



PLANNING COMMISSION MEETING
Kiawah Island Municipal Center
May 8, 2024; 2:00PM

AGENDA

- I. **Call to Order:**
- II. **Roll Call:**
- III. **Approval of Minutes:**
 - A. Planning Commission Meeting Minutes of February 7, 2024
 - B. Planning Commission Meeting Minutes of March 6, 2024 [Tab 1]
- IV. **Public Comments**
(Agenda Items Only)
- V. **Old Business:**
 - A. **KiawahNext Update** [Tab 2]
 - B. **Zoning Text Amendments**
 - 1) **#AZO24-000003** [Tab 3]
Request to amend Sec. 12-31. – Impact Fees to further define impact fee assessment studies for potential levied impact fees.
- VI. **New Business:**
- VII. **Correspondence/Staff Comments:**
 - A. Development Project Updates
 - B. Stormwater Management & Low Impact Development BMPs Introduction
- VIII. **Public Comments:**
- IX. **Commissioner Comments:**
- X. **Adjournment:**

FOIA: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island. Meeting materials available for public view online at: <https://www.kiawahisland.org/meetings-minutes/planning-commission/>

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 Kestra; 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, during the Commission's deliberations about the pending comprehensive plan and rezoning, there would be an opportunity for the audience to interact at that point. Mr. Iwan responded there would not 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:

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.

A. KiawahNext Update

Mr. Taylor stated that the date of the Workshop was February 20th, and the purpose of the meeting would be to flush out the working redlines draft document that 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 2nd.

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. Cappelli 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, with commissioners discussing the option of the property owner subdividing the plat into separate lots in order 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 being discussed are suggested changes to Article 12, brought to the Commission by Council Members Heidingsfelder and Belt. 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 objective of the proposed changes is 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 be an introduction to several amendments, with no action to 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 it was written, and the addition contains so much subjective and judgmental language and 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 there were no substantive additions to the first three sections. The three biggest takeaways of 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 Dungannon Hall – representing Kiawah Partners

Mr. Permar stated that he 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 is 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 state 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

Approved by,

Bill Dowdy, Chairman

Date

DRAFT

PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

March 6, 2024, 2:00 pm

Minutes

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

II. **Roll Call:**

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

Present via Zoom: Gene Babinec

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

III. **Approval of Minutes:**

- A. Planning Commission Meeting Minutes of January 10, 2024
- B. Planning Commission Meeting Minutes of February 7, 2024

Minutes of the January 10th and February 7, 2024 meeting were deferred to the next meeting.

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

Sheri Gallagher - 119 Spartina Court – KICA Director-Elect

Ms. Gallagher spoke to the comment made during the workshop on the rezoning of Captain Sam's Spit, zoning it Conservation with an overlay as a logical way to get the best result.

Mr. Capelli made a motion to go into 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). Mr. Iwan 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).

Mr. Farrell made a motion to come out of the Executive Session. Mr. Capelli seconded the motion and unanimously approved it.

Mr. Dowdy stated that during the executive session, no actions were taken, no decisions were made, and no voting took place. The discussion was regarding the rezoning of Captain Sam's Spit.

VI. Old Business

A. KiawahNext Update

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 Active Recreation and Open Space.

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 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.

Ms. Hennessy made a motion to table further discussion of the Future Land Use and Rezoning of Captain Sam’s Spit. Mr. Capelli seconded the motion.

Ms. Hennessy stated that she personally was very confident that tabling was the right thing to do and that the community should please be patient.

Following the discussion, the motion was unanimously approved.

