

TOWN COUNCIL PUBLIC HEARING
Kiawah Island Municipal Center
Council Chambers
August 2, 2016; 1:30 PM

MINUTES

I. Call to Order: Mayor Lipuma called the meeting to order at 1:30pm.

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: Charles R. Lipuma, Mayor
John D. Labriola, Mayor Pro-Tempore
John Wilson
Craig Weaver

Present by Phone: Mary Q. Johnson

Also Present: Stephanie Monroe Tillerson, Town Administrator
Dorota Szubert, Town Treasurer
Dennis Rhoad, Town Attorney
Petra Reynolds, Town Clerk

IV. Public Hearing:

A. ZLDR-06-16-00102 - ZONING ORDINANCE TEXT AMENDMENT

- To create a new zoning district CS-2: Community Support 2

B. ZREZ-06-16-00034 - ZONING MAP AMENDMENT

- To rezone the property located at 21 Beachwalker Drive (TMS 207-05-00-121) from the Community Support (CS) Zoning District to the Community Support 2 (CS 2) Zoning District (3.5 acres).

V. Public Comments:

Andy Capelli – 160 Governors Drive

I would like to address the council today both as a homeowner and a member of the Planning Commission (PC).

First as a member of the Planning Commission,

- 1) *Land use on Kiawah is subject to the specific zoning category assigned to a particular parcel based on the zoning recommended to the town by the planning commission.*
- 2) *Land use is further subject to the specific permitted and conditional uses allowed based on the zoning category.*

- 3) *The application submitted by the Town on behalf of Kiawah Island Community Association (KICA) requests a new zoning category of Community Support 2 (CS-2) for which you have seen the planning commission was in favor of granting.*
- 4) *The application further requested specific permitted and conditional uses that were not consistent with the stated intended use of the property and not necessary for a CS-2 designation.*
- 5) *KICA and the Town both stated that they did not believe that any limitation of permitted and conditional uses to just those necessary to operate at the property as KICA asserted they would be and in a manner consistent with their current operations was acceptable. Representatives offered no justification why any additional zoning category, additional conditional and permitted uses were required.*
- 6) *KICA and the Town representatives stated that all the requested permissions where necessary for the sale contract to close. This was later found not to be the case.*
- 7) *Because of the unwillingness of the KICA representatives to disclose why these additional permissions were required and the unwillingness to agree to accepting only those permitted and conditional uses necessary to operate as they stated they would be caused me to vote to not approve the zoning request. As noted in the minutes so did the majority of the commission members voting.*
- 8) *I have been a member of the PC since 2003, I do not recall a zoning recommendation overturned by the Town Council, and that includes the time the Mayor served as the Chairman of the Commission, a member of Council or the Mayor.*
- 9) *An unwillingness to accept the current recommendation to reject the application in its present form would be a disservice to the community and fly in the face of the requirements of the Towns land use ordinance. To allow the requested change without any justification but only serve to support the unstated desires/plans of the community association may be politically correct but wrong.*
- 10) *The application must be rejected based on its form and substance. The recommendation of the planning should be accepted and the rezoning request denied.*

Now I would like to speak to you as a homeowner and a member of KICA,

- 1) *KICA was formed in 1976 for the very limited purposes set forth in the preamble of the covenants by which it is bound. Changes to the covenants in many cases may only be made by referendum.*
- 2) *Article VI, Section 3 of the covenants sets forth a list of authorized services that KICA may provide.*
- 3) *KICA may own and maintain common property for the specific purposes set forth in article vi section 1 of the covenants.*
- 4) *Owning real estate to realize the highest and best value (ie. land speculation) is not one of the specific purposes set forth in section 1.*
- 5) *Development of properties it owns to construct homes for sale or rent is not one of the specific purposes set forth in section 1.*
- 6) *To purchase property for either of the two purposes cited above would in my view require a covenant change that could only be accomplished through a formal referendum of its members.*
- 7) *In the zoning change application, KICA is identified as a community organization, a professional organization, and/or a governmental organization. It is none of those but rather a non-profit corporation formed for the purpose of providing only the services set forth in section 3 of the covenants.*
- 8) *Until and unless KICA is able or willing to explain and justify its intended uses for the property and is willing to accept such permitted and conditional uses for the property I believe the planning commission's recommendation should be accepted and the requested zoning change be denied.*

Linda Leffler - 60 Sunlet Bend - HOA Inlet Cove

Mrs. Leffler stated that even though the Community Association has amended its original request for commercial/R3 zoning, any zoning change will directly affect the residents of Inlet Cove. She stated the community supported the Kiawah Island Community Association (KICA) purchasing the property but does not understand why the Community Support-2 (CS-2) designation has to include R3, which is felt to be

inappropriate. It clearly says “Community Support” which does not have anything to do with residential development and will follow the CS-2 designation if it is used again. The HOA does not support the inclusion of R3 and the CS-2 Designation.

