

# PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

February 7, 2024, 2:00 pm

## Minutes

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

II. **Roll Call:**

**Present:** Larry Iwan, *Vice Chairman*  
Andy Capelli  
Luke Farrell  
Joanne Hennessy

**Present via Zoom:** Dr. Ronald Curran

**Absent:** Bill Dowdy, *Chairman*

**Also Present:** John Taylor, Jr., *Planning Manager*  
Joe Wilson, *Town Attorney*

III. **Approval of Minutes:**

A. Planning Commission Meeting Minutes of October 19, 2023

*Mr. Capelli made a motion to approve the Planning Commission meeting minutes of October 19, 2023. Ms. Hennessy seconded the motion, and it was unanimously approved.*

B. Planning Commission Meeting Minutes of December 6, 2023

*Ms. Hennessy made a motion to approve the Planning Commission meeting minutes of December 6, 2023. Mr. Farrell seconded the motion, and it was unanimously approved.*

C. Planning Commission Meeting Minutes of January 17, 2024

Minutes of January 27, 2024, were deferred to the next meeting.

IV. **Public Comments**

*(Agenda Items Only)*

**Lee Bundrick, Kiawah Conservancy Senior Conservation Coordinator, 80 Kestral Court**

Mr. Bundrick commented on the agenda items concerning Captain Sam's Spit. He stated that the Conservancy, since early December, has been working with the Town and KICA (Kiawah Island Community Association) regarding the situation related to Captain Sam's Spit. With recent developments, the Conservancy this morning submitted a letter to the Town, Mayor Labriola, and the Town Council regarding the Conservancy's thoughts and position on Captain Sam's Spit, as well as the rezoning that the Planning Commission will be discussing today. The intent of the sections within 16(f) of the ARDA (Amended and Restated Development Agreement) that are under consideration, and with that intent, the Commission is considering rezoning this area to PR - Parks and Recreation. While a downzoning from R1, this specific zoning right still allows about 70% maximum lot coverage. The Conservancy feels this zoning will still impact the natural habitat and the pristine values of Captain Sam's Spit, which may not be the intent of the Planning Commission or the Town. The Conservancy is recommending and suggesting that the Commission consider the use of KC – Conservation District in order to preserve the pristine nature of Captain Sam's Spit and

further the obligations of the Partners under the ARDA.

**Mark Permar – 81 Dungannon Hall – representing Kiawah Partners**

Mr. Permar asked if the audience would be able to interact during the Commission’s deliberations about the pending comprehensive plan and rezoning. Mr. Iwan responded that there would be that opportunity.

Mr. Permar stated that the Partners supported the general effort to correct a rezoning recommendation made last fall to the Town Council to rezone the PRC holding within the greater parcel, creating the Park a non-conforming use, but do not support the balance of the Captain Sam’s parcel to rezone from R1 to PR as recommended by the staff. He noted that last fall, the Commission engaged in rather intense rezoning reviews over multiple meetings before making the formal recommendations. He would ask what had changed to now warrant the further downzoning of Captain Sam’s, reserving further comments for the second Public Comment period.

**V. Old Business:**

**A. Rules of Procedure 2024**

Mr. Iwan stated that before the update was the approval of the 2024 Rules of Procedure deferred from the January meeting.

***Mr. Capelli made a motion to approve the 2024 Rules of Procedure as presented. Ms. Hennessy seconded the motion.***

Mr. Capelli stated his comments from the previous meeting had been corrected in the current draft, along with minor changes that were identified and were required as a result of ordinance or practice changes. He commented on the change to section 7(g) regarding mailing notice requirements, noting the area is unspecified, and it was his view that this was not required in the Rules of Procedure since it is already in the ordinance and not a procedure of the Commission.

***Mr. Capelli made a motion to remove (g) from Section 7 of the 2024 Rules of Procedure. Ms. Hennessy seconded the motion.***

Commissioners discussed the merits of removing the language and adding the ordinance language. Mr. Taylor explained that previously, the specific number, 300 ft, had been included prior to amending the ordinance. At the last review of the rules of procedure, the rationale for removing the actual specific number at that time was it was already covered within the zoning code, therefore a duplication, and if there were another change in the zoning code, the rules of procedure would have to be amended.

