

MINUTES
Planning Commission Meeting October 17, 2006 – 7:00 p.m.

Chair Lawanna Tsoulos called the October 17th Planning Commission meeting to order. Other Commissioners present were Charlie Brewer, Barry Brown, Sandy Chandler, Bill Garbett, Susan Hill, Gene Kindrick, and Chuck Powell. Absent was Honor Hutton. City Staff present were Dee Anderson and Dianne Otto.

Gene Kindrick motioned to approve the Minutes of the September 12, 2006 Agenda Meeting. Chuck Powell seconded. The vote was unanimous. Gene Kindrick motioned to approve the Minutes of the September 18, 2006 Meeting. Sandy Chandler seconded. The vote was unanimous.

Hubert Ellzey presented a Zoning Variance request from Section 3-090 of the Land Development Code, Schedule of Development Regulations, for **1 Shipwatch Circle**, PIN 4-0021-17-017, Zone R-1-B. This was an after the fact variance request. Citing his closeness to the family, Gene Kindrick recused himself. Ellzey said he was asking for a variance on stairs. He distributed and discussed measurements that had been asked for at the agenda meeting. Barry Brown asked if the drawing Ellzey distributed was the one he had turned in with the building permit application. Ellzey showed a rendering of the stairs and said it was what he submitted in October of 2005. Brown said the permit was issued in April of 2004. Ellzey said in 2004 he gave a copy of the tax plat that showed where the stairs would be. Brown said the tax plat states the proposed steps would be 54-inches wide and 30 feet from the property line. Ellzey said the 30 feet was from the edge of the street. He said they found out six months later that the lot is not a 20-foot mitered corner. Bill Garbett said the tax plat drawing did not accurately reflect the location of the house on the property. Ellzey said he acted in good faith. Sandy Chandler said what was built bore no resemblance to the drawing that was submitted with the building permit application, and the October 2005 drawing does not show perspective. Brown said Ellzey asked for a permit based on stairs 54-inches wide with steps going down either side. Ellzey said that was why he submitted the drawing in October. Brown said it gave no depth perception, and this is why a survey is needed for building permits. Brown asked why he did not change the plot plan to reflect the revised drawing. Ellzey said they did not ask him to. Brown said the permit was issued for a \$2,500 project and now it is \$8,200. Chuck Powell said the City has some fault. He said what Ellzey needs is permission to encroach into the City's right-of-way and the Planning Commission is not able to grant that. Garbett said the Commission can address the issue of a variance into the setback. Charlie Brewer said what was presented in the sketch does not match what was built. Dee Anderson said the original permit was issued in April of 2004, and Ellzey did not build until October of 2005. He said the City's pavement is not centered; it is all the way on the other side of the right-of-way. He said when the subdivision was platted in the 1980s there was supposed to be a 20-foot setback on all sides abutting a street but that was repealed in 2002. Anderson said a mistake was made by both parties. He said it will not happen again; an ordinance requiring a survey will hopefully be passed that will give the grounds for not issuing a permit. Chair Lawanna Tsoulos asked if anyone in the audience would like to speak in favor of or in opposition to the petition. She closed the Public Hearing. Chandler motioned to deny. Garbett seconded. Chandler said it would be irresponsible for the Planning Commission to continue a mistake that was made regardless of who was at fault. Brown asked if Chandler would consider allowing a setback variance of 4 feet, 6-inches. He said Ellzey would have to take the existing stairs down. Chandler said Ellzey would have to come back with that. Brewer said it was outside their jurisdiction to have the steps in the right-of-way. He said he hoped the City would try to work out whatever they can with Ellzey. Garbett said it was negligent of Ellzey to put a structure on his property without knowing where his boundaries were. Tsoulos called for a vote. The vote was unanimous; the **motion to deny passed**. Tsoulos told Ellzey he had the right to go before City Council on November 9th.

