

PLANNING COMMISSION

James P. Boyle, Chair
Randi Bryan
Jay Burke
George Dausey
Lisa McKenzie
Anne Miller
Whitley Reynolds, Vice Chair



CITY MANAGER

Diane Schleicher

INTERIM ZONING ADMINISTRATOR

Dianne Otto

CITY ATTORNEY

Edward M. Hughes

MINUTES

Planning Commission Meeting

June 16, 2009 – 7:00 p.m.

Chair James Boyle called the June 16, 2009, Planning Commission meeting to order. Other Commissioners present were: Randi Bryan, Jay Burke, George Dausey, Lisa McKenzie, Anne Miller, and Whitley Reynolds.

Chair James Boyle called for a motion on the Minutes of the May 19, 2009, Planning Commission meeting. Anne Miller motioned to approve. Whitley Reynolds seconded. The vote was unanimous.

Chair James Boyle asked if there were any Disclosures. Whitley Reynolds disclosed that he prepared two of the documents used in the Tybee Market presentation and he was working on something for the future so he would step out. Boyle confirmed with Dianne Otto that it was a recusal.

Chair James Boyle opened a Public Hearing for a Zoning Variance at **10 Anderson Court**, PIN 4-0020-05-035, Zone R-1-B. The petitioner was Tom Waters for Randy and Ann Thran. The request was for a front setback variance for an addition and elevator at a single-family dwelling. Dianne Otto explained that the current structure was behind the 20-foot required setback line, and the proposal would have the addition come out to a 10-foot setback on the left side with a larger setback on the right. Waters, agent for the owners, said he built the house about fifteen years ago. He referred the Commissioners to a narrative in their packets that explained an injury that had occurred while Mr. Thran was a police officer for the City of Savannah which resulted in the removal of his leg. Waters explained that Thran used a prosthesis which could be worn only so many hours a day so at home he used either crutches or a motorized wheelchair. He spoke of the three-story house and modifications needed to make it accessible; the Workers' Compensation caseworker recommended that Thran be able to drive into a garage to access an elevator to the other two floors of the house, and all of the rooms and hallways be enlarged. Waters stated that the plans had not been finalized but the addition would be around 12 feet out, with 10 feet being the minimum and the maximum being 13 feet. The arc of the cul-de-sac and an elevation were explained. Randi Bryan asked if the neighbors had problems with it. Boyle said they would get to that. Anne Miller asked when Thran's injury occurred. Randy Thran said that he had had the prosthetic for approximately four years. Boyle asked for public input. Ann Thran said that her husband had fallen several times on the stairs and he had fallen and broken his scapula. She said he was going to have surgery on his other leg the next week so he would be in a cast for six months because that ankle was wearing out. She said that they thought a prosthetic would do what they needed but it was not, and he was going to be wheelchair bound. Boyle closed the Public Hearing and asked for a motion. Whitley Reynolds moved to approve. Lisa McKenzie seconded. George Dausey asked about the setback distance. Waters and Mark Boswell, site engineer, explained that there would be at least a 10-foot front setback. Bryan asked about the neighbors. Otto said that the property was posted prior to this meeting,

and following this meeting the adjacent neighbors would be mailed a Public Hearing notice, as well as it being advertised in the newspaper. McKenzie said that due to her temporary disability with having had a broken leg for going on three months, she completely understood Thran's issue. She wished him good luck. Boyle called for the vote. The **motion to approve passed** with a 6-0 vote. Otto said that it would be heard by City Council on July 9.

