

**PLANNING COMMISSION**

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Diane Schleicher

**PLANNING & ZONING MANAGER**

Dianne Otto, CFM

**CITY ATTORNEY**

Edward M. Hughes

**MINUTES  
Planning Commission Meeting  
August 19, 2014 – 7:00 p.m.**

Vice Chair Demery Bishop called the August 19, 2014, Tybee Island Planning Commission meeting to order. Commissioners present were David McNaughton, John Major, and Julie Livingston. Also present was City Manager Diane Schleicher.

Mr. Bishop – The first order of business is the minutes of the July 15, 2014, meeting. Do I have any discussion? [There was none.] Do I have a motion? [Julie Livingston made a motion to approve as written; John Major seconded.] All those in favor please signify. [The vote was unanimous.]

Mr. Bishop – Do we have any recusals or disclosures? Mr. Major disclosed that his home is directly across the marsh from the Burton 4-H Camp.

**Map Amendment & Text Amendment – Michael Hosti – 1109 Lovell Avenue**

Ms. Otto – This originally had been given to you as a Variance. It came to my attention late last week after the City Council consideration of an appeal that a Variance is not allowed for use. The correct request is for a Map Amendment and Text Amendment and you received revised packets reflecting that. The applicant owns a vacant lot at 1109 Lovell Avenue and it is zoned R-2. The Tybee Market adjacent to it is zoned N-G, or Neighborhood Grocery Store District. The vacant lot has been used for trailers that contain merchandise related to the business. There is also a dumpster on the property. When this came to the City’s attention the enforcement actions were followed. Mr. Hosti’s position is to continue to use that lot and obtain some type of consideration from the City in order to do so. As the City Attorney and I have discussed, there are three potential outcomes. One would be that the request to rezone the R-2 lot to N-G would allow the commercial activity to continue on the vacant lot. A second scenario would be if you, and ultimately City Council, determined that staff has erroneously applied the R-2 regulations to this situation and what is occurring there is allowed than he could continue its use. The third outcome would be that the requested Map Amendment does not pass, the staff has found to have correctly identified the use that is occurring as being in violation of the R-2 zoning and Mr. Hosti would need to cease his activities on that lot that are commercially connected to his business.

Mr. McNaughton – I want to be certain that we have had the proper advertising period before we consider this item.

Ms. Otto – I appreciate that question. The previous posting at the property of a Variance request has been amended to a Map and Text Amendment. The posted agenda for this meeting on the City’s website and the City Hall bulletin board have been corrected as well. We are currently advertised correctly to conduct this hearing.

Mr. Bishop – Other questions for Dianne? [There were none.] Mr. Hosti, step forward and make your request.

Mr. Hosti – I’m Mike Hosti and I live at 1101 Jones. My business operates as Tybee Market IGA, Inc., at 1111 Butler Avenue. The lot in question is 1109 Lovell Avenue which is directly behind my business. The use of the lot has been, for a number of years, storage for dry goods like paper products, paper towels, coolers in the summertime because they are

big bulk items. I have an issue with storage in the building in order to be able to accommodate the needs of the people that live on the island. The trailers are quiet. In your packets you have letters from the abounding neighbors on both sides that have no issues with the trailers and, as a matter of fact, they are happy that they are there instead of a storage building because they don't make any noise and don't bother anybody. The issue at hand arose due to the City Manager coming to me about a public safety issue. The public safety issue involved trucks leaving behind the store traveling Lovell Avenue north and being able to make a right turn back to Butler. The trucks had to come all the way down to Tybee school as it was the only street wide enough for them to turn on. She asked me about changing the corner on Eleventh Street and I asked her please do not because it would draw more complaints from a neighbor that has complained since 1994. It has been a continual issue year after year after year with one complaint or another because she is not happy with the trucks. When she told me she wanted to do Eleventh Street, I told her the minute you start doing something to Eleventh Street you are going to get complaints and sure enough the complaint came in. The complainer's daughter actually filed the complaint for her and it is Ms. [Katherine] Williams from North Beach Grill and her mother's name is Gloria Leonard. She filed an issue that is a violation and I realize it is there. In the past I had asked about putting a storage building there but was told that it was a residential lot and I couldn't unless I had a house on the property. If I had a house on the property I still couldn't store commercial. I then asked about trailers because they wouldn't bother anybody and there were several other businesses on the island that are using trailers in residential neighborhoods for storage for their commercial business. Not to mention names but there are a couple of float businesses, several carpenters, and refrigeration mechanics that are using residential property for storing their tools and what they are selling. I put a trailer back there and then another one and another one and it has been used for over five years without anybody complaining so I didn't feel like there was an issue. I was trying to come up with a way to be able to continue to use them because the items that are stored are in bulk and it is hard to fit them in the store. The store already has \$450,000 worth of inventory in it and when you start buying in quantities that I can offer to the public for a reasonable, very competitive price, I have to have someplace to store it because I have to buy quantity and the trailers were a unique way of doing it. It was not a violation when the lot belonged to me and the trailer belonged to me. It became the wording of commercial use and I still don't quite understand it. If I bought a vendor's license and I own the product and the trailer and sold it to the store would there still be an issue if I own the product? I don't know how we are going to fix this issue. A Text Amendment is a good idea. Rezoning it would be a good idea but it would be called a spot zone. I know you have a question that is going to be tough for you to decide on but I need some kind of decision to help me be able to maintain a business that supplies the island, the locals as well as the tourists, year round and it is as necessary on this island as water and electricity. The trailers don't bother anybody. The letters you have in your packet state they do not bother any of the neighbors. The man behind it, Mr. Gannon, I hadn't been able to find him until last night and he said he has no issue with it. He gave me his phone number but I didn't get a chance to have him write something down so I could bring it to you because he was in a hurry shuffling in and out of the store. I'm sure if I call him he would write something. These three people are the immediate neighbors to the north, south, and west and the trailers don't bother them. Why it bothers the lady that is two doors down the street I don't understand other than the fact that she doesn't like Tybee Market is there or the trucks passing her house. When I built the parking lot I was forced to put in a gate to close it off and that made it narrow enough that the trucks could not go through my parking lot to get to Butler Avenue. In a sense, with her doing that, it was kind of cut off the nose to spite the face because the trucks could have traveled through my lot to get back to Butler Avenue so now she is complaining about traffic again. I don't know where to go with it other than legal defense. She was deemed a nuisance complainer by the State of Georgia back in '02 or '03 because she wore out the City with complaining about a piece of trash on the ground or whatever she could complain about for eight years. They finally told her that I was in compliance and there was nothing else they could do so she went to the Health Department. After 2-1/2 years of the Health Department showing up once or twice a week, they called me to Atlanta for a meeting and deemed the woman a nuisance complainer. Two or three of the inspectors that call on the store had to go to the meeting as well and state what they saw when they came to the store which was nothing. In the meantime, once they deemed her a nuisance complainer we asked that we be copied on the same letter they sent her. That is the first time I actually had her name because all of her complaints were done anonymous. After that I let her know that if the harassment continued that I would have to seek legal action. She quieted down and now her daughter does her bidding for her. The first time I've been able to get anything with her daughter stating that she was complaining for her mother was in the public records request that I got in the email which is in the packet. She is now liable for a legal suit. I don't want to go through that trouble or be aggravated with it. I just want some relief to be

