

**PLANNING COMMISSION MINUTES
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
JULY 12, 2011 10:00 A.M.**

- I. Call to Order: Mr. Peterson called the meeting to order at 10:00am.**
- II. FOIA:** Notice of this meeting has been published and posed in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.
- III. Roll Call:**
- Present:** Fred Peterson, Chairman
Larry Iwan
Andy Capelli
Ron Tedesco
Lauren Patch
- Absent:** John Strauch
Peter Trees

Mr. Peterson asked the Commission members to make sure they have the most recent version of the Land Use Zoning Ordinance book. The books should be forwarded to the County staff for any necessary updates.

- IV. Approval of Minutes:**
- A. Mr. Iwan motioned to approve the minutes of the June 8, 2011 Planning Commission meeting. The motion was seconded by Mr. Tedesco. The minutes of June 8, 2011 were unanimously approved as amended.**
- V. Subdivision Request:**
None
- VI. Old Business:**
None
- VII. New Business:**
- A. Proposed R-2-O Residential Overlay Zoning District**
Mr. Peterson stated that the meeting was called to review the draft language for the proposed R-2-O Residential Overlay Zoning District in the West Beach area. Mr. Peterson noted that the County has revised the proposed language to include language recommendations submitted by Mr. Strauch.

Mr. Iwan stated that the Planning Commission Subcommittee will motion to accept the proposed language once it is reviewed by the Planning Commission. The County staff provided a copy of the revised draft language for the Commission's review. Mr. Patch requested that the second sentence under the

“Purpose and Intent” section be removed. Mr. Iwan added that the first sentence sufficiently states the purpose and intent for the overlay district. Mr. Evans commented that the second sentence is more detailed and addresses major renovations. Mr. Patch commented that he does not understand how the character of an existing neighborhood will be protected if construction or renovations begin 15 feet above ground level. He feels that the Town cannot meet the intent that is outlined in the second sentence. Mr. Evans commented that there is no way to control flood levels when a home is renovated. He stated that the intent of the language is to control the bulk of the second story and the ½ story on top.

Mr. Iwan made a motion, on behalf of the Planning Commission Subcommittee, to recommend to the Planning Commission the adoption of the R-2-O Residential Overlay District as provided by the County Planning staff in the areas indicated on the map. The motion was seconded by Mr. Patch, and passed unanimously by the Subcommittee.

Mr. Iwan motioned, on behalf of the Planning Commission, to recommend to Town Council the adoption of the R-2-O Residential Overlay District as provided by the County Planning staff in the areas indicated on the map. The motion was seconded by Mr. Patch.

Mr. Capelli questioned whether the proposed R-2-O Residential Overlay District satisfies the issue reviewed by the Subcommittee. He feels that the overlay district is misused in this particular situation to solve a problem that does not exist. He stated that the proposal includes a selection of streets in which some lots in the identified area are treated differently than other similar lots in unidentified areas, which is not the intent of the Zoning Ordinance. Mr. Capelli stated that there are two overriding concerns that cannot be controlled by the Town which are height issues and the 50% value requirement. He stated that these issues seemed to be the major concerns of the public during the Subcommittee meetings. Mr. Capelli added that these public concerns first arose on Greensward, not the identified areas. Mr. Capelli stated that the issue of multifamily homes on patio lots needs to be addressed also. He feels that the proposal over-regulates an area that does not need to be fixed, and recommends that the problem can be solved by adding footnote 7 of the proposal as presented to the existing R-2 section of the Zoning Ordinance as a footnote.

Mr. Tedesco stated that the he previously requested examples of how other similar areas in SC are handling the issue of mass. Examples were provided by the County; however, it was not what he requested. Mr. Tedesco again asked the County staff if any similar areas in SC have been successful in addressing the issue of mass. Mr. Pennick commented that bulk and overlay zones are recognized and used in SC.

Mr. Capelli stated that the examples provided by the County do not apply the overlay district to the maps as proposed by the Planning Commission. Mr.

Pennick explained how an area of Charleston County utilizes the overlay district as proposed by the Planning Commission.

Mr. Capelli again expressed his opinion that the only issue that needs to be addressed is the possibility of multifamily homes on patio lots, which can be solved by adding the proposed footnote 7 to the existing R-2 section of the Zoning Ordinance. Mr. Peterson commented that there may be unintended consequences in the R-2 zoned areas if someone wants to build a duplex on a vacant lot. Mr. Capelli stated that the language is very clear in addressing that possibility.

Mr. Iwan stated that based on the information and the expert opinions received from the County Planning staff, the proposed overlay district is consistent with SC Case Law and has been used in the way intended by the Town. He commented that the Subcommittee felt that an overlay district was the best way to handle the issue of bulk standard. He also stated that the ARB has indicated that they are using the available tools to handle the issue of bulk; however, it would be helpful if they had an additional bulk standard.

Mr. Tedesco stated that he is concerned about the legalities of placing bulk standards in the identified areas to help the ARB. He asked if there has been any legal repercussions in SC Town's that have placed such standards in their zoning requirements. Mr. Pennick stated that he has not seen any case law in SC regarding repercussions of bulk standards. He further stated that the bulk standard is common across the country, including SC. The County staff will provide the Commission with more specific examples of bulk standards used in SC.

Mr. Capelli requested to know if there is any case law regarding areas that have applied overlay districts in the manner proposed by the Planning Commission. Mr. Pennick stated that he has not seen any challenges with the overlay districts in SC. Mr. Capelli commented on footnote 1 of the proposed draft and asked if the 50% rule applies to appraised value of the property after construction is completed. Mr. Evans explained that the building department will assign their own value to the property based on the plans when an application is submitted, not after construction is completed. Mr. Pennick stated that the 50% rule is a requirement of FEMA.

Mr. Peterson requested clarification of why the word "base" is used in parenthesis in the Effects of Overlay Zoning District section of the draft proposal. Mr. Pennick stated that the word is used as planning jargon to mean "the one that's there". Mr. Peterson also requested clarification of Item 7 which references authorized uses. He stated that Greensward Cottages is developed as townhouses, and this item would cause this area to be noncompliant with the zoning standards. Mr. Pennick stated that this prohibits the building of a new townhouses and duplexes, and does not affect the existing townhouses and duplexes in that area.

Following discussion, **the Commission voted 4-1 to recommend to Town Council the adoption of the proposed R-2-O Residential Overlay Zoning District language and map. Mr. Capelli voted no. The motion passed.**

VIII. Correspondence:

None

IX. Public Comments:

None

X. Commissioner Comments:

Mr. Tedesco commended the Subcommittee for their work on this issue.

Mr. Capelli commended the Subcommittee on their work; however, he does not agree with the proposed recommendation.

XI. Adjournment:

Mr. Patch motioned to adjourn the meeting at 10:50 am. The motion was seconded by Mr. Tedesco and carried unanimously.

Submitted by,

Lakesha Y. Shannon, Town Clerk

Approved by,

Fred Peterson, Chairman

Date