VII. New Business:

A. Subdivision Application

- 1) **SBD24-000001** | A Subdivision Plat and Waiver Request
KDP II LLC
Ocean Front Highland (Captain Sam’s Spit)
TMS# 207-05-00-0011

Mr. Taylor stated that KDP II LLC is requesting a Subdivision Plat and Waiver for lands identified as Oceanfront Highlands Parcel 12B #TMS207-05-00-0011, more commonly known as the Captain Sam’s Spit parcel. The property is currently zoned R-1, and the Beachwalk Park lease site is zoned R-2. Mr. Taylor provided a breakdown of the case information, which included the location and surrounds, noting that

- The subject parcel has been historically identified into two planning areas (Parcel 12A: Beachwalker Park and Parcel 12B: Captain Sam’s Spit) based on the formerly executed 2013 ARDA. The subject area would be sited on Parcel 12B.
- The subject parcel is principally undeveloped; however, a portion of the parcel is developed in Beachwalker County Park (leased to Charleston County, operated by (CCPRC). Beachwalker County Park is open to the public.
- The subject area identified as Oceanfront Highlands is a portion of beachfront highlands measured from the primary oceanfront dune to mean high water.
- The applicant intends to subdivide a portion of the subject parcel for the purposes of conveyance to the Kiawah Island Community Association (KICA). This conveyance is pursuant to Section 16(f) Captain Sam’s Spit – Parcel 12B of the formerly executed 2013 ARDA.

Mr. Taylor provided maps and graphics to give the Commissioners context on a typical beach profile. Stating that the subdivision request is inconsistent with the standard subdivision

regulations and is why the waiver is before the Commission. He presented Section 12-154 – Waivers reviewing the approved criteria for the Planning Commission. Should the Planning Commission grant approval of the Subdivision plat, it must be granted through this waiver. The staff has recommended that if the Commission grants a waiver, the language provided in your materials to the Subdivision plat should be approved.

“This subdivision does not provide access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed within the Town of Kiawah Island’s Land Use Planning and Zoning Ordinance and was and was granted a waiver by the Planning Commission pursuant to § 12-254. Waivers.”

Ms. Hennessy made a motion to approve the Subdivision Application Waiver. Dr. Curran seconded the motion. The motion was passed by a 6 to 1 vote, with Mr. Cappelli abstaining.

B. Zoning Text Amendment Requests

Mr. Taylor stated that at the February meeting, Commissioners were introduced to language changes to the zoning code brought forth by members of the Town Council. Staff indicated that those changes would be reviewed and brought back for Commission consideration.

Mr. Taylor presented the staff’s comments and redlines. In the document, the red text is the proposed new language, and the blue text is pending Town Council approval.

Mr. Taylor provided a detailed review of each of the proposed languages and answered Commissioner questions in each section:

1) #AZO24-000002 (Zoning General)

Request to amend Sec. 12-20. – Authority and Purpose, Sec. 12-23. Planning Commission. and Sec. 12-25 – Planning Director to modify provisions of zoning permit applications.

Planning staff comments:

- Clarifies language of protection regarding density and potential development impacts.
- Modifies provisions of zoning permit applications and provides a mechanism for additional review for large-scale development projects
- Connects Planning Commission to applicable site plan review process
- Maintains objectivity for review. The previous language provided no standards for review.
- Staff recommends the Commission consider modifying specific zoning standards in lieu of a subjective approach or unmeasurable criteria.
- Considers the timeline of procedures associated with plan review. Avoid development delays
- Incorporates the proposed Landscape and Tree Preservation Board administration

Commissioners discussed the proposed changes to Section 12-20.

Mr. Farrell made a motion to accept Section 12-20 as edited. Ms. Hennessy seconded the motion.

Following discussion, the motion was unanimously approved.

Commissioners discussed the proposed changes to Section 12-23.

Ms. Hennessy made a motion to accept Section 12-23 as edited. Dr. Curran seconded the motion. The motion was passed by a 6 to 1 vote, with Mr. Cappelli voting “no.”

Commissioners discussed the proposed changes to Section 12-25.

Mr. Farrell made a motion to accept Section 12-23 as edited. Mr. Iwan seconded the motion. The motion was passed by a 6 to 1 vote, with Mr. Cappelli voting “no.”

2) **#AZO24-000003 (Impact Fees)**

Request to amend Sec. 12-31. – Impact Fees to further define impact fee assessment studies for potential levied impact fees.