Chair James Boyle opened the Public Hearings for a Map Amendment, Text Amendment, and Site Plan at **1107 Butler Avenue**, Zone R-2, PINs 4-0006-19-014 and 4-0006-19-015. The petitioner was Mike Hosti and the request was for a parking lot at the existing Tybee Market IGA. Whitley Reynolds recused. Dianne Otto stated that the IGA was a nonconforming use in the R-2 zone. She explained that Hosti proposed acquiring property to the north, removing an existing single-family dwelling, and using the lot and the one behind it for an additional parking lot. She said that because the lot would be a nonconforming use and the existing IGA was a nonconforming use, what was being proposed was C-2-Conditional zoning. She said that, if approved, what would result would be a conforming use in that the property would be zoned C-2-Conditional and any specific conditions assigned to it would carry with the location and could not be changed without coming back before the City. Anne Miller asked if both the IGA and the lots next to it would be zoned C-2-Conditional. Otto said that to completely eliminate the nonconforming use, both would have to be rezoned. Lisa McKenzie asked if all six lots would have to be combined. Otto agreed. McKenzie said that could not be done until there was one owner. Otto agreed and said the recombination would be done at the Staff level. Boyle asked if this was conceptual. Otto said that it was not conceptual. Jim Stone, designer, explained that the existing home would be moved to an open lot on Tybee Island. He spoke of a critical need for parking at the IGA, traffic backups, inconvenience, loss of business, food, delivery trucks, angling some of the existing parking, widening of existing spaces, traffic flow, pavers where possible, concrete for truck traffic, catchment of water, drainage improvements, landscaping, fencing, buffering, improved ingress/egress, traffic in the neighborhood, and enhancement to public safety. Stone gave history of the Market. Miller asked where trucks would be unloading. Stone said where they currently do, behind the Market, and then they would turn right to go through the Market. He said that Hosti tried to get them to do it early in the morning. Truck traffic was discussed. Stone spoke of there being several other nonconforming businesses in the residential areas: A-J's Dockside and the Tide's Motel. He spoke of Hosti having made a significant investment in adding two cash registers. Otto stated that A-J's was zoned properly; it was zoned M-D. Stone explained that they are open to conditionally rezoning the two lots as a parking lot in support of a market-style business. He spoke of concern with FEMA regulations of a six-month limitation to obtain a new permit if all the lots were combined. Otto said that if the six months Stone was referring to was if there was a fire or something that destroyed the structure, the zoning would not influence that. McKenzie asked if the adjoining lots were under contract. Hosti said that it was with the closing date contingent on the decision. McKenzie and Boyle discussed C-2-Conditional zoning. It was again asked whether to address all of the properties or just the two lots for the additional parking. Otto said that when the applicant first approached the City the request was for the new parking area only. She said that following discussions with the City Attorney, she did not know if the applicant's position had changed or not. Stone said that their position was to keep it as simple as possible. He said that they are not planning to build any structure. Mark Boswell, site engineer, said they could not find anything in the ordinance that said they had to conditionally rezone everything. He said that the reason they wanted to conditionally rezone just the parking was that Staff wanted to put a condition on the original store that it could only be sold as a grocery store. Otto said that the conditions would be placed at agreement between Hosti and the City; not Staff and not the Planning Commission. She said that if approved those conditions would be binding to the property. Otto said that as she understood the meeting with City Attorney Bubba Hughes, the City's position would be to bring the entire area into conformance by conditionally zoning all of it. She said that if agreement could not be reached, then no rezoning would

occur. Boswell said that Otto was correct. He said that the owner, if allowed to put other conditions on it, would exclude a condo or a hotel or something like that but keep it as retail basically, they would be willing to rezone conditionally the parking and the existing store. Hosti agreed. McKenzie asked if the IGA was currently zoned R-2 with conditions. Otto said that it was currently a nonconforming use in an R-2 zone. She said that they were proposing that it be C-2-Conditional and those conditions had yet to be determined. She said that was for them to recommend to Council and for Hosti to agree to. Boswell said that C-2 had a lot of things that the owner would probably want to exclude. McKenzie asked if that would be determined at a later date or now. Otto said that she would encourage Planning Commission, if they are of the mind to begin the C-2-Conditional, send to City Council with their conditions. Boyle asked if Otto was asking them what conditions they wanted for the property. Otto agreed. Boswell asked if they would have to have a list of everything allowed in C-2 to do that. Otto said not necessarily. She said that the C-2-Conditional was specific, for example, they may recommend it could only be a grocery store, they may recommend it could only be a retail store, they may recommend that it could be a restaurant, they may recommend that it could not be a restaurant; they could decide what conditions the property, conditionally zoned, would be allowed to operate under. Boyle asked what if they said it could be anything approved in a C-2 zone. Boswell said it would be easier to put in exclusions rather than inclusions. Otto read the C-2 uses permitted by right after Site Plan approval and the uses permitted after Special Review and Site Plan approvals. Otto said that what they needed to work toward, if they would like to make a recommendation to City Council for C-2-Conditional zoning, was to narrow, or broaden, as they see fit, the uses for the property; if it was zoned C-2-Conditional what would or would not be allowed. McKenzie asked if it was only on the two parcels. Otto said that she would recommend the entire property; the petitioner was requesting the two parcels. Boswell said that if they could put some conditions on it that the owner could sell, the owner would be happy to include the four lots and the two additional. Hosti said that was correct. McKenzie asked if they could do that with the lots having different owners. Otto said yes. Boswell said that if they changed the zoning and then the sale fell through than the conditional zoning also fell through. Otto agreed. Bryan asked about the location of the pavers. Stone pointed them out. Bryan asked the number of spaces to be added. Stone said eighteen. Bryan asked about a buffer. Stone said it would be palm trees, thick shrubs, an 8-foot fence, and parking stops. Bryan asked about the time trucks would be exiting onto Butler Avenue. Stone said mostly in the morning. Hosti spoke of various delivery trucks, routes currently used, and times being 7 o'clock and after in the mornings, six days a week during the summer season. Bryan asked if they were all in the morning. Hosti said that some came midday; you cannot schedule a truck driver. Bryan asked about trucks coming out of the proposed parking lot when cars were turning in, and about trucks crossing Butler Avenue. Hosti named a couple of trucks that go back to Savannah because the IGA was there only stop, but others continued further south. He described the proposed parking lot. Bryan asked about the size of the spaces. Hosti said that most of them were going to be 10-feet; wider than the ones on the front of the building. He and Bryan discussed changes to the existing parking area and the yellow curb in front of the store. Hosti spoke of prior to a fire in 1992 there being ingress/egress through to Lovell Avenue without issue. He said that the business needed to grow, the island was growing, and this was a way to get it done and make it safer. Boyle asked if the parking lot would be used by trucks if it was a quick delivery. Hosti described a portion of the parking area on the north side of the building that could be used. Hosti and Boyle discussed trucks. McKenzie asked if there was enough room on the north side for cars to back out. Hosti said yes, and that the cars could go either way. McKenzie said that would put more cars on Lovell Avenue. Hosti said that he did not think it would increase the traffic much. Boyle and Hosti discussed traffic flow. Hosti said that he would love to see a traffic light put in front of his store because it would be safer for his customers but that was a DOT issue. Miller asked about cars going through the parking lot from Butler Avenue to Lovell Avenue at night. Hosti said that he would have no problem putting in an electrically operated gate that could close it off after the store closes. Stone spoke about runaway buggies and replacing existing concrete with landscaping. Boyle asked for

