

PLANNING COMMISSION MEETING
Municipal Center Council Chambers
April 3, 2024, 2:00 pm

Minutes

I. **Call to Order:** *Mr. Dowdy called the meeting to order at 2:00 pm.*

II. **Roll Call:**

Present: Bill Dowdy, *Chairman*
Larry Iwan, *Vice Chairman*
Eugene Babinec
Andy Capelli
Ronald Curran
Luke Farrell
Joanne Hennessy

Also Present: John Taylor, Jr., *Planning Manager*
Boone Aiken, *Town Attorney*
Ross Appel, *Consulting Attorney*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of January 10, 2024

Mr. Capelli made a motion to approve the Planning Commission meeting minutes of January 10, 2024. Dr. Curren seconded the motion.

Mr. Farrell expressed the need to improve the response time for receiving minutes after meetings. Ms. Hennessy suggested providing backup to help with the workload. Mr. Taylor indicated that the Council had acknowledged the issue and mentioned that steps were being taken to address it.

Mr. Capelli pointed out an error at the bottom of page seven and his proposed change.

Following the discussion, the motion to approve the minutes as amended was approved by a 6 to 1 vote, with Mr. Farrell voting "No."

B. Planning Commission Meeting Minutes of February 7, 2024

C. Planning Commission Meeting Minutes of March 7, 2024

The minutes of the February 7, 2024, and March 7, 2024, Planning Commission Meetings were deferred to the next meeting.

IV. **Public Comments**

(Agenda Items Only)

None

Mr. Mark Premar – representing Kiawah Partners

Mr. Premar stated that his comments concerned items B and C under Old Business. His first question was if people in attendance would be able to participate in the Commissioner's discussion during that period or if they would be limited to only Commissioners and the staff. Chairman Dowdy stated that he saw no issue with allowing the public to make comments during the discussion.

Mr. Permar provided advanced comments on the topics concerning Captain Sam's Parcels 12 A and 12 B. The Planning Commission began looking at a broad range of parcels, including Captain Sam's, in September. The comprehensive approach included more meetings, public response adjustments, and extensive revisions until recommendations were made and approved by the Town Council in December. Since that time, the physical conditions of those two parcels have remained the same, with no pending development permits in the works or having been submitted for review, so he questioned what had changed to warrant revisiting the parcels.

Mr. Dowdy stated that the Town Attorney, who would provide legal advice on the next few items, had been delayed, so the Zoning Text Amendment, Item D., will be considered first.

(Please note Items D. Zoning Text Amendments: Case #AZO24-000003 and Case #AZO24-000006 were considered by the Commission. Details of the discussion follow the order of the published agenda.)

Mr. Capelli made a motion to move into the Executive Session to receive legal advice regarding the 2013 Amended and Restated Development Agreement and the rezoning of parcel #TMS 207-05-00-0011 (Captain Sam's Spit). Ms. Hennessy seconded the motion, and it was unanimously approved.

V. Executive Session:

- A. Executive Session pursuant to South Carolina Code Section 30-4-70(a)(2) to receive legal advice regarding the 2013 Amended and Restated Development Agreement and the rezoning of parcel #TMS 207-05-00-0011 (Captain Sam's Spit).

Ms. Hennessy made a motion to return to the Regular Session. Mr. Babinec seconded the motion, and it was unanimously approved.

Mr. Dowdy stated that no action or votes were taken during the Executive Session.

VI. Old Business:

A. KiawahNext Update

Mr. Taylor thanked the Commissioners for their feedback on the objectives and goals based on the previous work session and said they have been forwarded to the consultant team. He noted that because there were differences in some of the languages, the consultants are working on consolidating the language that best represents all of the previous discussions. He anticipated having the consolidated feedback ready within the week and planned to schedule the next workshop in two weeks.

B. Comprehensive Plan Amendment Request

- 1) **#ACP24-000001** | Request to Amend the Comprehensive Plan - Comprehensive Plan Map IX.2, Future Land Use to change the future land use designation for the subject property TMS# 207-05-00-0011 from Low-Density Residential to Active Recreation and Open Space. (Captain Sam's Spit); and for the subject property TMS# 207-05-00-001 from Medium Density Residential to Conservation, Active Recreation, and Open Space.

Mr. Taylor stated that a Comprehensive Plan amendment request and a rezoning request for the parcel known as Captain Sam's Spit were under consideration. The Comprehensive Plan amendment request is to change the Future Land Use designation for the subject property located

at Beachwalker Drive (TMS# 207-05-00-001 & TMS# 207-05-00-0011) from Low-Density Residential and Medium-Density Residential to Conservation, Active Recreation, and Open Space had been tabled at the previous meeting.

Discussion included that the application was tabled due to outstanding information and unresolved issues and that the only substantive change since the discussion was the current agenda item regarding the subdivision plat related to the conveyance of portions of the subject property based on the ARDA (2013 Amended and Restated Development Agreement) requirements.