Planning staff comments:

- The proposed amendment modifies the maximum lot coverage requirements for various housing types in the R-2 and R-3 zoning districts.
- Staff does not recommend approval of these proposed changes. The proposed change would considerably impact the character of existing neighborhoods.
- Planning staff recommends utilizing the future recommendations of the comprehensive marsh management plan to consider new standards regarding pervious/impervious surfaces regarding stormwater management.
- Planning staff recommends consideration of stormwater runoff standards to address concerns of coverage.

Commissioners engaged in an in-depth discussion of the proposed changes to Section 12-31 and requested that stormwater management and further delineations be added to the section.

Mr. Iwan made a motion to table Section 12-23 to allow Mr. Taylor to do more study on Impact Fees. Dr. Curran seconded the motion.

Following further discussion, the motion was unanimously approved.

3) **#AZO24-000004 (Zoning Maps. District)**

Request to amend Sec. 12-65. – R-1, Residential District, Sec. 12-66. – R-2, Residential District, and Sec. 12-67. – R-3, Residential District to modify lot coverage standards.

Mr. Taylor stated that the recommended changes mostly revolved around lot coverage designation and switching those to 33% for all different property types. He provided a detailed explanation of the reasons staff did not recommend moving those changes.

Commissioners engaged in an in-depth discussion of the impact of the proposed change to Sections 12-65, 12-66, and 12-67.

Ms. Hennessy made a motion to table Sections 12-66 and 12-67 to allow for a broader review of the proposed change. Mr. Farrell seconded the motion.

Following further discussion, the motion was unanimously approved.

4) **#AZO24-000005 (Use Regulations)**

Request to amend Sec. 12-102. – Principal Uses and Use Regulations, Sec. 12-103. – Conditional Uses, and Sec. 12-106. – Temporary Uses to further refine allowed uses, conditional uses, and temporary uses.

Planning staff comments:

- Planning staff recommends a comprehensive review of all allowed uses (by-right, conditional, and special exception).
- This comprehensive review is outlined in the scope of work for the prepared RFP, which will assist the Town in an entire zoning ordinance and subdivision regulations update.
- The proposed amendment refines language for temporary uses, specifically structures and storage areas associated with construction purposes.
- The proposed amendment strengthens the time frame for which temporary use is allowed.
- The proposed amendment also strengthens pre and post development conditions of a temporary use.

For Sections 12-102 and 12-103, the Staff recommendation is for the Commission to comprehensively review the sections and permitted use table to identify uses that would be either permitted by right conditionally or through a special exception for the entire island.

Commissioners engaged in an in-depth discussion of the proposed changes to Section 12-106, which included the staff recommendation that how temporary building and material storage areas would be treated pre- and post-site development be approved as part of the site plan process, ensuring that those lands are returned to the pre-site condition.

Ms. Hennessy made a motion to accept the proposed changes to Section 12-106. Dr. Curran seconded the motion. The motion was passed by a 6 to 1 vote, with Mr. Cappelli voting “no.”

5) #AZO24-000006 (General Procedural Requirements)

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

Planning staff comments:

- Modifies provisions of zoning permit applications and provides mechanisms for additional review for large-scale development projects.
 - Large-scale projects subject to Planning Director review followed by Planning Commission review and approval
 - Commercial/ non-single family residential 25,000 sqft / 10 dwelling units or more
- Connects Planning Commission to applicable site plan review process
- Maintains objectivity for review. The previous language provided no standards for review.
- Staff recommends the Commission consider modifying specific zoning standards in lieu of a subjective approach or unmeasurable criteria.
- Consider the timeline of procedures associated with plan review to avoid significant development timelines.
 - Planning Staff, Tree Preservation Board, and Planning Commission will need to grant approval.

Commissioners engaged in an in-depth discussion of the proposed changes to Sections 12-162, heavily debating the proposed role of the Planning Commission in the site plan review and approval process, as well as in administrative approvals.

Mr. Farrell made a motion to table approval of the proposed changes to Section 12-162. Dr. Curran seconded the motion.

Following further discussion, the motion was unanimously approved.

Commissioners engaged in an in-depth discussion of the proposed changes to Section 12-164.