Bernie Goode presented a Zoning Variance petition for **503 Seventh Street**, PIN 4-0005-15-015, Zone R-2. The variance was from Section 5-010 (K), Prohibit Placing Materials in Marshlands, of the Land Development Code. Goode said it was an application to fill a small amount of wetlands in order to install a box culvert under a proposed driveway to a proposed house. He said the culvert would be 8 by 3 feet. Goode said there is a drainage ditch that the City put in and there is no other practical way to get to the house site. He said he needs federal, state and local permission. He said he has federal approval, and the state will not take his application until he gets Tybee's approval. He said eventually he will need a City permit for the house. He said the ditch is 2 feet deep and about 8 feet wide on the bottom and 10 to 12 feet wide on the top. Sandy Chandler asked Goode if he had come before them for a variance for the house. Goode explained he had but now does not need a variance for the house. Chandler asked Dee Anderson about that. Anderson said that

prior to Tybee adopting the Soil and Sedimentation Ordinance the state had already permitted Goode's house. He said when the City denied the variance for the house Goode appealed it to the Director of the EPD and they stated the existing permit was valid. Barry Brown asked if Goode had to come back for a variance to build in the buffer zone. Anderson said not according to the state. Bill Garbett asked what conditions the EPD imposed. Goode said he agreed to identify all outflow points, to close them to assure there would be no flow off of the property during construction, that the parking and driveway areas would be pervious material, and that he would maintain and enhance native vegetation in the undisturbed buffers. Garbett asked Anderson if he had the correspondence with the state. Anderson said he did and the City Attorney has reviewed it. Charlie Brewer asked if Goode was paying taxes on the properties. Goode said yes. Brewer said at the state level Goode can build the house but on the local level he can not access it. Brewer said the City has culverts in other ditches on Tybee. Goode said the City should have some responsibility since it took away access to the lot. Chair Lawanna Tsoulos asked for public comment in favor of or in opposition to the petition. She closed the Public Hearing. Brown motioned to approved. Gene Kindrick seconded. Garbett said this situation is why Tybee created its own Soil and Sedimentation Control Act. Tsoulos called for a vote. The vote on the **motion to approve passed** with five in favor. Garbett and Powell voted in opposition. Tsoulos told Goode he would go before City Council on November 9th.

Jack Hogan, Jr. presented a Zoning Variance for **Lot 7 / 1605 Chatham Avenue vicinity**, PIN 4-0010-04-013, Zone R-2. The variance was from Section 3-090, Section Schedule of Development Regulations, of the Land Development Code. The request was for 5-foot side and rear setback variances. Discussion of Lot 7 versus Lot 8 resulted in a determination that the Public Hearing was for Lot 7. Hogan said the lot was previously approved a 5-foot setback on all sides but they were unable to take advantage of it. He said the current plan calls for a 20-foot front setback. Sandy Chandler asked about structures drawn outside the proposed 5-foot setback. Hogan said they were AC units. Chuck Powell verified with Hogan that there would be 10 feet between the future structures on Lot 7 and Lot 8. Bill Garbett asked the hardship. Hogan said the square footage would be aesthetically displeasing. He said it has been the precedent of Council to provide these setbacks. Chair Lawanna Tsoulos called for comment from the public. Mary Sheffield said she lives on the north half of Lot 11. She said her house is on her property line. She said the proposed house would be 5 feet from her house. She asked if Hogan has 20 feet on the front why the house could not be shifted to the front. Hogan said the reason for the 20-foot front setback was to be able to access the driveway without a 2-point turn and aesthetically it was more appealing, and for safety. Michael Jerome Hogan, Sr. said these properties are all the same; they all needed the 5-foot variance. He explained that Sheffield's house being on her property line was due to an addition to the home. He said the houses are close. He said drainage would be taken care of by Jack Hogan and the City of Tybee. Barry Brown clarified with Jack Hogan that the 20-foot setback was from the center of the road so the structure would be 15-feet from the edge of the road. Chuck Powell asked Dee Anderson about fire safety and the spread of fire. Anderson said that was part of the reason why there are setbacks. Tsoulos closed the Public Hearing and called for a motion. Gene Kindrick motioned to approve. Brown seconded. The vote was Brewer, Brown, and Gene Kindrick in favor, and Chandler, Garbett, Susan Hill, and Powell opposed so the motion to approve was **denied**. Tsoulos told Hogan he had the right to proceed to City Council on November 9th. Hogan asked those who voted in opposition to explain their reasons. Sandy Chandler said it was encroaching too closely on the property behind, for safety factors it was too congested, and aesthetics was not grounds for a variance. Powell said it was too close to an existing house and he has concerns about the spread of fire. Garbett said the setbacks were too small and with imagination they could construct a livable house within the setbacks.