C. Zoning Map Amendment Request

- 1) #REZ24-000001 | Request to amend Chapter 12- Land Use Planning and Zoning Ordinance Article II. – Zoning, Division 2. – Zoning Map/Districts, Section 12.62. Zoning Map to rezone the subject property TMS# 207-05-00-0011 and TMS# 207-05-00-00-001 from R-1, Residential, and R-2, Residential to proposed KC-O, Kiawah Conservation Overlay.

After some discussion, the Commission decided not to recommend any changes to the current zoning or the comprehensive plan map, preferring to keep them as they are.

Mr. Iwan made a motion to recommend to the Town Council that the Zoning and Comprehensive Map remain the same. Ms. Hennessy seconded the motion.

Following the discussion, the motion was unanimously approved.

D. Zoning Text Amendments

- 1) #AZO24-000003 | Request to amend Sec. 12-31. – Impact Fees to further define impact fee assessment studies for potential levied impact fees.

Mr. Taylor stated that several amendments initiated by members of the Town Council were brought forth for consideration at the March 6th Planning Commission meeting, including amendments to Section 12-31 - Impact Fees. A red-line version of the amendments proposed was presented, which included discussion points on the studies that would be required if the Town were to pursue collecting development impact fees. During the last discussion, Mr. Farrell referenced being able to include stormwater as one of the assessments, so in the presented materials, language was added specifically to include stormwater impact assessments required in addition to traffic and environmental impact assessments. Also included was a summary of points taken from state statutes regarding the requirements of a municipal jurisdiction prior to assessing impact fees for a development project.

Commissioners questioned whether a fee schedule or criteria had been established for assessing impact fees. Mr. Taylor clarified that a number of factors needed to be considered. The state statute outlined that a number of studies should be done prior to setting a fee or setting a value and what standards would be required to initiate them.

There was an in-depth discussion of why impact fees had not been imposed in the past, that impact fees could be applied to properties under the Town's jurisdiction, that the amendments were intended to set the foundation for the Town to consider developing impact fees, not to approve the collection of impact fees, and that additional language adjustments could be made.

Ms. Hennessy made a motion to approve the amendments to Sec. 12-31. – Impact Fees to further define impact fee assessment studies for potential levied impact fees. Mr. Farrell seconded the motion.

Mr. Farrell reviewed additional language amendments.

Mr. Farrell made a motion to amend the assembly restructure and replace the language from “mitigate” with “compensate or repair” and “concerns” with “impacts.” Ms. Hennessy seconded the motion, and it was unanimously approved.

Mr. Capelli made a motion to remove the redundant last sentence of (c)(3). The motion was seconded and unanimously approved.

Following further discussion, Ms. Hennessy withdrew her motion to approve the amendments to Sec. 12-31. – Impact Fees and Mr. Farrell withdrew his second.

Mr. Iwan made a motion to table the approval of the amendments to Sec. 12-31. – Impact Fees until further revision can be made. Mr. Farrell seconded the motion.

Following further discussion, it was unanimously approved.

2) #AZO24-000006 | Request to amend Sec. 12-162. – Site Plan Review and Sec. 12-164. – Administrative Permits to modify the approval process for site plan review.

Mr. Taylor stated that the amendment of Sec. 12-162. was brought forth for consideration at the March 6th Planning Commission meeting, indicating that the discussion centered around two points. He detailed the first point by providing examples of the square footage of current development projects, indicating that substantial commercial development projects based on that 25,000 ft square size seemed appropriate to come before the Planning Commission.

The second point was on the site plan review process. Mr. Taylor provided a presentation highlighting efforts to improve transparency and the review process itself, including the use of an online portal for submissions and a detailed description of the proposed site plan review process involving various departments and external agencies.

The Planning Commission's role in the review process was discussed, with suggestions for notifying the Commission about new submissions and making this information transparent to the public. The meeting concluded with a decision to table the discussion for further review and rewriting, with an emphasis on improving the format and clarity of the amendments.

Commissioners discussed the narrative describing modifications to the Planning Commission's purview and responsibilities, particularly in relation to site plan reviews, focusing on clarifying the meaning of "purview." They also debated the criteria for projects requiring Planning Commission review, specifically discussing the threshold for commercial and non-single-family residential projects in terms of square footage and the number of dwelling units.

Mr. Capelli made a motion to approve the amendment of Sec. 12-162. – Site Plan Review. Ms. Hennessy seconded the motion.

After much discussion, the suggestion was made to amend the language of a draft to specify that site plans for development projects exceeding certain criteria must be submitted to the Planning Commission for review and approval before the Planning Director can approve them.