Mrs. Leffler also pointed out the property does not have Architectural Review Board (ARB) jurisdiction which follows the land, not the Town, and along with R3 designation allows most anything to be done on the property.

Marilyn Olson – 4985 Green Dolphin Way,

Mrs. Olson stated she was the KICA Vice-Chairman, represented the KICA Board of Directors, as well as a member of the Community. She indicated the KICA Board unanimously supports the rezoning application for the CS-2 category and has discussed the rezoning extensively and is position will be communicated in an oral presentation by Mr. Bailey at the Town Council meeting.

Linda Morgenstern – 164 Marsh Island Drive

Mrs. Morgenstern stated that it is well known the Community Association has suffered due the lack of space and land set aside for Community use. She stated the sale of the property would allow and expansion of Community Support Services and space for clubs and groups. She stated that KICA is a non-profit tax-exempt organization making the mention of profits an inappropriate term to use. She further stated the Association Board must act within the fiduciary duties imposed by the covenants and the State of South Carolina not-for-profit corporation law that fair market value is paid for every asset of the Association. Mrs. Morgenstern stated the sale price of the property was arrived at by a review of assumptions, appraisals and the 30-year rent-free lease and negotiated into an agreement which contained few contingencies. She stated proceeding with the approval of the recommendation of Town staff will benefit of Kiawah residents property.

Townsend Clarkson – 7 Club Cottage Lane

Mr. Clarkson stated as both a resident property owner and a member of the KICA Board, he requests Council vote to approve the rezoning of the current Town Hall to CS-2. He stated the previous and current KICA Board has no plans for the use of Town Hall other than as KICA offices and a place for its membership. He stated he believed it was the Board’s responsibility to assure KICA has the most flexible options for the property as possible and a designation which is consistent with original intent of the Kiawah Masterplan and the adjacent properties. He also stated in the unlikely event that the property has to be disposed of in the future, KICA members should have the option to maximize the benefit to the Association. Mr. Clarkson also pointed out the Town Hall property was originally zoned “Resort” which allowed for both residential and commercial development, the same as the adjacent properties, it was rezoned “Community Support” after the property was acquired by the Town.

John Connolly – 1020 Scout Court

Mr. Connolly indicated he wanted to reiterate some of the comments already made. He stated that as a KICA Board member he believed the Board has a fiduciary responsibility to maximize the value of every dollar spent. He stated he also believed that asking for rezoning that is the same as the surrounding properties was reasonable, considering the Association is asking for less. He indicated he could assure that any other buyer would be requesting rezoning to Commercial/R-3. With the Association stepping back to the CS-2 designation he could not see why the Community Association would not be granted what would be granted to any other buyer.

Art Morgenstern - 164 Marsh Island Drive

Mr. Morgenstern stated, as a resident and property owner on Kiawah, wanted to give his perspective. He stated that Council, as representatives of the community, property owners and residents, in his understanding negotiated a sale agreement with KICA in which appraisals determined the sales price and conditions of the sale. In his opinion, it looks as if the Town is backing away with from the agreement it reached with KICA. He stated he did not understand why after the Town made the agreement, it is not carrying out its end of the bargain. Mr. Morgenstern stated he expected members to make comments at the Town Council meeting and asked to include an understanding of why members have changed their points of view. He also asked that members keep in mind they represent the citizens of the Community.

Fred Peterson – 4455 Green Dolphin Way

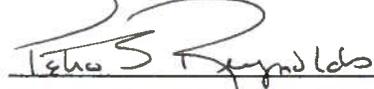
Mr. Peterson stated he was the Chair of the Planning Commission. He stated Council had an opportunity to review the draft copy of the minutes of the July 6th Planning Commission meeting. He noted all of today's questions had been attended to during discussion at meeting. He stated the Planning Commission believes that CS-2, Community Support, should be just that, not commercial and not residential. He indicated that when presented to the Commission in May, there was not mention of residential, just commercial. It was made clear to the representatives of KICA and the Town that the Commission felt any description of Community Support should be those items that KICA needed as a Community Support Organization. He stated he believed the reason that he, as Chair, the current Vice Chair, the former Vice Chair, and another member of the Commission voted to deny the recommendation was based on those items.

With no further comments, Mayor Lipuma closed Public Comments. He stated all comments would be taken under consideration during deliberations before the first reading and then second reading in September.

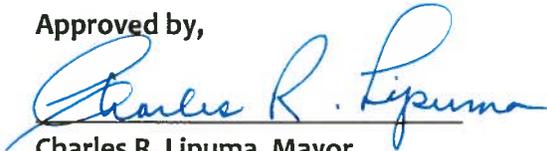
VI. Adjournment:

Mr. Labriola motioned to adjourn the meeting at 1:50 pm. The motion was seconded by Mr. Weaver and was unanimously approved.

Respectfully submitted by,


Petra S. Reynolds, Town Clerk

Approved by,


Charles R. Lipuma, Mayor

09/09/16
Date