able to use the trailers for what I use them for. I'm not asking to kill somebody, build a bonfire on the property, or put a gas station or a fried chicken joint, just three trailers. The dumpster in question on the property was a mishap on my part. I was trying to get out of a contract with Waste Management and I went ahead and signed a contract with Waste Pro because it was \$210 cheaper. Waste Management told me that I could pay the six months and they would get the container or I could letter them in six months when the contract is over with and they would remove it. Why should I pay for a service I'm not getting? The Coke truck is there during the summer and then it sat on the lot across from my house. My neighbor and I had our little indifference and I moved the Coke truck back to the lot behind the store because the neighbor expected a little too much out of me for what I was using. The entire time it sat on the lot across from my house, there wasn't the first soul that ever complained about it and it sat there for five or six summers in a row. I do use the product on the truck and I purchase them from Coca Cola. When they are servicing the businesses six or seven days a week, if any of the Chu's is out of drinks they come to me and borrow from that truck to serve their customers which I don't have a problem with. It's like a back stock so they don't have to run a truck down here six days a week. The fact that the truck is sitting there, if they came six days a week and now they come three, that is saving three days a week that the trucks are passing this woman's house. They should be happy it is sitting there. I don't know what to do about the issue other than ask for some kind of relief. We can pass this back to City Council and let them deal with it and that is up to you. Of course we can't get a Variance as the City Attorney told Dianne Otto. She [Dianne Otto] called and told me about it and it was relisted as a Text Amendment. You have heard the history on what is going on. The trailers have been there and have been in use for five years or better. There is nothing in them that will blow up, no noise, no engines running, no compressors running, they are just sitting there. We go in them once a week to get the product and then we have to load stuff back in them when deliveries are made. Sometimes it is twice a week we are in them but the only thing that is happening is the back door gets opened, stuff gets hauled out or in, and gets closed up.

Mr. Major – You said the gate was put there in 2009 when you expanded.

Mr. Hosti – No, the gate was actually installed in 2010, I believe, when I got the parking lot, it has been four years.

Mr. Major – Is that supposed to be operational?

Mr. Hosti – The gate has been operational, it is only supposed to be closed during part of the year but it has been hit by cars, bent, tires broken off of it.

Mr. Major – It is not working.

Mr. Hosti – It is not working. It has been torn up for a while, hasn't been used, and nobody has complained about that either. As a matter of fact, the City Manager said I should apply to have it removed and open the driveway up.

Mr. Major – That would be a legal exit to Lovell?

Mr. Hosti – Yes. What they did to Eleventh Street was to accommodate the 53-foot truck which is the grocery company that I purchase from. There are two or three other trucks a week. They couldn't make the turn anywhere but the school. The 48-footers from the prior grocery company that I was purchasing from couldn't make that turn either. They were going down to either the Catholic School or sometimes they could turn at the Methodist Church. I suggested to the City Manager about making the turn at the Methodist Church because the people that own the house on Tenth Street and Butler, the Freeman family, they have a run of trees as a blockage to Lovell Avenue that they don't even use the right-of-way back there or maintain it. If they hadn't taken up a little edge of that corner it wouldn't have affected anybody's yard and wouldn't have affected this neighbor. We probably wouldn't be having this complaint and I probably wouldn't be in this meeting.

Mr. Major – We are being asked to consider recommending a rezoning, albeit a spot zoning, to Neighborhood Grocery from R-2 and there are requirements about buffers and setbacks. We don't have anything that tells us whether those requirements have been met or will be met.

Mr. Hosti – The requirements on the Grocery zone, as it is, are the same as commercial with 5-foot setbacks.

Mr. Major – I believe in a Neighborhood Grocery zone there is a buffer requirement of not less than 3 feet tall.

Mr. Hosti – I would be more than happy to put a fence up.

Mr. Major – Are we being asked to consider rezoning or are we being asked to do something else?

Mr. Hosti – Whatever best fits the City’s needs to keep from causing anymore uproar in the neighborhood with my complaining neighbor. I don’t care how we do this. I just need to use the lot for the trailers. I’m not here to tell you I want it zoned commercial for any reason because it doesn’t need to be commercial in a residential neighborhood. I just need some kind of reason to be able to use it. The trailers don’t bother anybody. They haven’t bothered any of the neighbors around it except for the lady two doors down and it has been an ongoing saga.

Mr. Major – Are any of those neighbors full-time residents?

Mr. Hosti – The guy behind me, Mr. Gannon, is. Hendrix is a full-time resident although he lives on Wilmington but he is in and out of his house just about weekly. Dr. Smith on the north side, they are down mostly in the summer and are here probably one to two weekends a month in the wintertime. As he said in that letter that it is a vacation home but they are here on a regular basis.

Mr. Bishop – During this course of deliberations the issue is storage. Those small containers, the Coca Cola truck, and the dumpster are there and I go by it every day. Alternatives to storage on the lot – have you explored that?

Mr. Hosti – I would have to go into the City and rent a storage building.

Mr. Bishop – There is no other alternative?

Mr. Hosti – I would have to have a box truck to carry the stuff in because of weather or take the trailers into town and drag them back. There is no other commercial place for storage down here. I could put them on the City right-of-way, they are all tagged trailers, they all have licenses, and I could get parking stickers and it would be legal to do that.

Ms. Schleicher – In the wintertime that would work. We do have a limitation on how long that type of truck can be in the summertime.

Mr. Hosti – You can move 5 feet one direction.

Ms. Schleicher – You can move it to a new parking spot.

Mr. Hosti – That is 5 feet.

Ms. Schleicher – The rule is between Memorial Day and Labor Day there is a requirement of rotating the utility trailers, boats, and RVs that have decals. I don’t have it in my head exactly how often they have to move but during the winter they can just park in the right-of-way.

Mr. Bishop – You purchased the lot in 1994 based on the documents we have, is that correct?

Mr. Hosti – That is correct.

Mr. Bishop – How long have you been using the vacant lot for storage items?

Mr. Hosti – Over five years. There was a short period of time, probably a year, which Buddy Block had asked to store his motor home back there. He went to the City and got a permit to rock so he could put his 40 or 50-foot motor home on it.

Mr. Bishop – You have actually used the lot in excess of 5 years subsequent to 1994.

Mr. Hosti – Yes.

