

**Planning Commission  
September 10, 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, posted, and faxed in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

**III. Roll Call:**

**Present:** Fred Peterson  
Joyce Neuman  
Peter Trees  
Ron Tedesco  
Andy Capelli  
Wayne Juchatz

**Also Present:** John Carullo, Charleston County  
Cathy Wilson, Town Clerk

**Absent:** Joe Colvin, Chair

**IV. Approval of Minutes:**

A. Minutes of August 6, 2008

**Mr. Juchatz motioned to approve the minutes of August 6, 2008. Mr. Trees seconded the motion. Mr. Peterson inserted the word “if” to Old Business, Item A, fifth paragraph to read, “and that *if* no development has proceeded...”. With those changes, the motion carried unanimously.**

**VI. Subdivision Request:**

No New Requests

**VI. Old Business:**

Major Subdivision

**A. #21209-C                      Lands of Kiawah Land Development, LLC                      Page 1**  
**conditional APPROVAL, The Settlement Phase VII,**  
**(Lots 111, 113, 115, 117, 119, 121, 123, 125 thru 133)**

**Mr. Capelli motioned to approve the conditional approval of the subdivision request #21209-C. Mr. Juchatz seconded the motion.**

Mr. Peterson stated that during the August 6, 2008 meeting concern was raised regarding the lack of perpendicular roads as required by the Town's Road Code. Mr. Bill Fellers, Thomas and Hutton Engineering, explained to the Commission that the plat depicted the right-of-way lines rather than the lines of pavement and that it was more important to note that the roadway lines up with River Course Lane and that it is as perpendicular as it can be. Mr. Fellers also stated that the Planning Staff made their recommendation on the pavement lines, not the right-of-way lines, and that they recommended approval.

Mr. Capelli stated that during the March meeting for preliminary approval, an ARB representative stated that there will be sufficient space for buffering along Governors Drive. Mr. Juchatz stated that headlights in this area could be a safety issue, as well as an aesthetics issue.

**After discussion, Mr. Peterson called for a vote. The motion carried unanimously.**

Mr. Capelli also stated that the comments directed to the Planning Commission's authority to table a conditional approval were misdirected because the Commission operates under Robert's Rules and the ordinance is not the governing issue. Mr. Capelli stated that Robert's Rules allow the commission to table any motion that is brought before them.

**B. Bulkhead Committee Report**

**Mr. Peterson stated that the Committee had no report to date and would present a report during the October meeting.**

**VII. New Business:**

**A. 492 Old Dock Road Zoning Notification Letter and Correspondence**

Mr. Peterson explained that the Commission was in receipt of a letter from Nelson Mullins, Attorneys for Samuel Phillips of 493 Old Dock Road. The letter alleges that because 492 Old Dock Road is zoned R-1, and the homeowner has a business license for short term rentals, that they are in violation of the Town's zoning ordinance.

Mr. Capelli stated that the Town Attorney recommended that Planning staff review the situation to determine if they are in fact in violation. Mr. Capelli stated that it does not appear to be a zoning violation but that it could be a violation of the rental regulation ordinance. Mr. Capelli also stated that 492 Old Dock Road is not a commercial property by definition.

Mr. Juchatz asked what the role of the Planning Commission is in regards to this issue because he feels that it deals with enforcement. Mr. Juchatz asked if this letter was for information or for action by the Commission.

Mr. Tedesco stated that he feels the attorney is asking for action.

Mr. Capelli stated that he feels this letter should be directed to the Planning Staff Director for review and further information.

Mr. Juchatz also stated that he suggests requesting further information from the Town Attorney as to the Planning Commission's role on this issue.

Mr. Tedesco stated that short term rentals are allowed in this area of zoning and that if the neighbors are having a problem with noise, then they should call security.

After much discussion, the Planning Commission requested further information on the situation from Dennis Rhoad, Town Attorney and County Planning Staff.

### **B. Correspondence for Initial Notification and Review for Bulkheads/Revetments**

Mr. Peterson stated that Mayor Wert suggested that the Planning Commission distribute erosion control permitting procedure information to interested parties. Mrs. Rucker discussed the letter and stated that it serves as a reminder of the requirement to submit initial notification to the Town. Mr. Peterson stated that the letter accomplished two things: 1) Notifying entities of the procedure currently in place; and, 2) notifying them that the procedure may change.

### **C. Mingo Point Erosion Control**

Mrs. Rucker stated that the Resort had submitted initial notification to the Town for construction of 200' of riprap; 100' on either side of the boat ramp at Mingo Point. Mrs. Rucker stated that they have complied with the Town's initial notification requirements and that their notification included drawings of the proposed riprap. Mrs. Rucker stated that as of Friday, September 5, 2008, the Resort notified the Town that they were placing the project on hold, until further notice, and that no permit request has been filed with OCRM.

Mr. Peterson asked if the drawings showed proof of erosion.

Mrs. Rucker stated that during the onsite visit, it was decided that proof of erosion was to be determined and then brought before the Planning Commission for their approval.

**D. Vanderhorst, LLC Erosion Control Permit Number OCRM-07-042-M**

Committee members discussed the OCRM permits for the Vanderhorst, LLC erosion control permit. Mr. Peterson pointed out that the public comment period ended September 1, 2008 and that the Town did not receive initial notification from the applicant. The original permit was approved February 16, 2007 and then amended on May 2, 2008, June 10, 2008, and August 22, 2008. The August amendment replaced 390' riprap revetment with a bulkhead.

Mr. Capelli stated that he assumes the Town will have to apply the notification procedures required by the ordinance which the applicant did not meet.

Mr. Juchatz stated that technically, this application should have first been submitted to the Town before going to OCRM.

Mr. Peterson recommended that the Vanderhorst, LLC Erosion Control Permit be submitted to the Bulkheading Subcommittee for their review.

Mr. Capelli stated that it presented a great opportunity to apply the procedures against the application in order to see what really works.

**VIII. Correspondence:**

None

**IX. Public Comment:**

None

**X. Commissioner Comments:**

None

**XI. Adjournment:**

**Mr. Juchatz motioned to adjourn the meeting at 3:26 p.m. Mr. Tedesco seconded the motion. Motion carried unanimously.**

**Submitted by,**

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Catherine C. Wilson, Town Clerk

**Approved:**

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Joe Colvin, Chair

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

CC: Planning Commission  
Daniel Pennick, Charleston County Planning  
Dennis Rhoad, Town Attorney  
Mayor and Town Council  
Tumiko Rucker, Town Administrator  
Joe Bunting, KICA  
Amanda Mole, ARB