***Following the discussion, the motion was unanimously approved.***

***The motion to approve the 2024 Rules of Procedure, as amended, was unanimously approved.***

**B. KiawahNext Update**

Mr. Taylor stated that the Workshop would be held on February 20th. The purpose of the meeting would be to flush out the working redlines draft document, which shows the objectives and will be the foundation for preparing the document moving forward.

Mr. Taylor stated that he met with the new lead, Mr. David Burt, the principal at LS3P, and will be attending the meeting. The Commissioners will collectively lead the meeting, but Mr. Burt was asked to provide the Commission with a path forward after the meeting. To orient Mr. Burt, he was provided with a set of the Commissioner’s comments from the last draft. He wants to understand the validity of all of the objectives so that they can begin to work hand in hand with what has already been done. This meeting will be more of a collective group, maybe breaking out

at a later to get more specifics.

**Mr. Capelli made a motion to move into the Executive Session to receive legal advice regarding filed rezoning complaints subsequent to the expiration of the 2013 Amended and Restated Development Agreement. Mr. Farrell seconded the motion, and it was unanimously approved.**

## **VI. New Business:**

### **A. Executive Session**

1) Executive Session pursuant to South Carolina Code Section 30-4-70(a)(2) to receive legal advice regarding filed rezoning complaints subsequent to the expiration of the 2013 Amended and Restated Development Agreement.

### **B. Zoning Text Amendment Request**

1) #AZO24-000001 | Request to amend Section 12-23. Planning Commission, and Section 12-24. Board of Zoning Appeals. to modify the term of office of members

Mr. Vincent stated that the purpose of the request is to establish term limits for members of the Planning Commission and the Board of Zoning Appeals (BZA). If recommended by the Planning Commission, the Public hearing and first reading of the ordinance would be held at the March 5th Town Council meeting, and the second reading on April 2<sup>nd</sup>.

Planning Commission members currently serve four-year terms, and the text amendment proposes that members serve no more than three consecutive terms in office. Similarly, the BZA currently serves three-year terms, and the amendment also proposed that members serve no more than three consecutive terms of office. In both cases, the additional language states that members are eligible to serve in the office again after a break in service of twenty-four months.

Mr. Vincent stated that the Planning staff found that the amendment request was consistent with the approval criteria pursuant to 12-158(6) of the Land Use Planning and Zoning Ordinance, reviewing the criteria and the options available to the Commission.

**Ms. Hennessy made a motion to approve the request to amend Section 12-23. - Planning Commission, and Section 12-24. - Board of Zoning Appeals, will modify the term of office of members. Mr. Capelli seconded the motion.**

The Commission discussion included questions about whether members of both the Planning Commission and BZA who are currently completing a term of a vacant seat will count against the consecutive three-term stipulation and consistency with the purpose and intent of the Comprehensive Plan being used as a basis for approval.

**Mr. Capelli made a motion to amend the text of item three to include the ability of the Chairman of the commission to recommend variance of the requirement in certain circumstances. There was no second, so the motion failed.**

**Ms. Hennessy made a motion to approve the text amendment as written. Dr. Curran seconded the motion.**

**Following further discussion, the motion was passed by a 4 to 1 vote, with Mr. Capelli voting "No."**

### **C. 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# 207-05-00-00-0011 from Low-Density Residential to Active Recreation and Open Space.

(Captain Sam's Spit); and for the subject property TMS# 207-05-00-00-001 from Medium Density Residential to Active Recreation and Open Space.

Mr. Taylor stated the application request is to change the future land use designation for the subject property located at Beachwalker Drive. (Captain Sam's Spit) The parcel identified as TMS #207-05-00-0011 and the subset parcel identified by Charleston County as the Beachwalker Park lease site registered as TMS #207-05-00-001 is known as one official parcel of record. The property is located at the west end of Kiawah, owned by KDP II, LLC, and approximately 173 acres in total size.

The recommendation is to go from Low-Density Residential and Medium-Density Residential to Active Recreation and Open Space. The future land use is intended to provide guidance for the location and types of proposed future uses to support the Land Use Planning and Zoning Ordinance for the Town. These land use elements establish a flexible yet predictable method for determining the appropriateness of proposed development to share the future.

Mr. Taylor presented the future land use map, aerial photograph, and images of the parcel being considered. Commissioners discussed the option of the property owner subdividing the plat into separate lots to give them individual zoning and future land use designations.

