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TOWN COUNCIL MEMBERS:
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MEMORANDUM

TO: Town of Kiawah Island Planning Commission Members

FROM: John Taylor, Jr., Planning Manager

DATE: February 1, 2023

SUBJECT: Case #AZO23-000001 Proposed Text Amendment

Planning Staff is requesting a recommendation regarding the proposed text amendment.

The Planning Commission's Rules of Procedure dictates a 300' radius personal notice to properties for zoning change applications. This 300' radius is measured from the external boundary of the property in question. Zoning change applications' public notice requirements fall under the requirements of our public hearing procedures (Sec. 12-156). Public hearing procedures are not only required for zoning change applications but also include variances and special exceptions heard by the Board of Zoning Appeals.

The current 300' radius personal notice within the Planning Commission's Rules of Procedure is consistent with the Town's current public hearing procedures for personal notice requirements within *Section 12-156. Public Hearing Procedures*.

The Town's current public hearing public notice requirements include:

- Published Notice (P&C newspaper, Town's website);
- Posted Notice (Zoning sign posted on the property);
- Personal Notice (Properties within a 300' radius receive a mailed letter); and
- Parties in Interest (Direct email sent to list of interested parties, Town's Eblast)

The proposed amendments to the Planning Commission's Rules of Procedure suggest a 500' radius for zoning change applications.

This proposed text amendment would ensure consistency between the Planning Commission's Rules of Procedure amendment (if amended and approved) and the Town of Kiawah Island's Land Use Planning and Zoning Ordinance public hearing notice provisions as required by *Section 12-156. Public Hearing Procedures*.

Recommendation by the Planning Commission. The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission's recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment.

Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- a. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;*
- b. The proposed amendment is consistent with the purposes and intent of this article;*
- c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;*
- d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.*

Please see draft language attached.

Sec. 12-156. Public hearing procedures.

The purpose and intent of this section is to set forth the procedures for a public hearing which provides the opportunity for an applicant and the public to comment on the application submitted for approval. The provisions of this section establish the procedures for a public hearing when required in connection with carrying out the provisions of this article. The following public hearing procedures shall be used by the Town Council, Planning Commission, and Board of Zoning Appeals:

- (1) *Setting of the public hearing.* When a public hearing is required by this article, a time shall be designated for the required public hearing, and notice of such hearing shall be prepared and made pursuant to the notice provisions contained within this article.
- (2) *Notice provisions.*
 - a. *Published notice.* Except as otherwise provided by State Law, in any instance in which a public hearing is required, a notice setting forth the date, time, place and purpose of such hearing, the name of the applicant, and identification of the subject property must be published once in a newspaper of general circulation in the Town, at least 15 calendar days before the date set for the hearing.
 - b. *Posted notice.* Notice of actions affecting specific properties shall be posted on the affected property or adjacent to the affected property 15 calendar days prior to the first hearing on the request. At least one posted notice shall be visible from each street that abuts the property.
 - c. *Personal notice.* Whenever personal notice of a public hearing is required by State Law, notice shall be sent by regular mail at least 15 calendar days before the public hearing to each owner of real property located within ~~300~~500 feet of the exterior boundary of the property in question, to any neighborhood organizations having an interest in the development application, and if the matter to be considered is an appeal, to all parties to the appeal, including other interested parties. Such notice shall state the date, time, place and purpose of the hearing. Failure to provide this notice will not invalidate any action taken.
 - d. *Parties in interest.* When the provisions of this article require that notice be sent, the following parties in interest shall also be notified:
 1. The applicant;
 2. The owner of the property (if other than applicant); and
 3. Any individual, group or organization that has submitted a written statement of interest to the Town of Kiawah Island.

The Town has no responsibility for maintaining the names and addresses of these groups or other parties in interest.

- e. *Costs of notice.* All actual costs incurred by the Town in preparing and publishing required notices shall be paid by the applicant prior to publication or mailing of such notice according to a schedule of fees established by the Town Council.
- f. *Notification following decision.* Within ten working days of the date of a final decision on a development application, written notification of such action shall be mailed to the applicant except for actions by the Board of Zoning Appeals related to variances and special exceptions. These final decisions of the Board of Zoning Appeals shall be sent by certified mail to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of such conditions, if any. When the Planning Director denies the application, a

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written statement setting forth the reasons for the denial shall be included. A record of such notification shall be filed with the Planning Director.

- (3) *Examination of and copying of documents.* At any time upon reasonable request, any person may examine the pending development application and materials submitted in support of or in opposition to the development application. Copies of such materials shall be made available at a cost specified in a schedule of fees and charges adopted by resolution of the Town Council.
- (4) *Conduct of hearing.*
- a. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state the person's name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
 - b. A landowner whose land is the subject of a proposed zoning amendment will be allowed to present oral or written comments to the Planning Commission.
 - c. The body conducting the hearing shall exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but shall do so only through the Chairperson of the body conducting the hearing at the Chairperson's discretion. The order of proceedings shall be as follows:
 1. The Planning Director or appropriate designees shall present a description of the proposed development application and a written or oral recommendation, if required. The recommendation shall address each factor required to be considered prior to approval of the development application. The written recommendation shall be made available to the applicant at least three working days prior to the hearing;
 2. The applicant shall present any information it deems appropriate;
 3. Public testimony shall be heard first in favor of the proposal, then in opposition to it;
 4. The Planning Director may respond to any statement made by the applicant or to any public comment; and
 5. The applicant may respond to any testimony or evidence presented by the staff or public.
- (5) *Record of proceedings.*
- a. The body conducting the hearing shall keep a record of the proceedings by any appropriate means and such record shall be available at the request of any person upon application to the secretary of the body conducting the hearing and payment of a fee set by the Town Council to cover the cost of transcription or duplication.
 - b. All records shall be public, open for inspection at reasonable times and upon reasonable notice.
- (6) *Continuance of proceedings.* The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place within 30 working days. No additional notice shall be required if a hearing is continued. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. All adjourned public hearings shall recommence only upon giving all notices which would have been required for the initial public hearing.
- (7) *Additional rules.* Additional rules governing public hearings may be provided for by other provisions of this Code of Ordinances and may be applied as well, as long as they are not in conflict with this article.

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The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation.

(Code 1993, § 12A-502; Ord. No. 94-12, § 2(12A-502), 9-26-1994; Ord. No. 2005-08, § 12A-502, 10-12-2005)