Thomas Fall presented a Zoning Variance of 14.6 feet into the front setback to add porches onto an historic home at **9 Eighteenth Street**, PIN 4-0009-06-006, Zone R-2. The variance was from Section 3-090, Schedule of Development Regulations, of the Land Development Code. Fall said he was not the owner but was in a contract to purchase. He said the variance was to raise the building to comply with current FEMA code and to add wraparound porches. He said the goal was to restore the residence from a duplex into a traditional single family Tybee beach house. Fall said it was originally built in the 1930s and was moved to its current location in the 1980s. He said it has structural issues. He said they would like to add porches on both sides. He said it would give sufficient room to park under the building. Chuck Powell asked if both porches would be within the 10-foot side setback. Fall said yes. Bill Garbett asked how high they would raise the building. Fall said the elevation now is 28.6 feet and they would not encroach into the 35-foot height requirement. Barry Brown verified with Fall that he was going to rotate the house and straighten it. Fall distributed a drawing. Sandy Chandler asked about the carport. Fall said it would be removed. He said the

structure will go out 11-feet 6-inches. Brown asked about a gravel drive. Fall said it did not belong to this property. Brown verified with Fall that the structure would not be encroaching as far as the carport is now. Garbett asked if the current porches were part of the original structure. Fall said based on photos of the house being moved, there were not porches then. Chair Lawanna Tsoulos asked if it was currently a duplex. Fall said it was owned by two sisters with one living on top and the other on the bottom floor. Tsoulos called for public comment. Cullen Chambers said this was a historic structure constructed in the 1930 period as a private residence. He said Fall's plans will return the house to a semblance of its historic character. He said it was a vast improvement and was an appropriate treatment of a historic structure. Tsoulos closed the Public Hearing. Powell motioned to approve. Brewer seconded. The **motion to approve passed** with a unanimous vote. Tsoulos said the petition would go before Council on November 9th.

Harold Yellin presented a Site Plan Approval petition to change a structure from a single family residence to a banquet hall at **1126 Highway 80**, PIN 4-0026-11-023, Zone C-2, for Chris Chandler. Sandy Chandler recused himself due to family affiliation. Yellin distributed a handout. Yellin said Chandler purchased the property because it was C-2 and because he could hold special events. He said there other commercial uses in the neighborhood. Yellin said Chandler applied for and received a business license and the business is event planning. He said the square footage of the structure is 2,048, and there are 23 parking spaces. Yellin talked about parking: if it was required it would typically be 4 spaces per 1,000 square feet, or 8 or 9 spaces. Chair Lawanna Tsoulos called for questions. Barry Brown asked about the parking. Dee Anderson said the requirement is one per 200 square feet. Yellin apologized and said that was correct: it would be 5 spaces per 1,000 square feet which would require 10 spaces, not 8. Brown commented that some of the parking was over a drain field and septic tank. Brown asked if special events apply in C-2. Yellin said Tybee has an unusual ordinance: it only has a handful of uses. He talked about the kayak place, the post office, and a laundromat. He said when Tybee does allow uses it looks at the intent. He said they do allow restaurants and hotels in C-2 and that is all Chandler was doing. He said he does not see the specific use but he does not see the others either. Anderson said Yellin makes a valid point but he spoke with the City Attorney and those uses are not allowed. Anderson said the City Attorney's advice was that Chandler needs to go for a Text Amendment to put the use in. Yellin said the use as a special event is not nearly as intrusive as uses that are allowed. Brown asked what event planning is. Yellin said it is special events. Brewer asked how many people could be at the events and in the building. He also asked about the septic tank and drain field. Yellin said Chandler advertises between 25 and 75. He said it is more a parking issue than water and sewer. He said since the permit was issued in January they have had approximately 12 events. Brewer said he would be concerned with 75 people placing a burden on the system with the drain field 25 feet from the marsh. Gene Kindrick said the website advertises up to 200 people and they are showing reservations for the next 3 weeks. He said it is a very large impact on a very small property. Brown asked what the Fire Marshal would say about that many people in one house. Anderson said Chandler does not have a permit for event planning; Chandler has a permit for rental property. He said Chandler would have to have the Fire Marshal and Health Department look at it before the business license is changed. Brown said event planning would be an office, not actually having the event. Yellin said it was intended to be both. He said Tybee has agreed to deliver sewer to the site by January of 2007. Brown said it would be the owners' responsibility to do the laterals to tie into it. Anderson agreed. Brown said Chandler is not within 200 feet. Yellin said Chandler would agree as part of the Site Plan to tie in. Tsoulos asked if there was anyone in the audience that wished to speak in favor or in opposition to the petition. Bill Dowell said he owns the property to the east of Chandler's. Dowell asked about parking based on square footage versus seating capacity. Dee Anderson said he did not know because it was not a use that has ever come before. Anderson said it was obvious Chandler was going to need more than 1 parking place per 200 square feet if he was putting 75 people in the house. Dowell asked if the Site Plan had been submitted to the Chatham County Engineer. Anderson said instead of using the Chatham County's Engineer, Tybee has a consulting engineer. Dowell asked if this was the Public Hearing. Tsoulos said it was. Bonnie Gastor discussed that Tangos impact is nightly, and Dragon Fly has special events. She said those spots used to be residences. She said the area is in transition. She read the purpose of the C-2 district. She said the residential neighborhood has changed. She said there has been a lot of flap lately about weddings. She said there is no place on Tybee for a party that is not in a residential area. Gastor said it is a matter of let and let live. Bill Dowell said Chandler proposes wedding receptions, parties, on a daily basis if he can. Dowell said he lives across the creek and could not set on the deck because of the music and they have no desire to hear that every night. Yellin said the American Legion has bingo every Friday night and they also rent the place as a special event because they are a bar. He said there is something backwards if they have to call themselves a bar or hotel to have special events. He said they are