Mr. Taylor reviewed the Comprehensive Plan definition of the Active Recreation and Open Space Future Land Use category and approval criteria, and the Planning staff found the proposed amendment satisfies the approval criteria and recommends approval. He provided additional context on the discussion with KDP on the application process for plat submittal for the conveyances to the Community Association of portions of Captain Sam Spit. There was also an in-depth discussion of the staff's recommendation, but the Planning Commission could consider other designations for recommendation to the Town Council.

#### **D. 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 from R-1, Residential to PR, Parks and Recreation; and to rezone the subject property TMS#207-05-00-001 from R-2, Residential to PR, Parks and Recreation.

Mr. Taylor stated that the zoning Map amendment request was to rezone the property located off Beachwalker Drive (TMS # 207-05-00-0011 & TMS# 207-05-00-001) from R-1, Residential Zoning District and R-2, Residential Zoning District to the Parks and Recreation (PR) Zoning District. He indicated the properties were the same as outlined in the previous request, presenting the zoning map, aerial photograph, and images of the parcel being considered.

Mr. Taylor stated that the staff recommendation for Parks and Recreation is most closely aligned to the standards of the uses allowed today and accommodates future land uses, noting that the Charleston County Parks and Recreation Commission supported the Parks and Recreation zoning district for the site along with the property owners. As in the previous Comprehensive Plan amendment request, the Planning staff found the proposed amendment satisfies the approval criteria and recommends approval.

Mr. Taylor stated that other zoning districts, such as KC-Conservation, had been heavily discussed and provided an overview of how the KC zoning district differs from the Parks and Recreation zoning district, noting that if zoned KC, the current county park site would become non-conforming.

Commissioners discussed that a potential subdivision waiver request to be considered by the Planning Commission would allow the property owner to subdivide the plat, the flexibility for

each section to have its own designation, and to work towards that solution. Mr. Taylor reiterated that the Planning Commission can't automatically subdivide a property owner's parcel, and that would need to be presented by the property owner. Further discussion included consensus in the community for no development on Captain Sam's Spit, the restrictive covenant required in the ARDA, and, with all the things needing to be considered, not rushing to judgment.

***Mr. Capelli made a motion to table the requests and defer further discussion to the next Planning Commission meeting or more information is available. Mr. Farrell seconded the motion.***

***Following further discussion, Mr. Capelli made a motion to call the question. Mr. Farrell seconded the motion, and the motion was unanimously approved.***

***The motion to table the requests was unanimously approved.***

Mr. Iwan stated that the suggested changes to Article 12, brought to the Commission by Council Members Heidingsfelder and Belt, were being discussed. The introduction to the Commission will provide an understanding of the suggested changes so that they can be taken through the normal amendment process, vetted, and a recommendation made to the Town Council.

Mr. Taylor stated that the proposed changes aim to provide a more comprehensive process for the approval of development projects by the Town's Planning Director in conjunction with the Town Planning Commission and the Kiawah Community. Today's discussion will introduce several amendments, but no action will be taken today. Potential actions will be considered at the March meeting.

Mr. Taylor indicated that the proposed changes were very preliminary; the staff had not done a comprehensive review of all of the amendments to ensure consistency throughout the entire code, and legal counsel had not looked at the proposed changes either. He then reviewed the red-lined documents of the proposed text amendments, broken down into four categories:

**Zoning - General**

- Section 12-20 – Authority and Purpose
- Section 12-25 – Planning Director
- Section 12-31 – Impact Fees

**General Procedural Requirements**

- Section 12-162 – Site Plan Review
- Section 12-164 – Administrative Permits

**Zoning Map / Districts**

- Section 12-65 – R-1, Residential District
- Section 12-66 – R-2, Residential District
- Section 12-67 – R-3, Residential District

**Land Use and Use Regulations**

- Section 12-102 – Principal Uses and Use Regulation
- Section 12-103 – Conditional Uses
- Section 12-104 – Temporary Uses

Mr. Capelli questioned why the changes had been proposed. Most of it is self-explanatory as written, and the addition contains so much subjective and judgmental language that it suggests that the staff doesn't understand what the requirements are. He reviewed his suggestion that Impact fees, as a new issue, could be done separately and does not have to be part of the overall change in the ordinance.

Mr. Taylor continued his review, noting that the first three sections were not substantively added. The three biggest takeaways from the proposed changes were impact fees, site plan

review, and what had been outlined in the Zoning district regarding the change in lot coverage standards.