public input. Wesley Johnson, 1107 Lovell Avenue, said that he had no objections. Marianne Bramble, 215 Lovell Avenue, said that she hoped the Planning Commission would approve. Camille Ward, 1203 Lovell Avenue, said that she opposed, it was further intrusion of a commercial business into a residential zone, and would increase traffic congestion, noise and trash in the neighborhood. Carol Brown, 1101 Lovell Avenue, said that the IGA was nothing but a headache to the neighborhood. She spoke of it being a nuisance, there being trash and trucks coming not just in the mornings. Jimmy Brown, 1101 Lovell Avenue, spoke in opposition citing that the expansion would increase the value of Hosti's property and decrease the value of Brown's property, increase noise, increase traffic congestion, increase safety concerns, and increase trash. Brown spoke of previously granted variances to the property and cited various code sections. He discussed trucks and traffic flow of the proposed plan. Gloria Leonard said that she and her mother lived at 1103 Lovell Avenue. She asked the Commissioners to protect her and her mother's property rights. She said that they bought a house in a residential zone; they did not buy in a commercial zone and then ask the City to rezone it for their convenience. She said that it was of great concern that an owner of a grandfathered business was now asking for spot rezoning in the residential neighborhood. She said that if the rezoning was granted it would increase traffic and noise and further erode the privacy and the quality of their lives. Leonard referred to the R-2 sections of the Master Plan and the Land Development Code. Stone spoke about the turn radius, drive aisle width, left-hand turns, the length of time the Market had been part of the neighborhood, and growth of Tybee Island. Stone said that in 1991, the year before the fire, Hosti grossed slightly less than a million dollars and last year gross sales were \$4.3 million. Jimmy Brown spoke of a variance when the store was rebuilt after the fire. McKenzie asked if it would be considered spot zoning. Otto said that conditionally zoning was not considered to be spot zoning. Otto asked the Chair to receive any needed input from the applicant or his team prior to closing the Public Hearing. Boyle asked the petitioner what he intended to ask the City for. Hosti said that he would not want anything there but a grocery store, he would not want to be excluded to sell it to some other retail-type operation but he had no problem excluding a barroom, a park, a tennis court. He said he had no issues with condos. Boyle, Otto and Hosti discussed Hosti's statements. As Otto read again the C-2 uses permitted by right after Site Plan approval and the uses permitted after Special Review and Site Plan approvals, Hosti named the following as being excluded: service station; restaurant including drive-in; park, playground, recreational facility; marina; seafood warehouse, retail and wholesale; lounge and package store; and dwelling or structures rented for special events. He named the following as being included: gift shop; motel; grocery store; tourist home, bed and breakfast; professional and business office; retail store. Parking lot was added to the list of inclusions. Leonard returned to describe the Market and neighborhood prior to the fire. Boyle closed the Public Hearing. He called for a motion on the Map Amendment. Bryan motioned to deny C-2-Conditional zoning. There was not a second. George Dausey motioned to approve C-2-Conditional zoning. Miller seconded. Bryan spoke about down zoning and about conditionally zoning not working at another property. She and Boyle discussed. It was clarified that the motion was for six lots. Boyle called for the vote. Voting in favor of the motion to approve were Jay Burke, Dausey and Miller. Voting against were Bryan and McKenzie. The **motion to approve a Map Amendment for C-2-Conditional zoning for six lots passed** with a 3-2 vote. Boyle shifted to the Text Amendment. Otto explained that the motion would be either to prepare the conditions under which it would be zoned C-2-Conditional or to deny. She reviewed the list of uses that Hosti had proposed. Boyle asked if condo was included. Otto said no, condos were not allowed in C-2. Dausey motioned to approve with all of the uses that Hosti proposed. Miller seconded. Bryan suggested deleting motel. McKenzie suggested deleting bed and breakfast. The two discussed. Dausey agreed to delete motel. Miller asked if Bryan would delete B&B. Bryan said no. Miller withdrew her second. Bed and breakfast was discussed. Dausey amended the motion to delete bed and breakfast. Burke seconded. Otto restated the motion and noted that it was for six lots. Boyle called for a vote. Voting in favor were Burke, Dausey and Miller. Voting in opposition were Bryan and McKenzie. The **motion to approve a Text Amendment with the uses of gift shop, grocery store,**

