

**PLANNING COMMISSION MINUTES
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
JUNE 8, 2011 3:00 P.M.**

- I. Call to Order: Mr. Peterson called the meeting to order at 3:00pm.**
- 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
John Strauch
Ron Tedesco
Lauren Patch
Peter Trees
- IV. Approval of Minutes:**
A. Mr. Patch motioned to approve the minutes of the April 6, 2011 Planning Commission meeting. The motion was seconded by Mr. Tedesco. The minutes of April 6, 2011 were unanimously approved as amended.
- V. Subdivision Request:**
None
- VI. Old Business:**
Mr. Peterson noted that Mr. Iwan, Mr. Patch and Mr. Strauch all served as members of Planning Commission Subcommittee to study neighborhood redevelopment.

Mr. Peterson commented that during the April 6th Planning Commission meeting, Frank Toland stated that the Commission would need to approve the street name for the Dyal Compass Subdivision.
- VII. New Business:**
A. Workshop to Receive/Discuss Subcommittee Report
Mr. Peterson stated that the Planning Commission Subcommittee held several meetings to review Town Council's request to study neighborhood redevelopment in the West Beach area. The subcommittee heard from several groups during these meetings to include: The County Planning staff, the ARB, contractors and builders, and the public. The final report to the Planning Commission was approved at the June 1st subcommittee meeting. Mr. Peterson noted that the Planning Commission, the County Planning staff and Amanda Mole from the ARB will participate in the workshop to discuss item one of the subcommittees report.

Mr. Iwan stated that the subcommittee was asked to review four areas which include: 1.) Existing R-2 Zone residential neighborhoods which are currently comprised of 1 to 1 ½ story single family detached houses built at grade and cottages built on pilings where lots are small; 2.) The existing R-2 Zone neighborhoods (No. 1 above) with respect to replacing a single family detached house or cottage with a duplex or other attached residential unit; 3.) Existing R-3 zoned neighborhoods which are currently comprised entirely of multifamily villas and which existing zoning permits a comingling of multifamily and single family detached units; and 4.) Existing R-3 zoned neighborhoods which permit multifamily and single family detached housing and is silent on parking location standards for either class of residential units.

The following recommendations were made by the subcommittee regarding the four areas:

Area No. 4 – The subcommittee is in agreement with the ARB and planning consultants that the current regulations are appropriate. No changes were recommended.

Area No. 3 – No changes were recommended.

Area No. 2 - The subcommittee unanimously concluded that under the current R-2 zoning ordinance the potential for duplex or other attached residential units to replace a single family detached residence does exist. Further research determined that neighborhoods of single family residences in R-2 zones are protected by deed covenants that would from a practical standpoint prevent this from occurring. However, patio and cottage neighborhoods covenants are not as rigorous. Therefore, the subcommittee recommends that an OVERLAY ZONE be enacted for specific neighborhoods that are in R-2 zones that consist of patio and cottage single family detached homes. The OVERLAY ZONE would contain a performance standard that would preclude the possibility of duplexes or other attached residential units being built where the existing neighborhood is all single family detached dwellings. The language and specific neighborhoods will be developed by the Town Planning staff.

Area No. 1 - The ARB has indicated a need for a performance standard to be included in an OVERLAY zoning classification that would be applied to specific neighborhoods of patio and cottage single family homes zoned R-2. This standard would reduce the mass of the second floor on new and re-developed single family homes providing for variations in roof and second floor structures so that the resulting design would blend more favorably with the existing neighborhoods. During the subcommittee's research, the need for an additional standard beyond what is currently in place was not completely determined. The committee has requested that the ARB address this issue at the full planning commission meeting of June 8th. They have agreed and will present their

arguments for including a mass limiting performance standard in the Town's Zoning Ordinance.

