000003: Request to amend Section 12-64. Setbacks

Mr. Peterson stated the text amendment would allow the Planning Director the ability to make administrative approvals to setbacks for generator stands.

Mr. Taylor indicated that the Town had experienced an increase in the request for generators on the island. Generator stands sited for existing homes often encroach into a required side or rear setbacks. The issue is that no language within our Land Use Planning and Zoning Ordinance specifically address generator stands.

The request asks the Commission to consider administrative relief allowing the Planning Director to make determinations for minimal setback encroachments into a rear or side setback if certain conditions are met. An administrative approval would be similar to how HVAC stands

and upfits are currently administered. The current zoning ordinance grants administrative relief for many site elements depending on the element, which ranges from two to five feet into a required setback.

Mr. Taylor presented examples of three variance requests for generator stand installations which encroach into a side or rear setback heard by the Board of Zoning Appeals. These variance requests were all approved or approved with conditions.

Mr. Taylor reviewed the conditions allowing administrative approval.

Discussion of the proposed amendments included the administrative approval not applying to new construction and who determines and approves adequate screening.

Mr. Taylor stated that the proposed amendment would not apply to new construction and that if a new home is considering a generator, that generator stand would need to be meet current setback requirements. Mr. Taylor also stated the Kiawah Island Architecture Review Board and the Town would approve adequate screening.

While not relevant to the proposed text amendment, Dr. Heidingsfelder asked that consideration be given to his suggestions that neighbors need to be pre-informed on a proposed generator installation and to place a limit on generator noise at 60 dba. Staff was asked to review these suggestions as part of the noise ordinance.

Ms. Hennessy made a motion to recommend to Town Council the approval of the setback requirements for generators. Mr. Dowdy seconded the motion, and it was unanimously approved.

VI. New Business:

A. Zoning Ordinance Text Amendments:

1) Zoning Ordinance Text Amendment Request:

#AZO22-000004: Request to amend Section 12-104. Accessory Uses, Buildings / Structures

Mr. Taylor stated that the text amendment request was not being presented for recommendation but rather as a beneficial introduction for future consideration. Staff has determined that based on conversations with the ARB (Architectural Review Board), further study will be required on accessory structures.

Detached accessory buildings shall be prohibited from being placed in front of the principal building and shall be placed in the rear yard. Except that a detached accessory use may be constructed in front of the principal residence where the residence backs up to a beach, golf course, lagoon or marsh and is only permitted after approval as a special exception.

Mr. Taylor noted that a number of cases have come through the zoning permit office requesting administrative approval, which are skirting the rules using the current definition of how accessory structures or dwelling units are built. Approval determination is made on connection, whether a structure is detached or attached.

Mr. Taylor reviewed examples in which walls were placed between the principal structure and accessory structure or dwelling unit. By ordinance definition, the wall connection between the two structures meets the criteria and allows for administrative approval but does not read a single structure as intended. The conflict brought about the review of the definition, but ARB

concerns with unintended consequences have promoted further review of the entire accessory uses section by a small workgroup.

Ms. Mole reviewed the ARB's concerns with certain neighborhoods with covenants that encourage building separation and the possibility of creating an unintentional conflict with an ordinance.

vii. Correspondence/Staff Comments:

Mr. Taylor reviewed the Planning update for September 2022.

Zoning Review

2022 Zoning Permits Issued	
January	20
February	30
March	23
April	18
May	15
June	16
July	20
August	18
September	
Total to date	160

Subdivision Review

Planning staff reviewed the following subdivision plat(s). The following applications were granted administrative approval and were recorded with the Charleston County Register of Deeds.

SBD22-000009 | 222 Sea Marsh and 224 Sea Marsh – Property Line Abandonment

SBD22-000007 | Ocean Park Phase 8A – Lot 472 Helena – Exempt Plat

SBD22-000005 | 42 Sunlet Bend – Property Line Abandonment (*scheduled for recording*)

Town of Kiawah Island Board of Zoning Appeals (BZA)

The Board of Zoning Appeals had no cases during the month of August. One variance case is scheduled for the month of September.