professional and business office, retail, and parking lot passed with a 3-2 vote. Otto said that they would now consider the Site Plan as presented. Boyle clarified that it was the entire property. He requested a motion. Miller motioned to approve. Burke seconded. Bryan said that the intrusion on the neighbors would be horrific. She described her concerns. Burke said it was a tough decision. He said it was a safety issue. After he concluded his remarks, McKenzie spoke of the neighbors and the project taking away from their property values. Boyle called for the vote. Voting in favor were Burke, Dausey and Miller. Voting in opposition were Bryan and McKenzie. The **motion to approve the Site Plan passed** with a 3-2 vote. Reynolds had recused from these Hearings. Otto said City Council would hear them on July 9.

Chair James Boyle opened a Public Hearing for a proposed Text Amendment to Municipal Code Section 34-3, **Private Parking Lots**. Proposed Ordinances 11-2009A and 10-2009-B were included in the Commissioners' packets. City Council had referred the matter to the Commission for recommendation on whether to impose additional regulations on private parking lots including buffer requirements, capacity limitations, specifications for parking spaces, requiring Site Plan, requiring Special Review, safety, and regulating the types of vehicles which may be served. Dianne Otto explained that Section 34-3 allowed private parking lots to operate from 8:00 am to 9:00 pm on certain holiday and special event weekends. She said that Council elected to adopt 10-2009-B for the remainder of 2009 for existing, licensed parking lots, and the change allowed them to operate from St. Patrick's Day through Labor Day, on any days, not just special weekends. Otto referred the Commissioners to a list of licensed lots included in their packets. She said that they were addressing the residentially zoned lots and there were currently three. Through explanation by Otto, discussion among the Commissioners, comments by Downer Davis (the City's consulting engineer), and public input by Marianne Bramble (operator of a residentially-zoned parking lot), the following topics related to private parking lots were identified:

- Extending the time to later than 9:00 pm,
- Including Pirate Fest (October), Christmas Parade (December), Mardi Gras (February) events,
- Potential loss of City parking revenue,
- Year-round operation versus seasonal versus periodic,
- Private lots supplementing the amount of parking available,
- Annual business license fee of \$135,
- One-time Site Plan fee of \$250 and one-time Special Review fee of \$250,
- Staff review versus Public Hearing notification requirements,
- Vegetative or fence buffering, setback requirements,
- Commercial versus residential zones,
- Parking surface sustainability, dust, bare soil,
- Standardized size of parking spaces, drive aisles, density,
- Neighbors, property values,
- Illegally parked vehicles.

It was determined that Staff would return the following month with recommendations regarding commercial versus residential private parking lots. **No action was taken.**

Chair James Boyle opened a Public Hearing for proposed Text Amendments to Land Development Code **Article 3, General Provisions**, and **Article 5, Procedures for Administration and Enforcement**. Due to the length of the documents it was decided to hold an evening Planning Commission Workshop. Boyle and Otto would determine the date and Otto notify the others. Boyle asked for public input but there was none. **No action was taken.**

The meeting adjourned.