Commissioners asked questions along with providing and discussing comments made on the proposed changes.

Following the discussion, it was again noted that the staff had not gone through the suggested changes. Mr. Taylor stated that he would provide his comments at the March meeting and suggested that the Commissioners also provide their comments as well to continue the dialogue. He noted that it is important to realize that it may take some time to understand the implications of some of the suggested changes and asked not to automatically begin redlining the document without thinking through some of those implications.

Commissioners engaged in an in-depth discussion of their concerns with the suggestion to have a blanket lot coverage of 33%, noting that some of the homes existing today could not have been built under that coverage restriction. Mr. Premar added his comment that, as presented, there will not be one R-2 or R-3 existing condition that will be conforming. He understood that maybe the issue of non-conforming may not be considered as important, but the presented change will directly impact an overwhelming number of property owners in ways that are not apparent.

**VII. Correspondence/Staff Comments:**

None

**VIII. Public Comments:**

**Mark Permar – 81 Dunganon Hall – representing Kiawah Partners**

Mr. Permar thought the conversation was appropriate. He stated that there are no pending development plans being considered for this entire property, and he noted, as the Commission has revealed, that the issue is more complex than is readily apparent.

Mr. Permar felt the intent of everyone in the room to achieve the best outcome for the Greater Community is appropriate, and that the idea of more information and collaboration on an outcome that benefits the Greater Community and when saying community, including the Partners, is appropriate. He felt it was an appropriate action by the Planning Commission and that the Partners look forward to participating in providing more information but, more importantly, joining others that have genuine concerns about any level of development out there.

**IX. Commissioner Comments:**

Mr. Iwan invited Commissioners to provide their individual comments on the earlier discussion of rezoning Captain Sam's Spit KC-Conservancy rather than the staff recommendation of PR-Parks and Recreation.

Dr. Curran stated that he felt like his opinions probably mirror much of the community's desire to keep Captain Sam's Spit as it is now. As the process evolves, the Commission will obviously get more direction, but he does support keeping Captain Sam Spit as is, and hopefully, there would be a great outcome.

Ms. Hennessy echoed the comment made by Dr. Curran, expressing wanting to maintain Captain Sam's Spit as Open Space Conservation and not wanting the Parks and Recreation designation because the permitted uses would materially impact the habitat there. It is unclear legally what the Commission can do given it is one plat, and the Commission cannot subdivide somebody else's property, so we'll wait and see what is conveyed and let the legal people decide that.

Mr. Capelli reminded the Commissioners of the Town Council discussion and informal agreement on not sending out the views of the Council and that when the Town expresses a view, it would be

based on a vote or a survey of the Community, not just the Council, the Planning Commission, or anyone else. He indicated that where he stood would only be determined after the Commission considered it, and as a Commission Member, it is not his view that is going to count; it is the Commission's view. He felt that it was not appropriate for any commissioner to speak independently on any issue, just like it is not appropriate for the Commissioners to discuss items on an agenda outside of the Commission hearing or meeting, unless in a group. The Commission should be independent, the procedures call for an unbiased view, and he felt that is what should be given.

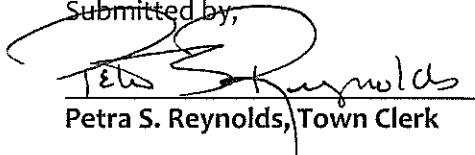
Mr. Farrell stated that he liked where the Commission was headed with the direction of Sam Spit and felt that he may have voted for the Conservation District when the Commission originally voted on Captain Sam's Spit. He indicated that he was of the opinion that when the land is conveyed to KICA is finalized and registered, it would be in the Town's best interest if KICA had a separate plat or a separate TMS# so the Commission could properly zone those properties and also properly zone Captain Sam's Spit.

Mr. Farrell stated that he was happy that the Town is having some reaction to both what the staff is doing and what some people think is not appropriate. He likes the idea of the Council challenging the Commission to think about items. As an independent body, the Commission can take these redlined comments and throw them out, start new, or not do anything, but it is not bad to conduct reviews.

**X. Adjournment:**

*Ms. Hennessy made a motion to adjourn the meeting at 4:15 pm. Mr. Farrell seconded the motion, and it was unanimously approved.*

Submitted by,

  
Petra S. Reynolds, Town Clerk

6-24-2024  
Date