Town Council Updates

In July, the Town released an RFP seeking consultants to conduct a comprehensive study to determine the feasibility of creating a Performing Arts and Cultural Center. Town Council, at their September 6th meeting, approved Webb Management Services to conduct this feasibility study.

Marsh Management Plan & Resiliency Updates

Preliminary recommendations have been established for the Marsh Management Plan. Recommendations fall into four categories which include monitor, regulate/protect, restore, and engage. The *monitor* category focuses on establishing programs for monitoring the health of the marsh. The *protect* category highlights opportunities of additional regulation ordinances, etc. The *restore* category will focus on strategies to identify opportunities or projects for restoration. Additionally, the *engage* category will highlight strategies for educating and informing stakeholders of Kiawah marshes. These recommendations have been shared with key stakeholders and will be presented with another opportunity for community review later this month with a tentative October public workshop with the Planning Commission.

Comprehensive Plan Update

The town staff has been working through onboarding requirements for the scheduled comprehensive plan update. LS3P and Kimley-Horn collectively have partnered to deliver a comprehensive approach and plan as a consultant group. We anticipate early October for the first public engagement opportunities.

Kiawah Island Parkway Intersection and Corridor Study

Kimley Horn has completed the intersection and Corridor study. This complete study is available online for review. Town has received a list of short-term and long-term priorities for road improvements when it pertains to improvements along the Kiawah Island Parkway. Kimley Horn is further exploring options for the intersection of Beachwalker Drive and Kiawah Island Parkway with the scope to encroach onto the real estate office property.

Kiawah Island Parkway Traffic Monitoring

The Town completed the third segment of traffic counts for the Kiawah Island Parkway. Staff is awaiting the final counts to analyze complete 2022 results of Traffic impact to the Kiawah Island Parkway.

Proposed Freshfields Village Self-Storage

On August 23rd, Citadel Storage hosted a design charrette regarding a proposed self-storage in Freshfields Village. Conceptual site plans and renderings presented during the charrette may be found online. Self-storage is not an allowed use within Freshfields Village. This proposal would require an amendment to the Freshfields Planned Development. No formal application has been submitted to the Town at this time.

Proposed Andell West Project

Andell West is a proposed commercial Planned Development adjacent to Freshfields Village in unincorporated Charleston County. The development will provide a full-size grocery store to the Kiawah, Seabrook, and John's Island Communities. In addition, the development will include opportunities for retail and services. Riverstone Properties, the developers requesting the planned development, appeared before Charleston County Planning Commission for a workshop in July 2022. Charleston County Planning Commission is anticipated to hear this proposal at their regularly scheduled October 10th meeting.

Johns Island & Regional Planning

Main Road Corridor Project – Segment C: Charleston County has no significant new updates. Staff continues to engage with the County on the project. County staff is finishing up edits on public comment responses from the spring with hopes to have those available to the public by mid-September. Following the release of comment responses to the public, a comprehensive breakdown with exhibits will follow in the weeks after. There is no current projected timeline for a establishing a preferred alternative.

City of Charleston Redistricting

The City of Charleston is going through a redistricting process that will have an impact for our neighbors on Johns Island. With the population growth on Johns Island, this will have impact on Johns Island's representation with regard to City Council. The city had previously released a draft plan for their proposed redistricting. An updated alternatives (1A and 1B) has been released consolidating Johns Island properties within the city's jurisdiction to one district to having its own City Council representative. This represents a change where currently, Johns

Island is included within districts of West Asley. You can view a map of the districts at <https://charleston-sc.maps.arcgis.com>. You do not have to be a resident of the city to provide comments. However, comments will be accepted until noon on September 12th. A City Council meeting is scheduled for September 13th to discuss and provide an overview of the proposed plans and share comments received.