Mr. Farrell made a motion to table approval of the proposed changes to Section 12-164. Dr. Curran seconded the motion, and it was unanimously approved.

VIII. Correspondence/Staff Comments:

Mr. Taylor provided an update on the Tree Preservation Ordinance, stating that at yesterday’s Town Council meeting, they deferred approving the second reading, requesting clarity on the applicability of single-family residential and why that was a recommendation of the Planning Commission to Council.

Mr. Taylor stated there had been a request to change the Planning Commission meeting time from Wednesdays to Mondays. Mr. Iwan stated that several years ago, the Town Council specifically asked to move the Planning Commission meetings to after the Town Council meetings. Mr. Capelli added that it was to allow the Planning Commission time to respond to anything referred to by the Commission for the next council meeting.

Mr. Taylor also stated that two years ago, the Commission considered moving the meeting time from 2:00 pm to 1:00 pm, settling on 2:00 pm based on the Commissioner's time and availability. He asked if the Commission would currently want to make that time adjustment, and the Commission responded that they would not want to make the adjustment.

Mr. Taylor also noted that at the Town Council meeting, the first reading and public hearing was held for the Planning Commission and Board of Zoning Appeals term limits ordinance, with the Council deciding to make those term limits retroactive as opposed to how the language was written previously.

IX. Public Comments:

None

X. Commissioner Comments:

Mr. Farrell stated that he had said it before, but there is no need to be afraid of transparency. He noted that over the past couple of years, the Town has tried to increase transparency and to be more communicative. It adds a little extra burden for some of the transparency to be accomplished, but to satisfy the public that good work is being done is a good thing.

Mr. Capelli stated that he did not disagree with transparency and was looking forward to staff's comments as to how to make it more transparent and not force a procedure on everybody that is not only costly, takes time, is inefficient, and completely duplicative of what staff is doing, and shows no confidence in staff.

Mr. Capelli stated that the memo on KiawahNext sent along with the revised draft mentioned there might have been a meeting date established and asked when that meeting would take place.

Mr. Taylor stated that the document he shared was essentially the debrief from the previous meeting to make sure that the Commissioners were able to see the changes that were made; he asked Commissioners to review the draft and make sure it was consistent with the feedback provided to Mr. Burke and his team, who was still working through the document to present them more comprehensively. A firm date has not been found to present those to the Commission, but after the date is confirmed, it will be the final opportunity for the Commission to review it before taking it public and to share any comments.

Ms. Tillerson wanted to take the opportunity to thank Joe Wilson, as this was his last Planning Commission meeting. She said he had been wonderful to work with over the three years he had been with the Town, thanked him for his service, and that she was very appreciative.

XI. Adjournment:

Dr. Curren made a motion to adjourn the meeting at 4:34 pm. Mr. Capelli seconded the motion, and it was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Larry Iwan, Vice Chairman

Date

DRAFT

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO24-000003 History

Planning Commission Meeting: March 6, 2024
Planning Commission Meeting: April 3, 2024
Public Hearing and First Reading: TBD
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-31. Impact Fees.

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-31. Impact Fees., are intended to set the foundation of potential impacts the Town would factor into any consideration of development impact fees. This proposed amendment would not set forth any approvals for the Town to begin collecting development impact fees, however the proposed amendment sets expectations to the types of impacts to measure as a result of future development and their potential impact on the Town facilities.

RECOMMENDATION BY THE PLANNING COMMISSION

Pursuant to §12-158(3) of the *Land Use Planning and Zoning Ordinance* "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."

DECISION ON AMENDMENT BY THE TOWN COUNCIL

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

APPROVAL CRITERIA

Pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*, (6) 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.

Planning staff finds the proposed amendment satisfies the approval criteria pursuant to §12-158(6) and recommends approval.

PLANNING COMMISSION MEETING

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

On March 6, 2024, the Planning Commission recommended to table action on the proposed text amendment by a vote of 7 to 0.

On April 3, 2024, the Planning Commission recommended to table action on the proposed text amendment by a vote of 7 to 0.

Planning staff would work to modify the structure of the language based on discussion.