Mr. Bishop – Has there ever been any notice or any discussion from the City with regards to your use of this lot not being in conformance with the Neighborhood Grocery or R-2 issue previously?

Mr. Hosti – No. Up until this complaint. The complaint was aimed at me because of a public safety issue the City was addressing. I told Diane Schleicher, the City Manager, in my office that this was going to happen. I told her she was going to open a can of worms and basically that is what happened.

Ms. Schleicher – In the City's defense, I know that there has been some strife between the neighbors. The City needed to address the intersection and facilitate the trucks turning off of Lovell and that was brought to our attention during the public hearing with Maritime Academy. The neighbors came and talked about the trucks. Staff was asked to look for a resolution so the longer trucks that couldn't get through the parking lot could get off Lovell as quick as possible. We worked with Georgia Power to relocate the pole. We relocated the street sign and the stop sign and added asphalt. We improved the drainage basins there so the trucks wouldn't crush them. We spent a lot of time and money to improve that intersection and Mike has been doing his due diligence. He drew up a map and has been instructing the drivers to make that turn. We were basically dealing with that issue when the discussion came up. We don't want them turning on Jones; we want them getting back to Butler as quick as possible. Because of that, it sounded like it basically turned up the old hard feelings about the rezoning of the parking lot and the fact that the store is there. Mr. Hosti predicted it would when I came to him to get his advice on how to improve the intersection.

Mr. Hosti – I had suggested to her to go to Tenth Street and try to do this so we wouldn't open up this wound. The people on Tenth Street don't do anything with the City right-of-way behind their property and it is also on the edge of the Methodist Church parking lot which would allow a place for them to go a little further over when they are making the turn. She said we would rather get them back to Butler Avenue as soon as possible. We started work on the corner and the day the work started the complaint came.

Mr. Major – Dianne, could these containers be considered non-habitable accessory structures, that are permitted under R-2, although there is not a principal building there?

Ms. Otto – Not with their use being stored merchandise for a business. They are considered accessory structures to his primary structure, which is zoned N-G, and is a commercial entity. This is warehousing.

Mr. Major – Since this started as a public safety issue, if those storage containers weren't there, does that have any impact on safety at all?

Ms. Schleicher – No. It coincided with it because the neighbors saw we were working with IGA on the corner and they are also stakeholders because that is their block they live in. It was then brought to our attention that it was an improper use of the lot and didn't meet our zoning code and staff addressed it. It had never occurred to me until it was brought to my attention.

Mr. Hosti – That is how little the trailers are accessed; nobody ever sees anybody going into them. The lady down the street walks her dog every morning and sees the trailers open.

Mr. Bishop – To be perfectly clear, the public safety discussions, there is not a nexus between that and what we are looking at tonight so we have two separate and distinct issues that should really not be co-mingled.

Ms. Schleicher – Right.

Mr. Bishop – Are there any other questions for Mr. Hosti? [There were none.] Thank you. Is there anyone from the public that would like to speak to this?

Caren Madsen came forward and introduced herself. I live at 1105 Lovell. The lot in question is one door away from me. I really don't have any problem with the trucks being there but it could look prettier. My main concern is if it was to be labeled as a commercial lot and go down in history that way. The future is all I would be concerned about.

Mr. Bishop – You mean future development for some other commercial type?

Ms. Madsen – Future development of somebody coming in and developing it as a commercial lot. As I understand it the grocery store isn't even commercial. Labeling that commercial would open that up for anything.

Mr. Bishop – Thank you. Is there anyone else that would like to speak to this? [There were none.] At this time I will close the public hearing. Do I have discussion or a motion?

Mr. McNaughton – As much as I appreciate the presence of the IGA, I don't think rezoning is the proper way to go about it. In Section 5-110(H), Standards for Land Development Code or Zoning Map Amendment approval, two of the questions that we are supposed to look at is, *"Whether the proposed change will be detrimental to the value or improvement or development of adjacent or nearby property in accordance with existing requirements."* I know the neighbors have written emails but in my opinion, continuation of this would be detrimental to the economic value of property. The other section is (J), *"Whether the proposed change will constitute a grant of special privilege to the individual owner as contrasted with the adjacent or nearby neighborhood or with the general public."* I oppose the granting of special privileges to anyone.

Mr. Major – When we defined the Neighborhood Grocery section, it was done with specific lots. We have a section in our Land Development Code that says that these specific lots are included in this definition. Is it possible, without being spot zoning, to expand the definition of the lots that fall under the N-G category?

Ms. Otto – That is an option that you are considering this evening. It would be a Map Amendment and Text Amendment to the Neighborhood Grocery section.

Mr. Major – It would expand that definition for this specific lot.

Ms. Otto – Correct.

Mr. Major – What about the buffers, setbacks, and other requirements that don't seem to be addressed now?

Ms. Otto – If the lot were rezoned to Neighborhood Grocery, it would have to be brought into compliance with the ordinance which states a 3-foot arboreal features and suitable fence. The comments you were just making would be in the direction of the Map Amendment and Text Amendment that are before you.

Ms. Livingston – One of the options you talked about was option 2 where you applied the R-2 code erroneously. Are there any thoughts on that? Has anybody brought that forward to say that possibly was done?

Ms. Otto – That came forward at the August 14<sup>th</sup> City Council meeting, which was last Thursday, as was laid out in the initial staff report that you received. There was a sequence of events that led to enforcement action and those were

followed. Included in that ordinance, Mr. Hosti had the right to appeal to Council for that very reason if staff had misinterpreted and taken action incorrectly. Council's outcome from last Thursday was they wanted the process to play out to see if the current use can be granted or not. They opted to have it moved forward to Planning Commission and then it will be going forward to City Council on September 18<sup>th</sup>. The court date which was scheduled for today has been postponed until after the September City Council meeting.

Ms. Livingston – Just a couple of comments since we are discussing this. Mr. Hosti purchased the lot in 1994 and it was rezoned from R-2 to N-G in 2009. At the time it was rezoned, was he using this lot for this purpose?

Ms. Otto – The vacant lot we are considering is R-2.

Ms. Livingston – I'm talking about the original rezoning of the grocery store itself. At the time it was rezoned to N-G, was this lot being used for this purpose and was not rezoned or was it overlooked?

Ms. Otto – The only discussion about the lot at that time was that it was being used for employee parking.

Ms. Livingston – I really hate spot zoning, I just want to say that up front. I do recognize the fact that the IGA is a vital part of the island. Another thing I dislike is complaint driven responses to zoning issues because that is where we get into these kinds of things. If this was happening in 2009 it could have been dealt with in 2009 and it wouldn't be here now. When we get into spot zoning I don't like passing this on to someone else and it creates a situation where years down the road the Planning Commission and Council will probably be saying, "what were they thinking". However, in this case we need to find a way for Mr. Hosti, if at all possible, to keep this storage because we are in a unique situation on this island where there is no storage. There is nowhere to expand and we need to think about how we are going to deal with that.