Charleston Regional Housing Plan

Charleston County has established a new Department of Housing and Neighborhood Revitalization. This department was established to shepherd the Housing Our Future plan and to own its implementation. The goal is to create a county-wide comprehensive action plan to define the needs, identify strategies and chart a sustainable course for its work on the issue of housing needs for the region. The *Housing Our Future* plan will include roundtable interviews, neighborhood conversations, community workshops, and a survey to ensure the plan reflects the community's experience and desired approach to addressing housing. The Department of Housing and Neighborhood Revitalization will host a public meeting on September 13, 2022, at 12:00 pm at the John's Island Regional Library located at 3531 Maybank Highway, John's Island, SC 29455 to discuss housing needs and gain feedback about the comprehensive housing plan. Visit <https://www.charlestoncounty.org/hof/> to view the full public meeting schedule. A public meeting will also be hosted September 14, 2022, at 5:30 pm at the Charleston County Public Service Building 4045 Bridge View Drive, North Charleston, SC 29405

***Upcoming Continuing Education Opportunities | Please note the following CE opportunities. Please contact Petra to confirm your attendance. Planning Officials will be responsible for providing a copy of your certificate of attendance to the Town.

CE Opportunities 2022				
Date	Time	Location	Topic	Credit Hours
September 16 th	1:00PM – 2:30 PM	VIRTUAL	Form Based Codes - a path towards more equitable communities <i>Guest Host: APA Planning & the Black Community Division</i> Form Based Codes are a land development regulation that fosters predictable built results and a walkable public realm by using physical form—rather than separation of uses—as the primary basis and focus for the code and standards. Communities can apply form-based codes at different contexts and scales. FBCs are legally-binding regulations, not optional guides, and offer municipalities a path for equitable development for all residents!	1.5
October 21 st	1:00PM – 2:30 PM	VIRTUAL	Zoning for Equity, Resiliency, and a Post-Pandemic World <i>Guest Host: APA Ohio Chapter</i> The past three years have shone a light on the strengths and shortcomings of planning and zoning through events like the 2020 protests for social justice, the pandemic, environmental crises, and the housing crisis. There is an increasing appreciation for walkable environments, and how they can improve health, the environment, mobility, and connectivity. Our firm, which focuses on zoning codes, has been critically examining the services we provide, and how we can both meet modern challenges and also try to acknowledge and repair past harms. As professionals, we are trying to do better. In this episode, we'll talk about how we can critically examine zoning codes to center equity, resiliency, and walkability in our land use policy.	1.5

Ms. Tillerson added that the South Carolina American Planning Association would hold their Fall Conference at Hilton Head Island from November 9th to 11th. Mr. Taylor will be making a presentation on the Marsh Management Plan at the conference.

Ms. Tillerson stated that members of the Planning Commission were invited, as guests of the Town Council, to the groundbreaking of the MUSC Sea Island facility tomorrow at 3:00 pm.

Ms. Tillerson provided an update on the Bohicket Marina project, stating that it is in the process of being annexed into the Town of Seabrook. The owner has met with the Town and Kiawah entities for feedback on concerns.

VIII. Council Liaison Comments:

None

IX. Public Comments:

None

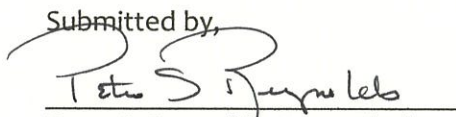
X. Commissioner Comments:

Dr. Heidingsfelder requested that the Commission receive an update on the status of the PreserveKiawah appeal in the coming weeks.

XI. Adjournment:

Mr. Iwan made a motion to adjourn the meeting at 4:24 pm. Mr. Capelli seconded the motion, and it was unanimously approved.

Submitted by,


Petra S. Reynolds, Town Clerk

Approved by,


Fred M. Peterson, Chairman

10-19-2022

Date