

**Planning Commission
December 2, 2009; 3:00pm
Kiawah Island Municipal Center
Council Chambers**

Minutes

I. Call to Order:

Mr. Peterson called the meeting to order at 3:00pm.

II. 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.

III. Roll Call:

Present: Fred Peterson, Chair
Andy Capelli, Vice Chair
Ron Tedesco
Ed Dittmeier
Peter Trees
Larry Iwan
John Strauch

Also Present: Joel Evans, Charleston County
Dan Pennick, Charleston County

Absent: Catherine Wilson, Town Clerk

IV. Approval of Minutes:

A. Minutes of September 9, 2009

Mr. Capelli motioned to approve the minutes of September 9, 2009. Mr. Tedesco seconded the motion. Mr. Peterson suggested that the first time that “KDP” is listed, that it be spelled out as “Kiawah Development Partners.” Mr. Capelli stated that “KICA” should also be referenced as “Kiawah Island Community Association.” Mr. Peterson also stated that the minutes should reflect that the meeting was a “Special Called Meeting.” With those changes, the motion carried unanimously.

V. Subdivision Request:

None

VI. Old Business:

None

VII. New Business:

Mr. Peterson welcomed Mr. Ed Dittmeier to the Planning Commission.

A. Fence Subcommittee Recommendation

Mr. Iwan, Fence Subcommittee Chair, stated that the subcommittee met on November 6 to discuss the current Kiawah ordinances and Architectural Review Board (ARB) guidelines relating to definition and regulation of “fences.” Mr. Iwan stated that Mr. John Strauch presented an analysis of the issues and draft language for recommendation. Mr. Iwan stated that the subcommittee recommends the following language amendment:

“In measuring the height of a fence to determine whether it exceeds the height restrictions hereinabove set forth, there shall be excluded from the measurement the height of any purely decorative or ornamental element or feature affixed to or regularly placed or resting thereon, provided, however, that in the case of a fence subject to the five (5) foot height restriction set forth hereinabove such decorative or ornamental element or feature shall not itself exceed eighteen inches in height, and in the case of a fence subject to the three (3) foot height restriction set forth hereinabove such decorative or ornamental element or feature shall not itself exceed twelve (12) inches in height and provided further that such purely decorative or ornamental elements shall only be permitted on fence corners and fence gate posts.”

Mr. Trees stated that he thinks the proposal will also change the definition of a fence and that he has trouble applying the suggested word “upright” to a single-wire deer fence and he thinks that deer fencing should be included. Mr. Strauch stated that he believes it would include a deer fence as the fence post would be an upright structure. Mr. Trees stated that certain deer fences are electrified and the posts are up to eight feet apart and he would not want to leave a question as to if those particular fences are included in the regulation. Mr. Strauch stated that it would be very hard to argue that because there are spaces in between the pillars, that it would no longer be considered “upright.” Mr. Peterson stated that the ARB specifically includes deer fencing in their definition.

Mr. Capelli stated that as he reads the definition, “Fence (or Wall): An upright barrier or structure, including any gate which is a part thereof, comprised of any material, including, without limitation, hedgerow or other plant material, which serves to enclose, divide, protect, confine, screen, or mark the boundary of an area or structure or any portion thereof, or, in the case of a wall, also to support,” and compares it with the recommended ordinance language, that they seem to ambiguously both include and exclude “hedgerows.” Mr. Strauch stated that in both cases it includes hedgerows but in the recommended language they are not subject to the five foot restriction. Mr. Capelli asked why the Planning Commission would want “hedgerows” defined as a fence. Mr. Peterson stated that a question that came to his mind is why they have a “fence or wall” and then

also say that it is a “hedgerow.” He suggested that fence, wall, and hedgerow be defined clearly. Mr. Strauch stated with the exception of dealing with the issue at hand, he tried to leave the statute as it was. Mr. Capelli stated that his question is, “Why is a hedgerow a fence?” Mr. Strauch stated that a hedgerow is a fence because the ordinance, as originally drafted, says it is. Mr. Strauch stated that he left it because he is unsure how the removal of the word “hedgerow” would affect the entirety of the municipal code in other places that it may be referenced and he wanted to avoid any unintended consequences. Mr. Capelli stated that current ordinance cites the ARB landscaping guidelines as a point of reference and asked if the Town removes the word “hedgerow” would that be more consistent with the ARB. Mr. Strauch stated that because the ARB uses the word “barrier” that a “hedgerow” is included in the interpretation. Mr. Peterson asked if the subcommittee had met with the ARB. Mr. Strauch responded that they had not met with the ARB, but they had used the ARB guidelines during the review.