Mr. Major – If I had a lot without a home on it and I put this same configuration of storage trailers and dumpster on that lot, not for commercial purposes, I'm just going to store my own things, would that be a violation?

Ms. Otto – No.

Mr. Major – The only difference is that he is going to resale the stuff in his trailer and I have golf clubs and stuff in mine.

Ms. Otto – Yes. The difference is personal property versus merchandise of the store.

Mr. Major – If we already have three lots that are zoned as a certain category and we expand to four, do we consider that spot zoning?

Ms. Otto – The prior lots were recombined into one lot and they are contiguous. On spot zoning is it contrary to the R-2 zoning such that you're providing special consideration to make the use fit the lot instead of the zoning fit the lot? If there was a proposal to build a warehouse there, that should have the same weight as what is occurring there. I stay away from the spot zoning term but in my opinion it would not be proper to zone to a proposed use. You generally want to find a use that fits the zone that it is occurring in.

Mr. McNaughton – Ignoring the cost that would be involved, is there anything that prevents the IGA from adding an additional floor for storage?

Ms. Otto – The height limitation of 35 feet. I don't know where the current structure is in relation to that restriction.

Mr. McNaughton – Theoretically that is possible.

Ms. Otto – The square footage would trigger additional parking requirements. He is landlocked with the business he has. When it was opted to expand the parking lot the parking standards that are within the Neighborhood Grocery district match what was available at that time. An expansion of the retail space would trigger additional parking.

Mr. McNaughton – He could ask for a Variance on the parking.

Ms. Otto – Yes. Or the height.

Mr. Bishop – I know spot zoning is not favored since it basically smacks of favoritism. However, in doing some of the research on this I did find there has been legal precedence set and I'm not sure if it would be applicable here on Tybee and it would take a call to Bubba [Hughes]. The reason I raise this is because of the amended agenda we had tonight. I will quote this, *"An existing commercial business can be accommodated by a zoning variance which would allow a non-conforming use for the time being or being grandfathered by the appropriate City officials and/or Council the right to continue this use existing when the zoning plan was initially and/or zoning was adopted and specifically indicates in the grandfathered agreement will terminate if the building and/or business is torn down or changed."* Why are we not pursuing that as opposed to going through looking to rezone or create an issue for Mr. Hosti when there possibly does exist some alternatives? This may be a legal issue I'm posing but that bothers me.

Ms. Otto – With the proposed five years that this has been occurring, that by no means predates the zoning of the R-2 of that lot. That occurred back in the 60's so it is not grandfathered in the sense that it was occurring at the time the property was zoned.

Mr. Bishop – It has been a use for storage since 1994 according to Mr. Hosti.

Ms. Otto – I heard five years which correlates to the time that the parking lot was expanded. Why was his request at that time to expand parking and not the store?

Mr. Bishop – Given that, my question is why could we not allow this to be accommodated by a temporary zoning Variance which would allow a non-conforming use in the R-2 zone that would not be in perpetuity?

Ms. Otto – There may be a means of accomplishing what you are proposing as I was recently educated a Variance is not to use, it would have to be some type of conditional or rezoning.

Mr. Bishop – In looking at issues that both the City of Tybee and Mr. Hosti are confronted with, there is legal precedence for an item that is referred to as an easement by prescription. That is where someone, and I'm not going to try to quote this but in my words, if someone's property is used informally for an extended period of time without objection by the City or the municipality, if that use continues uninterrupted for a number of years, under Georgia law that is five plus years, it can become a permanent right and that is determined to be an easement by prescription. That has been litigated numerous times and the requirement for establishing an easement by prescription are similar to those for adverse possession, but the claimant must establish by clear and positive proof that they have enjoyed the use of the property for the required statutory number of years. In Georgia, if I understand it correctly, it is five years if he has met that qualification. The number of years of such use has been under a claim of right ownership which has continued uninterrupted, visible, and exclusive with knowledge by the alleged aggrieved party being the City of Tybee. That was determined to be a valid reason to continue a non-conforming use in Tennessee. Under Georgia law the five to seven years of uninterrupted use, although it does not follow within the legal ramifications of adverse possession, it does and has been litigated in many jurisdictions as an easement by prescription to not pose an unnecessary burden on a continuing business enterprise. For the purpose of our record and for review I have offered that for concern for this Commission as well as City Council should it become necessary.

Ms. Schleicher – My familiarity about easements by prescription is that if someone puts a fence on your property and you don't object to it. Seven years has been the rule of thumb that I am familiar with but then on year 8 or 9 and you

don't get along with your neighbor then you lose the right to move that fence. Same thing if your neighbor is crossing your property in order to get to their property that is generally the traditional easement whether it is City property or another person's property. If there is no formal objection made and it goes on for a number of years without any change you can't suddenly flip and say you can't cross it. You have created what they call an adverse possession or a right to go across the property. I'm not familiar if someone has been using a piece of property that doesn't meet the zoning and the zoning administrator or staff didn't realize that use is there or that use is illegal. I don't think they can gain that right because staff did not see it or interpret it as wrong. I'm not a lawyer but those have been my experiences, usually somebody using your property by putting up a fence or going across your property without objection and after a certain amount of time. It is almost like a common law husband and wife. You are stuck with them. That is my experience with the use of that term.

Mr. Bishop – I don't disagree with you. My point being, *"An easement by prescription open, continuous, and exclusive for that period of time, that prescription does allow that use to continue."* It is different from adverse possession because he is already in possession; he owns it, not in an adverse manner. I'm simply saying by looking at the ingredients of that and the activities that have been undertaken over the course of 'x' number of years, it is a similar situation to an easement by prescription, not textbook defined. I'm simply saying that if you look at what has been used by an easement by prescription and also look at the fact that a Zoning Variance which would allow for a non-conforming use for a specified time to continue, not to the detriment of anyone, but to the detriment of the person that has been involved in that. If you combined the two there may be a workable solution without going through a specific spot zoning which I absolutely don't agree with. This is as an alternative and I suppose that is a Bubba question. I'm just concerned about making sure we do the right thing and looking at all of our alternatives. When you mesh that easement by prescription, this is not a true easement by prescription, but it certainly is true in a sense of this is a nonconforming use by the fact that this storage is being maintained in an R-2 and not in an N-G. I think there is another way of going about it without having to go through spot zoning is my point.

Ms. Schleicher – I don't think it is spot zoning because I believe it is contiguous. If it was down the street and you had a couple of lots separating it that would be different. I don't think the street causes it to be spot zoning. I also want to address the lady that came up and stated she was worried about future uses. The Neighborhood Grocery use has limited uses. It's not like you open Pandora's Box of everything that is allowed in either a C-1 or C-2 area. It allows for the non-habitable accessory buildings, public utility structures, and that sort of thing. It is not a true full-fledged commercial use.

