



AGENDA PLANNING COMMISSION May 15, 2023 at 6:30 PM

Call to Order

Consideration of Minutes

1. Minutes of April 17, 2023

Disclosures and Recusals

Old Business

New Business

2. **Variance: requesting to build pool in front yard – 21 Teresa Lane -40022 01372 -Zone R-2 -Clayton D. Johnson.**
3. **Special review: requesting school use for TIMA -711 Butler Ave -40005 19002 -Zone R-2 – Friends of TIMA.**
4. **Text amendment: An amendment to the calamity clause of the STR ordinance (2022-04) for time period and procedure.**

Adjournment

Standing Items

Adjournment

PLANNING COMMISSION
 Julie A. Livingston
 Robert J. Matkowski
 Elaine McGruder
 S. Michelle Nooney
 Whitley Reynolds
 Marie Rodriguez



CITY MANAGER
 Shawn Gillen

COMMUNITY DEVELOPMENT DIRECTOR
 George Shaw

CITY ATTORNEY
 Edward M. Hughes

Planning Commission Meeting MINUTES April 17, 2023

Chair Whitley Reynolds called the April 17, 2023, Tybee Island Planning Commission meeting to order. Commissioners present were **Marie Rodriguez, Elaine McGruder, Julie Livingston, Robert Matkowski** and **Michelle Nooney**.

Consideration of Minutes:

Chair Whitley Reynolds asked for consideration of the March 20, 2023, meeting minutes. **Elaine McGruder** made a motion to approve. **Marie Rodriguez** seconded. The vote was unanimous.

Disclosures/Recusals:

Chair Whitley Reynolds asked if there were any Disclosures or Recusals.

Old Business:

Chair Whitley Reynolds asked if there was any old business. There were none.

New Business:

Site Plan: requesting to add character statues in front of Sugar Shack -301 1st St. -40003 15001 - Zone C-2 -Liran Portal.

Elaine McGruder made a motion to approve. **Robert Matkowski** seconded. The vote to deny was unanimous.

Site Plan: requesting to add seating and increase parking – 1115 & 1109 E US Hwy 80 -40026 03021&40026 03022 -Zone C-2 -Chris Smith.

Marie Rodriguez made a motion to approve. **Elaine McGruder** seconded. The vote to approve was unanimous.

Site Plan: requesting to add 3 townhomes while keeping existing structure -104 17th St. -40008 18001 - Zone C-1 -Walt Freeman.

Elaine McGruder made a motion to approve. **Marie Rodriguez** seconded. Vote to approve was unanimous.

Site Plan: requesting to change use of property from Restaurant to Restaurant/Office -1601 Butler Ave. -40008 18004 -Zone C-1 -Walt Freeman.

Elaine McGruder made a motion to approve. **Marie Rodriguez** seconded. The vote to approve was unanimous.

Text amendment #13: Sec. ? -To allow for property owners holding a building permit at the time of the moratorium to apply for an STR permit.

Dee Matkowski, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Robert Matkowski made a motion to approve. **Elaine McGruder** seconded. The vote to deny was unanimous.

Text amendment #14: Sec. ?-To allow property owners holding a building permit at the time of the moratorium to apply for an STR permit after a public hearings.

Dee Matkowski, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Julie Livingston made a motion to approve. **Robert Matkowski** seconded. The vote to deny was unanimous.

Text amendment #15A: Sec. ?-To allow property owners holding a building permit at the time of the moratorium to apply for an STR permit.

Dee Matkowski, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Robert Matkowski made a motion to approve. **Elaine McGruder** seconded. The vote to deny was unanimous.

Text amendment #15B: Sec. ?-To allow property owners holding a building permit at the time of the moratorium to apply for an STR permit.

Nick Sears, 1304 Venetian Dr. spoke against text amendment. **Dee Matkowski**, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Robert Matkowski made a motion to approve. **Julie Livingston** seconded. The vote to deny was four to two in favor of the denial. **Michelle Nooney** voted against the denial.

Text amendment #16: Sec. ?-To allow property owners who acquired property at the time of the moratorium to apply for an STR permit after a public hearings.

Dee Matkowski, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Elaine McGruder made a motion to approve. **Julie Livingston** seconded. The vote to deny was unanimous.

Text amendment #17: Sec. ?-To allow for persons who acquired property before or during the moratorium to apply for an STR permit.

Dee Matkowski, 20 Pulaski St. spoke against text amendment. **Dawn Shay**, 4 Billfish Ln. spoke against text amendment.