Mr. Iwan stated that during the subcommittee meetings, the most public concern was expressed when discussing existing R-2 zoned neighborhoods with respect to the possibility of replacing a single family detached home or cottage with a duplex or other attached residential unit. He stated that during discussions it was suggested that the deed covenants would prevent this from happening. The Community Association provided the Subcommittee with a copy of the deed covenants for single family detached homes, and for patio and cottage lots. The Subcommittee discussed the language in the deed covenants. Mr. Iwan stated that the language in the single family detached home deed addressed the issue directly; however, the language in the deed for patio and cottage lots did not address the issue precisely. Mr. Iwan stated that two options were discussed with the County Planning staff: 1.) Creating a new zoning code for detached residential units in an R-2 zoned neighborhood when it is completely developed; and 2.) Creating an overlay zone in specific neighborhoods to prevent duplex and other attached homes from being built in an existing single family patio or cottage neighborhood. The Subcommittee recommends working with the County Planning staff and the ARB to develop language and identify specific streets for recommendation to Town Council.

Mr. Strauch stated that there were some concerns from the public regarding the possibility of the covenants running out. He noted that the covenants automatically renew unless everyone who benefits from the covenant agrees unanimously to change it.

Mr. Pennick commented on his observation of the patio homes and stated that it could become a potential safety issue when the homes are built too close due to large mass. He also observed several R-2 zoned areas on the island in which the potential overlay district could apply. Mr. Pennick provided the Commission members with a copy of a map which explained how an overlay district would apply to the noted areas of the R-2 zoned neighborhoods.

Mrs. Amanda Mole of the ARB noted that Ocean Oaks has its own special neighborhood covenants and does not include patio homes. Mr. Peterson stated that the original material presented to the Planning Commission by the Town Council included Ocean Oaks; however, during discussions it was determined that Ocean Oaks did not fit the criteria for the areas to be reviewed. Mr. Iwan stated that Ocean Oaks was removed from the list and not considered during the Subcommittee's discussions.

Mr. Capelli requested to know what the ARB thinks is needed for a performance standard and why. Mr. Iwan stated that the Subcommittee agreed on an overlay district to prevent multifamily units from being built in a single family detached neighborhood. The subcommittee would like to further discuss with the ARB and

the Town the question of whether there is a need for another performance standard within the overlay zone to restrict the mass of homes on patio and cottage lots.

Mr. Pennick explained that the proposed overlay district would retain the character of the existing neighborhood, and the idea of the overlay could be expanded to other areas in the future.

Mr. Capelli commented on the language in the current zoning ordinance and stated that it provides clear guidance for redevelopment. He also commented on the use of an overlay district as outlined in the Development Agreement, and suggested that the proposed overlay district is a means of avoiding “spot zoning”. Mr. Evans stated that an overlay district was recommended because it does not change the zoning of an area. Mr. Iwan stated that legal counsel and guidance from the County staff was received to prevent potential “spot zoning” when recommending the overlay district.

Mr. Trees asked whether protection elements such as means of enforcement were considered between the single family homes and the patio and cottage homes when the overlay district was considered. He questioned the implications of non-compliance to a deed covenant conflict versus noncompliance to a zoning standard. Mr. Strauch explained that in the covenant situation, a property owner who has the benefit of the covenant has a right to sue to enforce the covenant and the Town does nothing. In the overlay situation, the Town has enforcement power to make sure that the property owner obeys the covenant.

Mr. Capelli expressed his concern with the overlay concept and suggested only changing the language in the zoning ordinance. Mr. Pennick explained that the overlay district is the simplest way to protect older areas from inconsistent redevelopment.

After a lengthy discussion regarding the proposed overlay district, Mr. Iwan stated that the County staff will provide a map and craft specific language for consideration of an R-2 overlay zone that would protect single family detached neighborhoods for the next Planning Commission meeting.

Mr. Iwan stated that the Subcommittee did not yet have a recommendation on the possible outcome of building to the maximum standard allowed under the Town’s current zoning regulations for redevelopment in patio and cottage areas. Mr. Strauch explained that there are people in areas where small homes are established that feel threatened because the existing zoning standards permit the possibility of huge homes being built which would change the character of the neighborhood. The Subcommittee discussed whether there should be any concern of this happening, whether economic forces would prevent someone from wanting to invest in building a large home in areas where there are smaller homes and

whether an overlay performance standard should be imposed to prevent owners from occupying the entire vertical footprint of a lot.