Mr. Bishop – Spot zoning is defined as, *"Granting to a particular parcel of land for classification concerning its use that differs from the classification of other lands and parcels in the immediate area."* We do have that to some degree.

Ms. Schleicher – The immediate area is IGA.

Mr. Bishop – We've got R-2 with residents behind it. I'm concerned about it from the aspect of establishing precedence. You know we have seen things come back over and over.

Ms. Schleicher – I'm not saying that is the answer but I will give you an example. The owner of the house north of the Social Club, which is C-1, came and petitioned to become part of C-1. Would you consider that spot zoning? I think it is contiguous; it is just a continuation. If it was a neighbor on the other side and he jumped a lot, I would definitely think that is spot zoning. This is contiguous, it does jut into the R-2 zone and I'll give you that. It is next to the other Neighborhood Grocery zoning and it is not the best situation. We were actually looking for what you suggested which was a Variance. We had the rug pulled from underneath us because our attorney felt that wasn't appropriate for a Variance. After he did some more digging, the way our code is written he didn't feel we could do a Variance because that would be just for that use and it couldn't be made into a bed and breakfast or other things.

Mr. Bishop – To me it makes logical sense.

Ms. Schleicher – It was unfortunate that we couldn't do that. I don't know if we need to have a Text Amendment to the fact that we can't grant the Variance. I think that opens another can of worms and that is why we had that safety valve.

Mr. Bishop – Your position as the City Manager would be the zoning change to N-G for this specific use.

Ms. Schleicher – The City Manager rarely has a position as far as zoning is concerned. I'm here to talk about another topic but I was a Zoning Administrator as well as a City Manager for 12 years. I have some familiarity but not the day-to-day that Dianne Otto has and of course the Planning Commission. I'm relaying the history that I have working with IGA and what they have gone through and the experiences I have had with rezoning; it is always very tricky.

Mr. Bishop – I understand. Thank you. At this time is there any more discussion or do we have a motion?

Mr. McNaughton – I think there has to be a better way to resolve this. I move that the request for Map Amendment and Text Amendment be denied.

Mr. Bishop – Do I have a second? [There was none.] Motion fails for lack of a second. Do I have another motion?

Mr. Major – Not seeing any other way, I move that we expand the definition of the Neighborhood Grocery zone as stated to include this lot but as part of this that any and all ordinances pertaining to buffers and setbacks, or anything else in the N-G zone, be strictly enforced.

Ms. Livingston – Second.

Mr. Bishop – I have a motion and a second. All in favor please signify. [Vote was 3-1 / Major, Bishop, and Livingston were in favor - McNaughton was opposed]

#### **Variance & Special Review – Marsh Hen Trail – north side of Hwy. 80**

Ms. Otto – This is a petition by the City of Tybee Island. The request requires both Variance and Special Review for construction of a trail, to be called the Marsh Hen Trail, on the north side of Highway 80. It would extend from the west boundary of the Battery Row subdivision easterly to Byers Street. Because the request proposes materials be placed into a marshland, the Variance is needed from Section 3-100. In addition, Special Review is required for construction of a trail in the R-2 zone. The City Manager has joined us to answer your questions along with the engineer and the environmental consultant for the project.

Ms. Schleicher – I would like to give you a narrative of what the trail is. I wrote three grants and I think the fourth time was a charm for getting funding. When you go from Byers to Teresa, the plan is to modify the sidewalk and make it bikeable so you double the width similar to what we did in front of Chu's between Second and Jones. As you cross Teresa, we are going to increase the width of the shoulder and do some protection so bicycles can go back and forth. We met extensively with the North Wave and the Sandy Shores Homeowners Association. The neighbors had a good meeting on site. They wanted us to go as far past the neighborhood as possible so we are not going to be using what used to be an old driveway opening; we are going past that. I don't know the exact feet but Mr. Giordano with Thomas and Hutton could tell you. Past the neighborhood we're going to build a boardwalk that is similar to a crossover. If you recall the crossover that we did at Byers, how we went over the marsh first and then we went over the dunes. We are going to build a similar boardwalk but it will be more structurally sound and a little wider because it will have the weight of a lot of people and the bicycles. The reason it is called Marsh Hen Trail was the railroad that used to come to Tybee used to be called the Marsh Hen train. When we cross the little canal just west of Sandy Shores and North Wave, we will be on the old railroad historic bed and then we will head directly west. The first phase of funding that we got, which was the Transportation Enhancement grant, will help us fund it all the way to Battery Row. It will cross into Battery Row and we were able to secure additional federal funding because it was a very expensive project as it turned out. It would continue to the end of the westerly portion of Battery Row and that will be the terminus. The future plans for that trail will be when the new bridge is constructed. They will be having a pedestrian/bicycle feature on the north side of the bridge and the City would like to join up and connect with that. On the other side connecting with the McQueen's Trail, they will do the same kind of feature on the Bull River bridge. Theoretically,

when the bridges are done, we will be able to ride our bicycles to Wilmington and Savannah safely. There are discussions that after the bridge is built, get another grant with the DOT and go under the bridge with a path and circle to the Lazaretto Marina. This is the first start of this alternative transportation mode. We will probably be back asking for similar Variances and Site Plans to go under the bridge. The reason why the project is costing extra money is we made a concerted effort not to fill in the marsh. What we are going to do as soon as the trail gets to certain areas that are deemed marsh, we are going to put a low boardwalk between 6 to 8-inches high depending on what is needed. I'm not sure how many feet of boardwalk are anticipated but there is quite a bit. After we delineated it there was more than we anticipated but the City had decided to not apply for a fill permit from the DNR. What we are going to do is apply for a buffer Variance. The Corps of Engineers has also reviewed our plans and because we are putting in a boardwalk they are not requiring us to get a permit. In order for us to go to the DNR we need a Variance from Planning Commission and City Council that says it is okay to put in a wood boardwalk and we met the Special Review so that we can provide a zoning letter to the DNR. I have the technicians here if you have any questions.

Mr. Major – I think it is great. As I understand it this was part of our last Master Plan and is an ongoing Short Term Work Project.

Ms. Schleicher – Right. It was really helpful that it was part of the Short Term Work Plan and Master Plan that we identified it because it sealed the deal with getting funding.

Mr. Bishop – All the funding is grant dollars?

Ms. Schleicher – Eighty percent.

Mr. Bishop – Is it matching 20?

Ms. Schleicher – We have to do a matching 20. We will be contracting out the sidewalk and shoulder work but a lot of the work is going to be done in-house with our own staff. We have a jam up great staff that built the best crossovers and boardwalks you could ever want. We will be doing a lot of that in order to save money, the quality control is there, and our guys can do it.

Mr. Bishop – What is the timeline?

Ms. Schleicher – Construction should start around 2015. We are working on the environmental this winter and we are thinking that we will actually start constructing next fall if we get through all the hurdles. We are going through the environmental a little faster than we thought we would.