Elaine McGruder made a motion to approve. **Robert Matkowski** seconded. The vote to deny was unanimous.

Adjournment:
Lisa L. Schaaf



STAFF REPORT

PLANNING COMMISSION MEETING: May 15, 2023

CITY COUNCIL MEETING: June 8, 2023

LOCATION: 21 Teresa Lane

PIN: 40022 01372, 01373

APPLICANT: Clayton Johnson

OWNER: Clayton Johnson

EXISTING USE: Single family home

PROPOSED USE: Same

ZONING: R-2

USE PERMITTED BY RIGHT: yes

COMMUNITY CHARACTER MAP: North Beach Neighborhood

APPLICATION: Zoning Variance (5-090) from Section 3-190 (*Swimming pool requirements and placement*).

PROPOSAL: The applicant is requesting a variance to place a swimming pool in front of the front face of the home.

ANALYSIS: The general character of the area surrounding this lot is residential. The requested variance does meet the "hardship" test outlined in Land Development Code Section 5-090 (A):

- (1) That there are unique physical circumstances or conditions beyond that of surrounding properties, including irregularity, narrowness, or shallowness of the lot size or shape, or exceptional topographical or other physical conditions, or considerations related to the environment or the safety, or to historical significance, that is peculiar to the particular property; and,
- (2) That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of this Land Development Code, without undue hardship to the property.

As stated in Sec. 3-190(B) swimming pools must be located in the side or rear yard. The proposed pool is forward of the front face of the home. There is no room behind the home to place a pool due to the dune line. The lot is already developed since it has a home. A pool is an amenity and lack of one does not constitute a hardship.

The applicant did combine two lots into one so this action did eliminate the possibility of an additional home in this area.

The Comprehensive Plan describes the North Beach Neighborhood as follows:

This area contains a significant amount of natural, cultural, and historic resources. The broad collection of land uses also includes new larger-scale residential developments, traditional cottage-style homes, townhomes, condominiums, restaurants, and other public uses. Two of the City's most notable historic sites are located in this area including the Tybee Lighthouse and Fort Screven Museum/Battery. Other characteristics include narrow streets, street trees, public and private beach access, public parking, pedestrian and bicycle traffic, and public parks.

<i>Recommended Development Strategies</i>		<i>Meets Strategy Y/N or N/A</i>
1.	New development, redevelopment and restoration should be consistent with existing character of the area in terms of mass, scale, use and density.	Y
2.	Establish standards and design guidelines for signage. Develop a "theme" for signage to ensure that it is consistent and fits with the character of the area and the Island as a whole.	N/A
3.	Provide signage for landmarks and commercial businesses in this area.	N/A
4.	Historic structures should be preserved whenever possible.	N/A
5.	The City should provide appropriate incentives for historic restoration projects.	N/A
6.	Pursue historic district/historic structure designations for appropriate areas within this district.	N/A
7.	Ensure continued preservation of old growth trees, parks and greenspace.	N/A
8.	Support the continued development of the Tybee Island bikeway including bike lanes and multi-use trails.	N/A

STAFF FINDING

The lot is developed with a large home. The inability to have pool does not create a hardship. The applicant did combine two lots thus eliminating the possibility of another home in the area. Staff recommends denial.

This Staff Report was prepared by George Shaw.

ATTACHMENTS

- A. Variance application (5 pages)
- B. Survey (1 page)
- C. Site Plan (1 page)
- D. SAGIS map (1 page)

Fee
Commercial \$500
Residential \$200



CITY OF TYBEE ISLAND VARIANCE APPLICATION from the Tybee Island Land Development Code

Applicant: Clayton D. Johnson (owner), Michael Small, ASLA (owner's agent)

Telephone #: 361-220-4449 Email Address: cjohnson@bwestx.com

Mailing Address PO Box 2472 Victoria, TX 77902

*Note: If the applicant is not the property owner as listed on the property deed, a letter from the listed owner(s), including a telephone number and address along with any other relevant information, authorizing the applicant to act in their behalf must be included in the application.

PROCEDURE

Application Requirements

All applications must be complete, including required supporting documents. **Drawings or surveys will be 11" X 17" or larger.** Incomplete applications will not be accepted and will delay review.

Application Deadline

Applications are due by 4:00 p.m. of the last day of the month before the next scheduled Planning Commission meeting.

