



TOWN OF
Kiawah Island

Mavor

John D. Labriola

Council Members

Maryanne Connelly

John Moffitt

Scott Parker

Dan Prickett

Town Administrator

Stephanie Monroe Tillerson

MEMORANDUM

TO: Town of Kiawah Island Planning Commission Members

FROM: John Taylor, Jr., Planning Director

DATE: June 29, 2022

SUBJECT: Wednesday July 6, 2022 3:00 p.m. Planning Commission Meeting Packet

Attached you will find the following items:

- Agenda for the July 6, 2022 meeting of the Planning Commission
- Meeting minutes of the June 8, 2022 Planning Commission Meeting
- Packet of case materials (1) SBD22-000006 for your consideration. Please find enclosed the staff review and supporting documentation for these cases.

Please feel free to call or email me at (768-9166) jtaylor@kiawahisland.org if you have any questions or concerns prior to the meeting. Please call or email Petra Reynolds, Town Clerk at (768-9166) preynolds@kiawahisland.org if you are unable to attend this meeting.



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PLANNING COMMISSION MEETING

Kiawah Island Municipal Center

July 6, 2022; 3:00PM

AGENDA

- I. **Call to Order:**
- II. **Roll Call:**
- III. **Approval of Minutes:**
 - A. Planning Commission Meeting Minutes of June 8, 2022 [Tab 1]
- IV. **Executive Session:**

Executive Session to receive Legal Advice on Vested Rights Related to the Capt. Sam's Spit Preliminary Plat pursuant to S.C. Code Ann. § 30-4-70 (a)(2).
- V. **Old Business:**
 - A. **Subdivision Applications:**
 - 1) **SBD22-000006** [Tab 2]
(#SBMa-21175-P) Kiawah Resort Associates, LP
A Preliminary Subdivision Plat - Cape Charles
TMS #207-05-00-001; -0011; -118
Vested Rights Annual Extension Request
- VI. **New Business:**
- VII. **Correspondence/Staff Comments:**
- VIII. **Council Liaison Comments:**
- IX. **Public Comments:**
- X. **Commissioner Comments:**
- XI. **Adjournment:**

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. Meeting materials available for public view online at:

<https://www.kiawahisland.org/meetings-minutes/planning-commission/>

PLANNING COMMISSION MEETING
Kiawah Island Municipal Center
Council Chambers
June 8, 2022; 3:00 PM

MINUTES

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

Mr. Peterson welcomed Dr. Heidingsfelder to the Planning Commission. He noted that he would be fulfilling the term of Mr. Stenson, who resigned from the Commission after announcing he would be moving to California.

II. Roll Call:

Present:

Fred Peterson, *Chairman*
Dr. Michael Heidingsfelder
Andy Capelli
Bill Dowdy
Larry Iwan
Madeleine Kaye
Joanne Hennessy

Also Present:

John Moffitt, *Council Liaison*
John Taylor, Jr., *Planning Director*
Ray Pantlik, *Kiawah Resort Associates, LP*

III. Approval of Minutes:

A. Planning Commission Meeting Minutes of April 6, 2022

Mr. Capelli made a motion to approve the minutes of the April 6, 2022, Planning Commission Meeting. Mr. Dowdy seconded the motion.

Following the notation of corrections that need to be made, the minutes were unanimously approved as amended.

IV. Election of Vice-Chair:

Mr. Peterson made a motion to approve the nomination of Mr. Dowdy to serve as the Vice-Chairman of the Planning Commission. Mr. Iwan seconded the motion.

Ms. Kaye made a motion to approve the nomination of Ms. Hennessy to serve as the Vice-Chairman of the Planning Commission. Dr. Heidingsfelder seconded the motion.

Mr. Peterson took a rollcall vote of the Commissioners:

Dr. Heidingsfelder voted for Ms. Hennessy
Ms. Hennessy voted for Ms. Hennessy
Mr. Dowdy voted for Mr. Dowdy
Mr. Peterson voted for Mr. Dowdy
Mr. Iwan voted for Mr. Dowdy
Ms. Kaye voted for Ms. Hennessy
Mr. Capelli voted for Mr. Dowdy

Mr. Dowdy was approved to serve as the Vice-Chairman of the Planning Commission by a 4 to 3 vote.

V. New Business:

A. Subdivision Applications:

**1) SBD22-000006
(#SBMa-21175-P)**

Kiawah Resort Associates, LP
A Preliminary Subdivision Plat - Cape Charles
TMS #207-05-00-001; -0011; -118
Vested Rights Annual Extension Request

Mr. Taylor stated the applicant Kiawah Resort Associates, LP, submitted a Vested Rights annual extension request for the Preliminary Subdivision Plat - Cape Charles (Captain Sam's). The proposed subdivision of fifty (50) lots has a total area of approximately 193.455 acres and is zoned R-1, Residential.

Mr. Taylor provided the Commission with a presentation of the Preliminary Plat that was granted approval by the Planning Commission on July 8, 2015. The first extension request was approved in June of 2018, the second extension in June of 2019, the third extension on June 6, 2020, the fourth extension on June 2, 2021, and this request is the fifth extension of the five allowed pursuant to Section 12-194(3)-Vested Rights, of the Town's Land Use Planning and Zoning Regulations.