Mr. Major – Will this be accessed right off Byers?

Ms. Schleicher – Yes. When you are coming off Byers you would have the opportunity to go up on an ADA ramp onto the sidewalk.

John Giordano came forward and introduced himself. I'm a Professional Engineer with Thomas and Hutton. I just came up in case there were any questions.

Mr. Bishop – Do we have any other questions?

Ms. Schleicher – We did look at using asphalt and concrete materials and have elected to go with a walk that has granite fines that has a tendency to smooth out so it can still be ADA compliant. We also had worked closely with Georgia Power to move it further away from their poles so they wouldn't be driving over the boardwalk and path so they can service the poles. There has been a lot of background work to get to this point.

Mr. Bishop – Do we have any more discussion? [There was none.] Do we have anyone from the public that would like to comment on this? [There was none.] At this time I will close the public hearing. Do I have a motion?

Mr. McNaughton – I move to approve the Variance and Special Review applications.

Mr. Major – Second.

Mr. Bishop – All those in favor please signify. [Vote was unanimous.]

**Variance– Burton 4-H Center – 9 Lewis Avenue**

Ms. Otto – This request is somewhat similar to what you just considered. It is a Variance for the same prohibition of placing materials in the marsh. This project is at the 4-H Center at 9 Lewis Avenue. The intent is to stabilize the bank along Horsepen Creek. This project would install a sloping built section with oyster bags that would encourage habitat for oysters and other sea creatures to stop eroding the bank and instead have oyster colonies along it. The typical bank stabilization that we would see would be a large bulkhead. Instead this is considered a living shoreline and is intended to accomplish the same as a bulkhead in that it will stabilize the ground along that shoreline that has been eroding along the marsh line. It is a long area that needs to be stabilized.

Mr. Major – I go in and out of there with boats and kayaks. There are sections, particularly where the long dock is, where it gets very narrow. Is this going to further reduce the width of the creek at any point?

Mr. Tom Havens came up and introduced himself. I'm with Coastal Civil Engineering and I am the project designer. It is absolutely not going to reduce the width of the creek at any point. To actually make the bank stable we need to slope it back from where it is now because it is pretty much vertical. There is some slough material at the bottom of the bank and that will be where the toe that holds all this in place is put in. That toe is actually going to be buried and you can still kayak and boat. I have some photographs of a similar installation. [Mr. Havens distributed a document to commissioners.] This is an installation that was done on Little St. Simons in the spring of 2013. It looks a lot different now and I'm sorry I don't have current photographs because along the top edge, as you can see, it looks like dirt right now. That was all planted in sea grass, sea oxide, and marsh elder which came up really well.

Mr. Major – Is this shoreline tidal?

Mr. Havens – Yes. This is pretty much identical to the situation at Horsepen Creek. We left little pockets in the oyster bags in some places and sprigged this spartina to come up through there. They are getting good recruitment with the oysters and that was the whole intent of how this system works. The banks will be sloped back and there will be two layers of bags put down which is what you see there. The layers of bags are actually rebarred together with the pins on grid spacing. We try to shoot for late winter to put these in because the spat usually comes out in April and May. We are shooting for a good recruitment to get that first year of spat to settle on the oysters. I ran into Joe Richardson when I was on-site and he said the City had put in a similar living shoreline on Horsepen Creek. He tested the water and said there were dramatic water quality improvements based on those oysters that are growing there. I did a quick calculation, and I can't guarantee anything, but if we can get 50 oysters per square yard in this bank, each oyster will filter about 30 gallons of water per day. If we do the whole bank and we get that kind of recruitment we could have half a million gallons of water actually treated by oysters in that section of creek. It is amazing what those little critters can do. In addition to being a stabilizing factor they have other benefits. On Little St. Simons we had a 38% increase in fish species after that went in. That is good increase because there was a bulkhead there before and bulkheads are bad. One of the great things about this project is that they actually acquired a revocable license from GA DNR last September for a bulkhead in this same spot and this is a much better system.

Ms. Otto – Would you explain how the construction is spaced so there isn't a lot of disturbance at one time?

Mr. Havens – You've got the tide that goes in and out and you can only work at low tide so there are only a couple of hours to work. You don't strip the entire creek bank; you strip as much as you can do in a few hours. You are very careful about how you progress with operations out there. That is how Little St. Simons was done and it worked out great. It extends the construction period but that's just what you have to work with.

Ms. Otto – I should have stated the same for the trail we just considered. You have plans in your packet that are conceptual in nature. Between now and the time they are actually going to be doing the bank stabilization and construction of the trail, further erosion may be occurring. These are intended drawings but actual site conditions may cause some deviations that need to be implemented at the time the work is actually occurring.

Mr. Havens – This is a necessity to do something about this creek bank because there are exposed water lines that are sticking out of the creek bank and some of the buildings are close to where the creek is. Something has to be done out there.

Mr. Bishop – I agree wholeheartedly. I paddleboard in that area and over the span of the last four years you can see the deterioration from year to year and in some parts month to month. I had the pleasure of going through the project at Little St. Simons with a group from St. Simons in a paddleboard environment. We went around little St. Simons and you could see the difference from one year to the next. It is phenomenal the results and the fact that it does increase oyster growth that helps to filter water. In our packet it indicated Downer Davis, the City's consulting engineer, had reviewed the construction and erosion control plans and had provided some comments to you. At the time our packets were prepared those revised plans had not been received by Mr. Davis. Where is that?

Mr. Havens – That is correct. I haven't gotten around to revising the plans yet. The comments didn't have to deal with the geometry of the project at all. They were mostly utility in nature and it is just something I haven't done yet. It doesn't affect what you are considering as a Variance tonight so I didn't look at this as a deadline to get the revisions done.

Mr. Bishop – Dianne, do you concur with that?

Ms. Otto – Nothing here would have an impact.

Mr. Bishop – No show stoppers in regards to Variance.

Ms. Otto – No.

Mr. Bishop – Is there anyone from the public that would like to speak to this? [There were none.] At this time I will close the public hearing. Is there any discussion or a motion?

Ms. Livingston – I make a motion that we recommend passing the Variance by Burton 4-H Center for the living bank stabilization project.

Mr. Major – Second.

Mr. Bishop – All those in favor please signify. [Vote was unanimous.]