Application Submittal

Return one copy of this completed application and all supporting documents to: Tybee Island Planning and Zoning, City Hall, 403 Butler Avenue / P.O. Box 2749 City of Tybee Island, GA 31328

Application Public Hearings

Applications will be heard at a public hearing before the Planning Commission on the third Monday of each month, followed by a final decision by City Council at another public hearing on the second Tuesday of the following month. Each hearing will be held at 7 p.m. at the Public Safety Building, 78 Van Horn Dr.

Property Address (Or General Location Description if no Address Assigned): _____

21 Theresa Lane Tybee Island, GA 31328 (recombination of lots 21A & 23A)

Tax Map/Parcel ID#: 4-0022-01-373 Current Zoning: R-2

Existing use of Property: Residential / open portion of lot

Proposed use of Property: Swimming Pool

Has the property been denied a variance in the past 12 months? If so, please provide brief details:

Variance Questionnaire:

1. Does the requested variance change the Tybee Island character designation for the property as described in the Master Plan? If so, provide a brief explanation.

2. Please explain the purpose of the requested variance and the intended development of the subject property if the variance is granted.

The Current Lots which have been combined have an existing residence on the right of the lot. There currently in no room for a pool behind the existing house due to the newer 25' shore protection act. The owner is requesting a variance for a pool on the left side of the house which would be fenced and screened from neighboring properties. Adjacent homeowners would rather see a pool than a new structure blocking ocean views.

3. Please explain the specific provision within the Tybee Island Land Development Code from which the variance is requested.

Section 3-190 Swimming Pool requirements & placement

4. Per the Tybee Island Land Development Code, the Tybee Island Planning Commission shall not make a recommendation on a variance from the terms of the Land Development Code unless it has met the following. Please explain how the requested variance meets each of the following:

A. The need for a variance arises from the condition that is unique and peculiar to the land, structures and buildings involved.

B. The variance is necessary because the particular physical surroundings, the size, shape or topographical condition of the property involved would result in unnecessary hardship for the owner, lessee or occupants as distinguished from a mere inconvenience.

The constraints of setbacks, marsh and spa make placement of the pool behind the house impossible.

C. The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.

D. The condition is created by the regulation in the Tybee Island Land Development Code and not by the action of the property owner or applicant.

E. The granting of the requested variance will not conflict with Sec. 26-70-Amendments and modifications to the Fire Prevention Code of the Tybee Island Code of Ordinances or endanger the public.

F. The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structures.

NOTE: This application must be accompanied by additional documentation, including drawings that include or illustrate the information outlined below.

- | <u>REFERENCE</u> | <u>DESCRIPTION</u> |
|------------------|---|
| 5-040 (D) (1) | Site plan and/or architectural rendering of the proposed development depicting the location of lot restrictions. |
| 5-040 (D) (2) | Narrative describing the hardship and the reason for the variance request. (<i>Hardship means the circumstances where special conditions, which were not self-created or created by a prior owner, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this code. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.</i>)
Explain the hardship: _____
<small>New setbacks (zone areas), wetlands, etc. limit this to the only area a pool can be built.
The only alternative would be to build another structure which would block views of the ocean to the entire neighborhood</small> |
| 5-040 (D) (3) | A survey of the property signed and stamped by a State of Georgia certified land surveyor. |
| 5-090 (A) (1) | That there are unique physical circumstances or conditions beyond that of surrounding properties, including:
___ irregularity;
___ narrowness; or,
___ shallowness of the lot shape; or,
___ exceptional topographical or other physical circumstances, conditions, or considerations related to the environment, or the safety, or to historical significance, that is peculiar to the particular property; and; |
| 5-090 (A) (2) | Because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the Land Development Code, without undue hardship to the property.
<u>NOTE: Provide attachments illustrating conditions on surrounding properties and on the subject property, indicating uniqueness, etc.</u> |
| 5-090 (B) | <i>Height.</i> No part of any structure shall project beyond 35-feet above the average adjacent grade of a property except:
(1) See <u>section 2-010</u> , terms and definitions; height of building.
(2) The following items that were existing on the date of the adoption of this section; flag poles, television aerials, water towers and tanks, steeples and bell towers, broadcasting and relay towers, transmission line towers, and electric substation structures. |

The Applicant certifies that he/she has read the requirements for Variances and has provided the required information to the best of his/her ability in a truthful and honest manner.

	owner's agent	April 28, 2023
Signature of Applicant		Date

5-090(C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.