Mr. Farrell made a motion to amend the language of (3)(b) to read “site plans for development projects containing commercial uses or non-single family residential uses where the structures are

greater than 20,000 square feet in size or contain eight residential units, dwelling units or more must be submitted to the Planning Commission for review and approval prior to approval by the Planning Director.” Ms. Hennessy seconded the motion.

Following discussion, the motion was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

Dr. Curran made a motion to approve the red-lined document of Sec 12-162 as amended. M. Hennessy seconded the motion, and it was approved by a 6 to 1 vote, with Mr. Capelli voting “No.”

VII. New Business:

A. Subdivision Application

- 1) **SBD24-000002** | A Subdivision Plat and Waiver Request KDP II LLC
Subdivision Plat Creating Parcel 12A
TMS# 207-05-00-0011 and TMS#2007-05-00-001

- 2) **SBD24-000003** | A Subdivision Plat and Waiver Request KDP II LLC
Subdivision Plat of Parcel 12B
Residual & Marsh Area (Captain Sam’s Spit)
TMS# 207-05-00-0011

Mr. Taylor stated that two subdivision applications related to Captain Sam’s Spit were presented by KDP II, LLC, and pertain to TMS# 207-05-00-0011 and TMS#207-05-00-001 as the subject property. These applications involved subdividing the subject property into two parts, Parcels 12 A and 12 B, creating a delineation between the two, requiring a waiver for ingress and egress to the proposed parcels from the Planning Commission pursuant to Section 12-254. Waivers. The waiver needed a two-thirds vote of the commissioners present and had to meet three criteria: special conditions affecting the property, undue hardship that will result, and no detriment to adjacent properties, property owners, or the public interest.

Mr. Permar stated that the requests were a follow-up to the previously approved plat in the dune field zone of Parcel 12 B and a continuation of conveyance responsibilities as outlined in the Development Agreement. He clarified that there are no development plans for these areas, only follow through on the ARDA commitments to KICA. The conversation also touched on the conservation easement, the status of discussions regarding the highland area, and the specific boundaries between Parcels 12 A and 12 B. Mr. Permar confirmed that Parcel 12 B is specifically mentioned in the Development Agreement for conveyance, but he could not provide details on the status of broader discussions in the context of potential conveyances.

Commissioners, along with Mr. Permar, engaged in an in-depth discussion of the extraordinary hardship created using the previously approved subdivision plat of the subject property. The parcel, due to its shape, lacks direct access to any existing public right of way, creating a hardship similar to a previously discussed parcel. The question of whether the possibility of granting a right of way through adjacent properties was considered and not previously contemplated was raised. The conversation also touched on the challenges of providing access through a dune field, the potential for non-road access to the marsh property, and access in perpetuity for the marshland.

Concerns were raised about the potential impacts of granting a waiver for a property, with questions about how it might affect surrounding parcels, as well as unresolved conveyance and deed issues. Despite efforts to meet the requirements, the commission decided to deny the waiver requests due to unanswered questions and the potential for detrimental impacts on adjacent properties.

Mr. Farrell made a motion to deny the subdivision plat and waiver request for parcels 12A and 12B based on the criteria set forth in Section 12-254. Dr. Curran seconded the motion.

Following further comments on the need for more information before a waiver could be approved, the motion was unanimously approved.

VIII. Correspondence/Staff Comments:

Mr. Taylor provides updates on the second reading of the tree ordinance exempting single-family residential, the formation of the Tree Preservation Board, with the number of members reduced to five, with that makeup being three residents and two professionals. An open house is planned to inform the community and design professionals about the new ordinance and its implications. The second reading of the ordinance setting term limits for the members of the Planning Commission and Board of Zoning Appeals was also approved. He also noted the two amendments recommended at the March Planning Commission meeting and the changes that were approved for the first reading.

IX. Council Liaison Comments:

None

X. Public Comments:

None

XI. Commissioner Comments:

Mr. Taylor addressed Mr. Capelli's questions on the members of the KICA Board that attended the Town Council meeting and whether they spoke in reference to the tree ordinance, and clarification that the community drop-in open house would be to provide for design professionals and community representatives information on the development and permitting process along with review procedures. Additionally, a new hire was mentioned who will be responsible for the landscape and tree preservation portion of the ordinance.

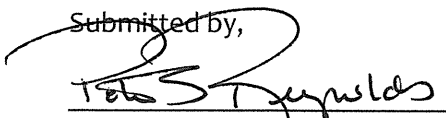
Mr. Farrell suggested making the changes that were discussed regarding the zoning text amendments and circulating them to the Commissioners to avoid future language discussions.

Mr. Iwan reflected on the slow but progressive nature of government work, specifically mentioning the tree ordinance project that took over a year to complete.

XII. Adjournment:

Mr. Iwan made a motion to adjourn the meeting at 4:55 pm. Mr. Farrell seconded the motion, and it was unanimously approved.

Submitted by,


Petra S. Reynolds, Town Clerk

7-9-2024
Date