Mrs. Mole stated that this is an issue of scale and ARB's guidelines state that homes must fit within the neighborhood. She stated that the ARB encourages owners to do more with the 2nd floor within the roofline. Mrs. Mole stated that the ARB tries to educate applicants on scaling their home to fit the neighborhood which is an ARB guideline and not a standard or restriction. The ARB also tries to encourage updates in older neighborhoods. Mr. Mark Permar added that the ARB guidelines have a broad range of language for acceptance and denial of projects. He commented on the ARB's experience in particular patio home areas and suggested that the Town and the ARB take advantage of any opportunities to work together to create similar standards as often as possible to help strengthen the roles of each. Mr. Permar commented that ARB anticipates seeing more of the issue of massing with patio homes. He stated that based on experience, the ARB is seeing a pattern and feels that this is the best time to create a policy to update their standards for more clarity.

Mr. Patch requested to know what tools the ARB would suggest to limit the building of large homes in the smaller neighborhoods. Mrs. Mole stated that great success has been seen in neighborhoods that use 2nd floor within the roofline such as the preserve area.

The Commission discussed how the Town and the ARB could work together to address this issue. Mr. Evans stated that the County staff would work closely with the ARB to draft language.

Mr. Pennick explained that bulk standard regulations are common in many zoning ordinances throughout SC. Mr. Capelli requested to know if the ARB saw more difficulty in applying a bulk standard to new developments or redevelopments. Mrs. Mole responded that difficulty is seen in applying the bulk standard to patio homes because the square footage is smaller.

Mr. Strauch commented on an application that was submitted to the ARB in which they were able to reduce the home from 4,500 square feet to 3,900 square feet. Mrs. Mole stated that the review process for the home is not complete. Mr. Strauch asked to what extent is the ARB comfortable with getting the size of the home reduced to fit within the neighborhood. Mrs. Mole commented that the ARB feels the home is acceptable; however, it has not been approved. Mr. Strauch requested to know what the ARB's view is regarding this issue happening in the future. Mrs. Mole stated that this was an empty lot that had not been developed and there are very few of these type lots left. She stated that there is more pressure on these lots than on a rebuilt lot.

Mr. Trees requested to know if the ARB has ever approved a redevelopment in patio and cottage areas that exceed 80%. Mrs. Mole stated that data is not available to verify that.

The Committee discussed the issue of mass in patio and cottage neighborhoods. After much discussion, the County staff agreed to provide information on how similar communities have addressed this issue.

Mr. Capelli commented on his concern of the close structures and narrow setbacks on Surfscoter which raises safety issues and suggested that this issue be addressed. Mr. Evans stated that the County staff will review the latest international codes regarding separation of houses.

Mr. Peterson suggested moving forward with the overlay district language for review by the Planning Commission. He also suggested that the Subcommittee work with the Town staff to prepare language for the four areas. Mr. Pennick stated that the County staff will provide text language and map changes prior to the next Planning Commission meeting.

Mr. Peterson commented on an article by KICA which references their study of the West Beach area. He stated that he hopes the Town's decision will be supportive of KICA's efforts to improve redevelopment of the west end.

VIII. Correspondence:

A. FEMA Flood Zone Remapping Update and Resources

Mr. Peterson commented on a letter from Applied Technology & Management, Inc. regarding the current FEMA flood zone remapping.

IX. Public Comments:

Marilyn Olson, 4985 Green Dolphin Way

Mrs. Olson commented that this is an opportune time to be proactive rather than reactive. She commended the Subcommittee and the entire Planning Commission for listening and evaluating the issue. She stated that this is a great opportunity for all the entities to work together.

X. Commissioner Comments:

Mr. Trees requested to know the next step in the process. Mr. Peterson stated that the Subcommittee will work with staff to create language for recommendation by the Planning Commission to the Town Council. Mr. Trees also commented on the correspondence letter.

Mr. Tedesco commented that he enjoyed the discussion.

Mr. Strauch thanked the County staff and the ARB for their help in addressing the issue. He also thanked Mr. Iwan for his excellent chairmanship of the Subcommittee.

Mr. Patch thanked the County staff and the ARB for coming back to help the Planning Commission.

Mr. Peterson commended the Subcommittee for their work. He stated that progress is being made and the Town Council request will be answered in calendar year 2011.

XI. Adjournment:

Mr. Tedesco motioned to adjourn the meeting at 4:57 pm. The motion was seconded by Mr. Patch and carried unanimously.

Submitted by,

Lakesha Y. Shannon, Town Clerk

Approved by,

Fred Peterson, Chairman

Date