

**Planning Commission  
December 3, 2008; 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 South Carolina Freedom of Information Act and the requirements of the Town of Kiawah Island.

**III. Roll Call:**

**Present:** Fred Peterson  
Andy Capelli  
Peter Trees  
Ron Tedesco  
Wayne Juchatz  
Larry Iwan

**Also Present:** Frank Toland, Charleston County  
Joel Evans, Charleston County  
Jennifer Werking, Charleston County  
Cathy Wilson, Town Clerk  
Tumiko Rucker, Town Administrator  
Alan Burnaford, Town Council Liaison

**Absent:** Joyce Neuman  
Dennis Rhoad, Town Attorney

**IV. Approval of Minutes:**

A. Minutes of November 5, 2008

**Mr. Juchatz motioned to approve the minutes of November 5, 2008. Mr. Iwan seconded the motion. Mr. Iwan inserted the word “upon” on page 2, third paragraph. Mr. Iwan also clarified that the Town was sued based on failure to properly notify property owners of potential zoning changes during the update of the 1994 zoning map. Mr. Capelli asked that Mr. Charles Lipuma and Mr. Mark Permar be identified as “former Planning Chair” and KDP representative, respectively. Mr. Juchatz inserted the word “map” on page two, first paragraph**

**and made a non-substantive change on page 3. With those changes, the motion carried unanimously.**

**V. Subdivision Request:**

**A. #21080-F Lands of Kiawah Land Development, LLC Page 1  
FINAL APPROVAL, The Settlement, Phase V  
(Lots 85 and 87 thru 94)**

Mr. Toland stated that subdivision #21080-F has 9 lots designed on 6.138 acres. Planning Department staff recommends final approval of the subdivision which will be known as The Settlement, Phase V. Roads and drainage systems have been constructed to the Town of Kiawah's Road Code standards.

Mr. Peterson asked if staff inspects the work that has been done.

Mr. Toland stated that staff inspects the roads and drainage. SCDHEC has also approved the sewage and water systems.

**Mr. Capelli motioned to approve the final approval for The Settlement, Phase V subdivision. Mr. Juchatz seconded the motion. The motion carried unanimously.**

**B. #21198-F Lands of Kiawah Land Development, LLC Page 3  
FINAL APPROVAL, The Settlement, Phase VI  
(Lots 95 thru 97, 99, 101, 103, 105, 107 & 108)**

Mr. Toland stated that subdivision #21198-F has 9 lots on 9 acres. The Planning Department recommends final approval of the subdivision. Roads and drainage systems have been constructed to the Town of Kiawah's Road Code standards. Mr. Toland stated that staff inspects the roads and drainage. SCDHEC has also approved the sewage and water systems.

**Mr. Capelli motioned to approve the final approval for the Settlement, Phase VI. Mr. Juchatz seconded the motion. The motion carried unanimously.**

Mr. Capelli stated that the County sent a letter to the Commission referring to the abandonment of The Settlement, Phase VII. Mr. Capelli asked how this item required no action by the full Committee and could be done without the consent of the Board. Mr. Toland and Mr. Evans explained that when a subdivision is created, it required Committee action, but when they are dissolved, no new lots are created so no action is required.

**C. #19878-P Lands of Sandra Diane Royal  
Preliminary Approval, "C.C'S Place"  
Lots 1 thru 11**

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**Note: This particular Preliminary Plat was  
Approved, by the Planning Commission on  
April 28, 2005.**

Mr. Toland stated that CC's place received preliminary approval on April 28, 2005. On June 4, 2008 the Planning Commission granted a six month extension to the preliminary plat. Mr. Toland read Article 12C-204-Preliminary Plat Section 2D: "Approval of a Preliminary Plat shall apply for three years where a subdivision is being developed in phases or sections, three years shall be measured from the date of the approval granted in that phase, or section, of the subdivision. The developer may apply in writing to the Planning Commission for a six month extension provided this request is received by the Planning Director 15 calendar days prior to the scheduled meeting of the Planning Commission. The Planning Commission may terminate an approval for cause anytime after three years." Mr. Toland stated that Mr. Royal attached a letter and sent another letter today, which he has not had time to review. Mr. Toland stated that Mr. Royal has received preliminary approval, road construction plans, storm water permits, and authorization from SCDHEC to complete infrastructure for water and sewer.

**Mr. Juchatz motioned to approve a preliminary plat extension for six months to expire June 4, 2009. Mr. Capelli seconded the motion.**

Mr. Juchatz asked if Mr. Royal has submitted any papers that are on record indicating that Mr. Royal is in fact his sister's legal agent. Mr. Toland stated that Mr. Royal submitted an affidavit of ownership with his sister with the original request. Mr. Toland stated that he is a documented agent.

Mr. Juchatz also asked if Mr. Royal could post a bond that would vest his rights for another two years. Mr. Toland stated that if Mr. Royal has a preliminary plat approved and that he would have to submit a conditional plat and bond the infrastructure. Mr. Juchatz stated so the only additional cost for Mr. Royal to get an equivalent to a two year extension would posting a bond. Mr. Juchatz asked the cost for finalizing a plat. Mr. Toland stated that it is a \$10 recording fee per page. Mr. Juchatz stated that he understands the economic issues that Mr. Royal is facing, but that a bond would give him an additional two years.