TOWN COUNCIL MEETING PUBLIC HEARING TBD

Town of Kiawah Island

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

May 8, 2024



PROPOSED ZONING TEXT AMENDMENTS

#AZO24-000003

Proposed Text Amendment: #AZO24-000003 (Sec. 12-31 – Impact Fees)

Impact Fees: Impact fees represent financial payments made by a builder or developer to a unit of local government for the purpose of funding certain off-site capital improvements needed to accommodate new growth. Fees may be collected for a variety of public facilities and services, including transportation, water, sewer, municipal facilities (such as public works, planning, building and permitting, engineering and general administration), storm water, police and fire protection, and parks.

Town of Kiawah Island defined term: *“Impact fees means charges assessed against newly developing property that attempt to recover the cost incurred by a local government in providing the public facilities required to serve the new development.”* – Sec. 12-274
Definitions.

The proposed amendments to Sec. 12-31. Impact Fees., are intended to set the foundation of potential impacts the Town would factor into any consideration of development impact fees. This proposed amendment would not set forth any approvals for the Town to begin collecting development impact fees, however the proposed amendment sets expectations to the types of impacts to measure as a result of future development and their potential impact on the Town facilities.

Key Impact Assessments Included: Traffic, Environmental, and Stormwater

Sec. 12-31. Impact fees.

(a) *Purpose and intent.* The purpose of an impact fee is to:

- (1) Ensure wise appropriate, compatible and timely development of new areas by providing necessary capital facilities in accordance with existing and future needs;
- (2) Promote desirable living conditions and sustained stability of the Town by ensuring adequate infrastructure and service delivery; and
- (3) Secure economy in government expenditures by assuring that new development pay its fair and equitable share of additional capital facility costs required by increased services demand generated by new growth.

(b) Levied. Impact fees shall be levied in accordance with this article at such time as an impact assessment study has been completed. This impact assessment study shall determine the impact fee amount based upon either the gross floor area of nonresidential development or the number of dwelling units of residential development for the purpose of financing public facilities necessary to accommodate new development as may be determined by the Town Council. ~~Impact fees shall be payable at the time of building permit issuance.~~

~~—*Impact Assessment Studies.* Impact assessment studies capital improvements needed to accommodate new growth. Fees may be collected for a variety of public facilities and services, including transportation, water, sewer, municipal facilities (such as public works, planning, building and permitting, engineering and general administration), storm water, police and fire protection, and parks.~~

(1) A Traffic Impact Assessment, Stormwater Impact Assessment and Environmental Impact Assessment shall be completed prior to imposition of any development. Town Council may determine if additional impact assessments are required. ~~may include traffic impact assessments and environmental impact assessments:~~

(2) Traffic Impact Assessment:

i. —A Traffic Impact Assessment should assess and determine the impact of the new development on roads, intersections, bike paths and the overall transportation network.

i. _

(4) —A Traffic Impact Assessment should consider increased traffic volumes, vehicle class, intersection delays and provide proper countermeasures to mitigate traffic impacts.

ii. _

(3) Stormwater Impact Assessment:

i. A Stormwater Impact Assessment should assess and determine the impact of the new development on the stormwater management systems.

ii. A Stormwater Impact Assessment should consider increased impacts to include but not limited to system capacity; stormwater runoff to existing neighborhoods and or

adjacent communities; the efficiency of existing stormwater management system infrastructure including but not limited to retention ponds, ditches, swales, detention basins, culverts, pump stations or other required piping; and provide proper countermeasures to mitigate stormwater ~~concerns~~ impacts.

(4) Environmental Impact Study:

- i. An Environmental Impact Study should assess the affected environment and the proposed developments impact on the environment.
- ii. The Environmental Impact Study should ~~and~~ determine if endangered wildlife, their habitat or certain endangered or rare plant species exist on the planned site and would require a relocation to protect wildlife and vegetation as a result of the environmental impacts.

(c) Due. Impact fees shall be payable at the time of building permit issuance.

(Code 1993, § 12A-113; Ord. No. 2005-08, § 12A-113, 10-12-2005)