Pursuant to Section 12-194 (3) f. of the Town's Land Use Planning and Zoning Regulations, "No sooner than three months, and no later than 45 days prior to the expiration of the two-year vested right period for an approved site-specific development plan, the landowner of property with a vested right in a site-specific development plan may apply to the authorized official or body for an annual extension of the vested right. The authorized official or body must approve an application for an annual extension of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. No more than five annual extensions of the vested right may be approved."

Commissioners engaged in an in-depth discussion of the extension request asking for clarification on:

- If there is a provision in the law for unexpected or uncontrollable delays during the five-year extensions
- Process after the five-year extensions have expired
- Confusion of the law references being used to justify the extension request – Dr. Heidingsfelder recommended that the Commission table consideration of the request.
- The legality of the request – Ms. Hennessy stated that, by the dates, the fifth extension expires in this current year, and a new and revised plat should be submitted for review and approval.

Ms. Hennessy made a motion that the Planning Commission inform the Town that the request for the extension is mute because the plat has or will expire and that the Town Council and Planning Commission should wait for the property owners to submit a new plat on the subject property for review and approval. Ms. Kaye seconded the motion.

Mr. Taylor stated the Commission does not have to act on the request at this time and can reconsider once further clarification and legal opinion can be obtained and presented to the Commission.

Following further discussion, Ms. Hennessy withdrew her motion.

Dr. Heidingsfelder made a motion that the Commission table consideration of the Vested Rights Annual Extension Request. Mr. Iwan seconded the motion.

Following further discussion, the motion was unanimously approved.

VI. Presentation:

1) Proposed Kiawah Island Parkway Overlay Zoning District

Mr. Taylor introduced the proposed concept of an Overlay Zoning District for the Kiawah Island Parkway. The Parkway is the Town's primary road asset and serves as the gateway to the Island. While Kiawah and the surrounding community continue to experience development, the Town needs to have clarity on how collectively planned and unplanned potential developments could impact the Town's primary road asset. An Overlay Zoning District would provide an extra layer of protection to the Parkway.

Mr. Taylor indicated the presentation would provide an overview of an Overlay Zoning District, the purpose, how it is used, its benefits, and specific preliminary recommendations developed by staff. He indicated that there would be an opportunity, after the presentation, for interested commissioners to participate in a small workgroup to refine the proposal for the Commission to review and recommend to Town Council for approval.

Commissioners engaged in an in-depth discussion of the proposed Overlay Zoning District and the need for an Overlay Zoning District. At the conclusion of the discussion, Dr. Heidingsfelder indicated that he would like to participate in the workgroup.

VII. Correspondence/Staff Comments:

Mr. Taylor stated at the June Town Council meeting that the zoning text amendments to Section 12-79 and Section 12-159 recommended by the Planning Commission in April were approved and adopted. The Town's Annexation Plan and Procedures Manual were also adopted by resolution.

Mr. Taylor reported that the Marsh Management Plan update is expected next month. During the past two months, work has been done with the consultants collecting data and completing inventory assessments which will be presented for public engagement with adoption sometime in the fall.

Mr. Taylor stated that staff has been working on an RFP (Request for Proposals) to engage a third party to help with the Comprehensive Plan Update. In the past, the focus has been on updating the existing data, and staff would like to focus more on resources for long-range planning.

Mr. Taylor stated that the Main Road Corridor Public Comment period ended at the end of May and that the County would be providing feedback on the comments received.

VIII. Council Liaison Comments:

None

IX. Public Comments:

Riley Egger – Land, Water, and Wildlife Project Manager, Coastal Conservation League

Ms. Egger stated that before the request was tabled, it was her intent to request that the Planning Commission deny the preliminary subdivision plat Vested Rights Extension Request for Cape Charles and provided a review of several points to justify the request.

Gaye Stathis – 288 Marsh Cove Road

Ms. Stathis read an email she received from Ms. Amy Armstrong, Executive Director of the SC Environmental Law Project, concerning the South Carolina Supreme Court ruling on Captain Sam’s Spit.

X. Commissioner Comments:

Ms. Hennessy stated that an issue of concern in the community is the consideration of the rezoning request for the Andell West Tract by the Charleston County Planning Commission and the effect of an approval on Kiawah. She reviewed her concerns with the requested commercial zoning, indicating that a Planned Development District (PDD) would be better suited. She believed that the Planning Commission should discuss the issue and a position communicated to the County.

Ms. Kaye reviewed the portion of the Town Comprehensive Plan, which outlined the original Freshfields Village PPD designation under Charleston County, indicating that it supported Ms. Hennessy’s comment.

Mr. Iwan stated that the Planning Commission is not an independent body. State Law governs the Commission’s role and responsibilities with respect to planning and zoning. He pointed out that the Commission is under the direction of the Town Council, and therefore it would be Council’s responsibility to communicate to the County.

Mr. Capelli noted that the Planning Commission is responsible for making recommendations to the Council and does not have the opportunity or responsibility to speak or comment as a group outside the Council.

XI. Adjournment:

Mr. Dowdy made a motion to adjourn the meeting at 4:00 pm. Mr. Iwan seconded the motion, and it was unanimously passed.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Fred M. Peterson, Chairman

Date