#### **Text Amendment – Article 7, Tree Ordinance**

Ms. Otto – This packet you received was prepared by intern John Eric Schleicher; his last day was last Thursday so he is not here to represent what he prepared for you. I will attempt to answer any questions you may have. This tree ordinance came to you in May and we were a little overwhelmed by what we had received from the Urban Forestry Arborist Jerry Holcomb and John Eric opted to pare it down. He has provided a comparison of what our current ordinance requires versus what this revised ordinance would implement. In the staff report he does note that the ordinance would call for the creation of a Tree Board to be five voting members of which three would be City officials and two residents of Tybee Island. The Public Works Director would serve as an advisory person and would be a non-voting member. In the ordinance is an outline for that Tree Board to follow and what their responsibilities would be. The ordinance also speaks about the canopy requirements of this. Rather than the current ordinance which requires one tree for every 1,500 square feet of property, this proposed ordinance follows what is called a minimum canopy requirement. The formula for determining the canopy requirement is to take the square footage of the lot and divide it in half. For example, a typical Tybee residential lot is 4,500 square feet so dividing that in half would provide how much tree canopy that lot would need to be brought into compliance. That would be true even if that lot does not currently meet that requirement. Currently if there is a vacant lot that has no trees and is being developed, for example, a single-family home, there is nothing in the current tree regulations that require any trees to be provided. The proposed ordinance clearly states that the tree canopy requirement has to be met even if it didn't have any tree canopy prior to the development occurring. To determine how to meet that canopy, the trees are divided into four categories: large,

medium, small, and invasive. The invasive are undesirable non-native species that have no contribution to meeting the canopy requirement. For the large species trees each of those is calculated to provide 1,200 square feet of canopy coverage. The medium category trees would provide 550 square feet of canopy. The small species would be given 250 square feet of credit towards meeting the minimum canopy. When a lot is proposed for development or if there is a request to remove existing trees, there are options to meet that minimum canopy requirement through either mitigation or a contribution to Palms Up Fund. We currently have those two mitigation options but there is a third option in our current ordinance that allows native trees that are remaining on the property to be counted toward mitigation. For example, if an applicant requests to remove a 20-inch oak tree but also has two 10-inch palm trees, because palms and oaks are on the significant species list, the two palm trees can be put into perpetual protection and be the mitigation for the 20-inch oak. The proposed ordinance before you no longer allows the remaining trees to be considered as mitigation for the trees being removed. The options are to either plant or pay a mitigation fee to the Palms Up Fund. The recommended fee is \$500 if the applicant chooses not to plant and instead pays into the fund. That \$500 per tree fee would be used by the City to plant trees or care for trees on the island. Towards the back of the proposed ordinance are the tables that provide the species for the large, medium, small, and invasive or non-native trees. At this point I would be glad to answer any questions.

Mr. McNaughton – I am delighted to see this because I am a tree hugger. On the staff report, under Section 3 Mitigation, there is a fee calculated based on the number of trees required for the lot to meet the minimum canopy required. The average cost of a replacement tree is \$500? I bought a very good river birch and had it delivered to my house for \$250 about three years ago. I think that is going to scare people and I don't want to scare people away from this.

Ms. Otto – As John Eric stated in that section, Jerry Holcomb offered that \$500 as being the average cost of a replacement tree. It is certainly open to your input if you choose to change that.

Mr. McNaughton – Given the specifics of this proposed ordinance and a Tree Board, I'm not sure what the Tree Board would accomplish.

Ms. Otto – That too was a recommendation from Jerry Holcomb. When the City Manager and I first met with Mr. Holcomb, we outlined for him that our current Infrastructure Committee would be considered our Tree Board because we consider the trees to be resources of the island. He was not supportive of that and was firm that a separate Tree Board was needed; that is certainly at the will of the City.

Mr. McNaughton – Doesn't Savannah have a Tree Board?

Ms. Otto – I think they do.

Mr. McNaughton – I'm a little concerned, for a number of reasons, about requiring all the lots to meet the minimum canopy; I wish they could. How many property parcels are there on the island, 2,000?

Ms. Otto – Probably more than that.

Mr. McNaughton – I'm concerned about the ability of the City to enforce it and the cost to the citizens. I would rather that not be in there but there be some provision that the City, an extension agency, or someone else, provide free trees to citizens who wish to plant them on their property.

Ms. Otto – The adoption of the ordinance will not trigger that all lots have to meet minimum canopy. The triggers would be if an owner applied to remove trees they would need to come into compliance.

Mr. McNaughton – I’m confused about that. Even though I keep planting trees it is still not enough to meet the minimum canopy under this. I took it from your comments if this were approved, starting tomorrow, everyone would have to come into compliance.

Ms. Otto – No. Only if an activity triggered it.

Mr. McNaughton – Okay, I feel better about it.

Mr. Major – From reading under the responsibilities and duties of the Tree Board, particularly the part where it says you can’t engage with them, is it our intent that the Tree Board in any way gets involved in the enforcement of this ordinance?

Ms. Otto – No, not enforcement. Their duties are outlined and they are to periodically review and report to Council.

Mr. Major – The first one, defining the scope, says that they do anything within their scope. This could be interpreted a couple of different ways.

Ms. Otto – We’re looking at Section 7-040 which begins on page 3.

Mr. Major – The first one where it says, *“The Tree Board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question within the scope of work.”*

Ms. Otto – Planning Commission is sometimes directed by Council to investigate a particular Land Development Code. I would read that to mean they may be directed by Council to look into something particular with the tree ordinance.

Mr. Bishop – Let’s say the average lot on Tybee is 4,500 square foot. I’ve got to have 2,250 in tree canopy to meet the ordinance, assuming this passes. In a vacant lot with no trees, I can plant two Bald Cypress trees and I’ll meet the requirements since a Bald Cypress is considered in the large canopy and counts as 1,200 square feet per tree.

Ms. Otto – Correct.

Mr. Bishop – That is at maturity, I can plant any type of Bald Cypress as long as it has the 2 inch or larger and that meets the requirement of 2,250.

Ms. Otto – Yes. There is the standard that it has to survive two years.

Mr. Bishop – Yes, but that meets it.

Ms. Otto – There is a requirement when calculating mitigation options that if there were four or more trees required to meet the canopy you can’t plant more than 40% of the requirement in one genus or 15% of one specific species. This intent is to have diversity of trees on the island.

Mr. Bishop – I wanted to be sure that if I had to have 2,250 in canopy that I didn’t have to time a planting that had to equal 2,250; that is a maturity obviously.

Mr. Major – I think that is really clear in the narrative.

Ms. Livingston – I think it is well done.

Mr. Bishop – Is there anyone from the public that would like to speak to this. [There were none.] At this time I will close the public hearing. Is there discussion or a motion?

Mr. Major – I move to approve as submitted.

Mr. Bishop – Second.

Mr. Bishop – All those in favor please signify. [Vote was unanimous.]