Mr. Capelli stated that he recalled the prior staff practice had been to grant the extension requests for an unlimited number of times. Mr. Toland stated that a second extension request has never happened before on Kiawah Island. Mr. Toland stated that the County allowed for a one time extension and that it is for one year.

Mr. Capelli stated that if it is not approved, the setbacks and zoning would change and create a difficult situation. Mr. Juchatz stated that would only be an issue if the extension is not granted. Mr. Capelli stated that in Mr. Royal's letter he also recognized the changes in Article 12 since the time the plat was approved. Mr. Juchatz stated that Mr. Royal may vest his interest with a bond.

Mr. Toland stated if the extension is not granted, Mr. Royal will lose his rights and he would have to come back with a new preliminary plat meeting the current ordinance. Mr. Toland stated that if the extension is granted, Mr. Royal has six months to submit a conditional plat. Mr. Toland also stated that the Planning Commission could deny the six month extension with the condition that Mr. Royal submit a conditional approval on the property.

Mr. Toland stated that the first six month extension expires December 4, 2008.

Mr. Juchatz asked if there are other property owners in a similar situation where they have pending six month extensions that are due to expire within a few weeks. Mr. Toland stated that Mr. Royal applied for an extension for Ocean Palms in October.

Mr. Juchatz asked if granting the second extension would set a precedent that would require the Commission to grant all parties a second extension in the future. Mr. Toland stated that the ordinance could change and not allow multiple extensions in the future.

Mr. Juchatz stated that perhaps this is a hardship of Mr. Royal's own making because he had other options but choose this one. Mr. Juchatz also stated that he feels it is a hardship and he would be inclined to grant the extension.

Mr. Trees stated that he agrees with Mr. Juchatz and pointed out that these are extraordinary times. Mr. Trees also stated he would be willing to grant the request and that there is no language preventing it.

Mr. Capelli agreed with Mr. Juchatz and Mr. Trees and that it is currently consistent with what the ordinance allows.

**After much discussion, the motion on the floor passed 5-1 with Mr. Peterson voting no.**

## **VI. Old Business:**

### **A. Kiawah Island Zoning Map**

Mr. Evans presented Planning Staff with a draft updated map depicted parcels that have suggested zoning changes. Planning Staff, Mrs. Rucker, Mr. Wert, Mr. Burnaford, Planning Commissioners and Members of the Public gathered around a large print map to discuss the proposed changes. After much discussion, the Planning Commission recommended the following changes to Town Council:

- 1) Parcel 12A and Parcel 10 to be updated as required by the Development Agreement.
- 2) East Beach Ocean, currently zoned Special Development, proposed to be rezoned to RST-1/R-3, in order to make it consistent with both the Hotel and Windswept.

**Mr. Juchatz motioned to forward the above changes to Town Council. Mr. Capelli seconded the motion. The motion carried unanimously.**

**B. Preliminary Plat Extension Text Change (Ordinance 2009-1)**

Mr. Peterson stated that the Planning Commission had approved the language and hosted a public hearing regarding the proposed text change. Mr. Peterson explained that information has come back from the attorney that requires Town Council to have an additional public hearing.

**Mr. Trees motioned to approve the proposed language change and to forward the change to Town Council for further action. Mr. Tedesco seconded the motion. The motion carried unanimously.**

Mr. Peterson stated that Town Council will host a Public Hearing on January 6, 2009 at 1:30PM before their regular meeting.

**VII. New Business**

Mr. Peterson stated that the 2009 Planning Commission will meet on the first Wednesday following the Town Council meeting of each month.

**VIII. Correspondence:**

None

**IX. Public Comment:**

**A. Mayor Wert**

Mayor Wert stated that the proposed text change referred to as Ordinance 2008-6 will become 2009-1 and that Town Council will host a public hearing on January 6, 2009 at 1:30PM. Mayor Wert thanked Charleston County Planning Staff and Commissioners for their work on the map and stated that the Town will have the first reading for the Zoning Map update ordinance on January 6 during the regular Council meeting. Mayor Wert stated that the Public Hearing for the zoning map update will be scheduled for sometime between the January and February Town Council meetings. Mayor Wert asked that the County staff send notices to all property owners, and adjacent owners, to ensure administrative processes are followed.

**B. Wendy Kulick, 38 Marsh Edge Lane,**

Mrs. Kulick thanked the Planning Commission for allowing her to take part in the discussion between the Commissioners and Staff regarding the zoning map changes.

**X. Commissioner Comments:**

Mr. Juchatz had no comment.

Mr. Capelli asked about a letter received in August regarding a possible zoning violation at 492 Old Dock Road. Mr. Capelli asked if any further information was available from staff.

Planning Staff stated that they were unaware of the letter and would find out more information as soon as possible.

Mr. Trees had no comment.

Mr. Tedesco had no comment.

Mr. Iwan had no comment.

Mr. Peterson thanked Planning Staff for their work on the Zoning Map.

**XI. Adjournment:**

**Mr. Tedesco motioned to adjourn the meeting at 4:30PM. Mr. Juchatz seconded the motion. Motion carried unanimously.**

**Submitted by,**

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Catherine C. Wilson, Town Clerk

**Approved:**

\_\_\_\_\_  
Fred M. Peterson, Chair

**Date:** \_\_\_\_\_

CC: Planning Commission  
Daniel Pennick, Charleston County Planning  
Dennis Rhoad, Town Attorney  
Town Council

Tumiko Rucker, Town Administrator  
Joe Bunting, KICA  
Amanda Mole, ARB