no different than the American Legion. Stephen Palmer, Tybee Island Wedding, said there have been issues lately about weddings and the reason it has become a problem is that there are a lot of these types of things happening and there needs to be places that are correctly zoned for that. He said if Chandler is zoned correctly he needs to be allowed. Tsoulos closed the Public Hearing. Bill Garbett moved to continue to pursue a Text Amendment for the use. Susan Hill seconded. Brewer said there is a need for a location for special events and there has been a problem in residential areas. He said he is concerned about parking, and the noise ordinance should be enforced. Garbett said he supports the concept; it needs further study and clarification. Brown said the parking is on Highway 80 for George's and Tangos. Tsoulos said the **motion was to continue while a Text Amendment is pursued to define the appropriate uses**. Yellin asked about the Text Amendment process. Tsoulos explained that the petitioner would propose the Text Amendment, identifying the use and parking. The **motion to continue passed** unanimously.

Chair Lawanna Tsoulos said the next item was a proposed ordinance **requiring surveys for building permits**. Barry Brown talked about the earlier Ellzey stair petition and whether partial surveys would be sufficient. Dee Anderson said it would be better to have a full survey to make sure it is conforming on all four sides. Brown said he was concerned about the expense. Tsoulos asked if there was anyone in the audience that wished to comment. Bill Garbett discussed the word "current" versus "valid." Anderson said an as-built survey where nothing has been changed. Tsoulos closed the Public Hearing. Gene Kindrick motioned to approve. Charlie Brewer seconded. Brown said he was concerned about the word "valid." The **motion to approve passed** with a unanimous vote.

Chair Lawanna Tsoulos said the Planning Commission needed to appoint a person to the Master Plan Project Team. Chuck Powell volunteered. Dee Anderson said the first meeting is Monday, October 30th.

Tsoulos explained the difference between "continue" and "table." She said if a petitioner had not shown up on time tonight, the motion would have been to table. She said when the petitioner came the Planning Commission would take the issue off of the table and address it. Tsoulos said continue means the issue at hand is going to be continued.

Charlie Brewer said that last week he, Bill Garbett and Chair Lawanna Tsoulos went to the Georgia Planning Association's fall conference. He said they heard some excellent speakers and great legal input. Brewer thanked the City for the training.

Barry Brown motioned that the meeting be adjourned. Chuck Powell seconded. The vote was unanimous.