**Text Amendment – Article 16, Stormwater Management**

Ms. Otto – The City of Tybee recently had its Community Rating System audit which determines which classification we are for the National Flood Insurance Program. The consultant that was hired with Ecological Planning Group identified an opportunity for the City to have received additional CRS credits by adopting a watercourse regulation that we did not currently have on the books. There is a second component about illicit discharge that we did already have. To accomplish this, you have before you Article 16 which is an extremely long article. I have provided a summary sheet to help find the pages within that article where these proposed changes would occur. The first would be on page 5 of Article 16 which is the definition section and what is proposed is a definition for ‘watercourse’. A second change that is proposed would be the title on page 12 of Section 16-220 and it would add ‘Watercourse Protection’ to the current title which is Accidental Discharge Reporting Requirements. That title change would then take us to Section 220 where watercourse protection guidelines would be added and they state that any person whose property includes a watercourse is responsible for maintaining that watercourse by keeping it free of trash, debris, overgrowth, anything that would obstruct the purpose of the watercourse. Finally the last change that would be needed to adopt this watercourse protection is a minor change within our Illicit Discharge section which is called Accidental Discharge Reporting and it fine tunes it that notification is required if there has been an illicit discharge. These changes, according to the Coordination’s Manual for the CRS program would make the City eligible for 30 additional credits towards its classification. Joe Wilson is our Director of Public Works and oversees our Stormwater Management; he was surprised that we did not already have the Watercourse Protection within our document as it is common in the other communities that he has worked. That is not only on the books but also enforced.

Mr. Bishop – With our requirement of drainage plans here on the island, would drainage plans that convey stormwater on private property, although not considered permanent or intermittent streams, would that fall under this stormwater management?

Ms. Otto – Yes. If there are swales conveying water, they are responsible. It has always been thought that private owners were responsible for maintaining those swales. This would actually document that requirement.

Mr. Bishop – Those swales, that is a watercourse?

Ms. Otto – Correct.

Mr. Bishop – Is there anyone from the public that would like to speak on this? [There were none.] At this time I will close the public hearing. Do we have discussion or a motion?

Mr. Bishop – I make a motion to approve.

Ms. Livingston – Second.

Mr. Bishop – All those in favor please signify. [Vote was unanimous.]

**Text Amendment – Article 2, Definitions**

Ms. Otto – This also had been brought to the Planning Commission in May. Like the tree ordinance, our intern, John Eric Schleicher delved deep within and provided a summary document for you with three categories - definitions to add,

definitions that need amended, and definitions to strike. Note just these are before you. If there is anything else within Article 2 that you would like considered, that also can be addressed this evening.

Mr. Major – On numbers 11 and 12, we define a guest room as a room with a private bath, an entrance from the outside side hall, corridor, or lobby which may be rented as a single rental unit. Number 12 defines a house as a structure occupied for the sole purpose of shelter and accommodations not to be used for commercial activities. If I have a guest room in my house is it no longer a house? I'm a little confused with the definition of those two.

Ms. Otto – The guest room definition is, I believe, referring to the bed and breakfast regulations. It is hard to correlate these when you don't have the source document. I believe the intent there is, again, clarity for bed and breakfast requirements.

Mr. Major – We will only use the term 'house' when there is no commercial, cottage industry, or somebody is working out of their house, then it takes it out of this definition.

Ms. Otto – Within the current ordinance there is a home based business definition which is obviously different than what that structure 'house' is intended to mean. If you do not feel one or both of those need to be included, we can add them to the strike list or staff can come back with a further understanding of those if you would like them looked at deeper.

Mr. Major – When you say you can't use a house for any commercial purpose, why not if it is just a structure? That last sentence, it says, *"not to be used for commercial activities."* Why not? You could repair lawnmowers.

Ms. Livingston – I think it is the structure itself but I see what you are saying.

Mr. Major – The one I think is more serious is the definition of industry where we define it as every industry except for the ones we have on Tybee which are service industries. I think this is fine and is a good definition of manufacturing industry, I just did a quick look on service industry is an industry that provides services rather than tangible products. I think that covers most of the industry that we have on Tybee. Even if you just said also service industries. I don't think we do a lot of manufacturing on Tybee.

Mr. McNaughton – I want to start with number 9 – hardship. I think we have a typo in the last sentence. I think it should say unnecessary hardship is present. Number 24, the definition of special events; does that include weddings and wedding receptions? I thought that was what one of the issues that triggered the questions about the findings in the Special Review.

Ms. Otto – This particular term, I believe, is referring to the special events that the City requires special event permits to occur such as Pirate Fest and things such as that. There is a provision that allows special events to occur in parking lots under a certain policy that we have adopted that would fall under the haunted house or carnivals where they can get a permit at no fee to temporarily set aside their parking requirements and have a special event in a parking lot not during June, July, and August. There are certain guidelines they have to follow. We do use that term 'special event' in different context so I'm not sure which one.

Mr. McNaughton – This is the definition that Julie asked for, if I recall right. I wanted to make sure that it included whatever concerns that she had.

Ms. Otto – I could see where you would comment about weddings.

Mr. McNaughton – I wonder if the definition should include an event that requires a special permit or something to distinguish that from anything else. Under Planning Commission, the fourth page, it says, *"Planning Commission means*

*a seven member body appointed by the mayor and council to evaluate proposed land use changes and administer land development controls in the city.” We don’t really administer anything, do we?*

Ms. Otto – The only change there was it still had the nine members.

Mr. McNaughton – We don’t administer anything.

Ms. Otto – I will work on that some more.

Mr. McNaughton – I used to be a copy editor for many years and that is why I see some of these. On the sign one that is on the next page, there are two things. In the first paragraph it says, *“Sign means any area....directing attention to professional, business, commodity, service or entertainment message.”* Shouldn’t that just end at entertainment? The word ‘message’ seems extraneous.

Ms. Otto – Okay.

Mr. McNaughton – On political sign is has, *“means any sign consisting primarily of political speech...”* just means any sign consisting of political speech. It is not primarily, it is completely.

Ms. Otto – Stop at political speech?

Mr. McNaughton – Yes. The other one was we didn’t come up with a definition for a shallow lot. I think she should also have one for a narrow lot if we are going to do that because it comes up in the Variances.

Ms. Otto – My apologies, I thought I had included that on the list I had provided. With your input, my preference is there is no hurry on this. My preference would be to bring it back in September.

Mr. Bishop – Do we define house of worship? If not, there is a house of worship but we can’t have that on Tybee because house means structure occupied for the sole purpose of shelter and accommodation.

Ms. Otto – Yes, we have church or place of religious worship.

Mr. Bishop – That would not be confused with a house. Obviously in that proposed definition of house, meaning structure occupied for sole purpose for shelter and accommodation we mean that for people not such as a dog house for shelter and accommodation I presume.

Ms. Otto – I actually searched our code when that word came up and there is dog house in our code.

Mr. Bishop – So that is in our code.

Mr. Bishop – Do I have a motion to adjourn?

Mr. Major – Motion to adjourn.

Ms. Livingston – Second.

Mr. Marion – All those in favor please signify. [Vote was unanimous.]

Meeting ended at 8:59 PM

*Minutes by Jerris Bryant / Edited by Dianne Otto 09/17/2014*