Mr. Iwan asked Mr. Capelli to clarify the issues that are raised with the proposed language. Mr. Capelli stated that it raises the question, “Is a hedgerow, anywhere on a property, a fence?” Mr. Capelli asked if a “hedgerow” meets the requirements of a fence around a pool. Mr. Dan Pennick, County Planning representative stated that a dense hedgerow would qualify as a fence by definition. Mr. Strauch stated that the current ordinance limits the height of hedgerows but that it is not enforced, primarily due to hardship in enforcement. He also stated that he does not feel that by not regulating the height of hedgerows, that it will become unsightly and unmanaged because of aesthetically involved role of the ARB. Mr. Capelli stated that he is unsure a hedgerow should be left in the definition of a fence and recommended further review by both the ARB and the County Staff.

Mr. Trees stated that he has no issue with leaving the ordinance with hedgerows listed however there is no clear definition of “dense.”

Mr. Iwan stated that the ARB has asked property owners to increase the height of hedgerows to shield items such as HVAC stands. Mr. Joel Evans stated that there is a difference in a man made structure and a natural, growing hedgerow and that hedgerow height should not be regulated.

Mr. Peterson clarified that the ARB can be more stringent with their guidelines but never more lenient.

Mr. Trees noted that the restrictions were dropped for wooden fences in the front yard and asked for further explanation. Mr. Strauch stated that it was left out inadvertently and the language should remain the same as current in regards to wooden fences in front yards.

Mr. Iwan stated that he does not feel the Town’s language should be dependent upon the ARB language. Mr. Capelli stated that you are not trying to create

something independent because the ARB guidelines are cited in the Town ordinance.

Mr. Peterson recommended that the subcommittee have another meeting and allow for further public input and recommend the final version to the January meeting of the Planning Commission.

Mr. Trees stated that he does not feel ornamental finials should be allowed additional heights beyond five feet. Mr. Iwan asked that Mr. Trees come to the subcommittee meeting and his input would be very welcomed. Mr. Peterson stated that he agrees with Mr. Trees' opinion. Mr. Iwan asked that Mr. Capelli email any suggestions if he is unable to attend the next meeting.

B. FOIA Review

Mr. Peterson stated that this document is important to review and that all subcommittees of a committee are also required to meet Freedom of Information Act requirements.

VIII. Correspondence:

A. Cougar Island Exempt Plat

Mr. Joel Evans, Charleston County Planning, stated that the Planning Department received an application for a plat for Cougar Point Golf Course several months ago. They were relocating the drainage easements on the plat. He stated that it was mainly a "clean-up" of the plat and they were not creating any new lots or naming new roads, the plat fell under the exempt plat. A copy was sent to the Town for information only and does not require any Planning Commission formal approval.

Mr. Capelli asked if they adjusted the drainage easements only. Mr. Evans stated that is correct but that the plat remains unchanged and only the drainage easements were changed.

The procedure includes sending the information to the Chair and Town for informational purposes only and that this particular plat did not have an explanatory cover letter.

IX. Public Comments:

A. Wendy Kulick, 38 Marsh Edge Lane

Mrs. Kulick asked if the MASC FOIA review was something new or if there is a date for when it was produced. Mr. Peterson stated that he does not know the date of publication but that the item is not new. He explained that you can get the document online from the Municipal Association's website.

X. Commissioner Comments:

Ed Dittmeier

Mr. Dittmeier stated that he and Mr. Strauch completed six hours of orientation training on November 16, 2009 and that a certificate will be sent from MASC to the Town Clerk in the near future.

There were no other commissioner comments.

XI. Adjournment:

Mr. Iwan motioned to adjourn the meeting at 3:54pm. Mr. Capelli seconded the motion. The motion carried unanimously.

Submitted by,

Catherine Wilson, Town Clerk

Approved by,

Fred Peterson, Chairman

Date