CERTIFICATION AND AUTHORIZATION

I hereby certify that, to the best of my knowledge and belief, the above listed information and all attached supporting documents are complete and accurate. I understand that this application will require public hearings by the Tybee Island Planning Commission and City Council. I have been made aware and I hereby acknowledge the scheduled hearing dates/times and location where this application will be considered. I also understand that review of this application will require a site visit, and I hereby authorize City staff and members of the Planning Commission and City Council to inspect the property which is the subject of this application.

Signature of Applicant *[Handwritten Signature]* owner's agent Date April 28, 2023

If within two (2) years immediately preceding the filing of the applicant's application for a zoning action, the applicant has made campaign contributions aggregating more than \$250 to the mayor and any member of Council or any member of the Planning Commission, the applicant and the Attorney representing the Applicant must disclose the following:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action, and the date of each contribution;
- c. An enumeration and description of each gift having a value of \$250 or more made by the Applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action.

Disclosure of campaign contributions form attachment hereto: Yes

Signature of Applicant _____ Date _____

STAFF USE ONLY

Date received: 4/28/23 Received by: *[Handwritten Signature]*

Fee Amount \$ 200.00 Check Number 1195 Date 4/28/23

PUBLIC HEARING DATES:

Planning Commission 5/15/23 City Council _____

DECISION: (Circle One) Approved Denied

Approved with Conditions: _____



CITY OF TYBEE ISLAND

CONFLICT OF INTEREST IN ZONING ACTIONS
DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you within the past two (2) years made campaign contributions or gave gifts having an aggregate value of \$250.00 or more to a member of the City of Tybee Island Planning Commission, or Mayor and Council or any local government official who will be considering the rezoning application?

YES _____ NO X _____

IF YES, PLEASE COMPLETE THE FOLLOWING SECTION:

NAME OF GOVERNMENT OFFICIAL	CONTRIBUTIONS OF \$250.00 OR MORE	GIFTS OF \$250.00 OR MORE	DATE OF CONTRIBUTION

IF YOU WISH TO SPEAK CONCERNING THE ATTACHED REZONING APPLICATION, THIS FORM MUST BE FILED WITH THE ZONING ADMINISTRATOR FIVE (5) DAYS PRIOR TO PLANNING COMMISSION MEETING IF CAMPAIGN CONTRIBUTIONS OR GIFTS IN EXCESS OF \$250.00 HAVE BEEN MADE TO ANY MEMBER OF THE PLANNING COMMISSION OR MAYOR AND COUNCIL.

Signature _____

Printed Name _____

Date _____

PARID: 40022 01372
 JOHNSON CLAYTON DANIEL

21 TERESA LN

Most Current Owner

Current Owner	Co-Owner	Care Of	Mailing Address
JOHNSON CLAYTON DANIEL	JOHNSON MYRA ANN*		1066 COLETOVILLE ROAD EAST VICTORIA TX 77905

Digest Owner (January 1)

Owner	Co-Owner	Address 1	Address 2	City	State	Zip
JOHNSON CLAYTON DANIEL	JOHNSON MYRA ANN*	1066 COLETOVILLE ROAD EAST		VICTORIA TX		77905

Parcel

Status	ACTIVE
Parcel ID	40022 01372
Category Code	RES - Residential
Bill #	2921184
Address	21 TERESA LN
Unit # / Suite	
City	TYBEE ISLAND
Zip Code	31328-
Neighborhood	20253.00 - T253 TYBEE NORTHWAVE
Total Units	
Zoning	R-2
Class	R3 - Residential Lots
Appeal Status	

Legal Description

Legal Description	LOT 21A-1 RECOMBINATION OF LOTS 21A & 23A NORTHWAVE SUB SMB 41S 79 1.14 AC
Deed Book	2654
Deed Page	0381

Permits

Permit #	Permit Date	Status	Type	Amount
220608	12/13/2022	Complete	EL - ELECTRIC	\$25,000.00
160885-10	07/25/2017	Complete	RF - ROOF	\$685.00
160885-9	12/07/2016	Complete	RN - RENOVATIONS	\$20,000.00
150448-8	07/31/2015	Complete	EL - ELECTRIC	\$20,000.00
130367-7	08/07/2013	Complete	RN - RENOVATIONS	\$122,000.00

Inspection

Inspection Date	Reviewer ID
03/13/2023	JLMARINE
01/18/2023	RKRYZAK
05/12/2021	RKRYZAK
01/23/2018	ALCUMMIN
01/11/2017	MWTHOMAS

Appraised Values

Tax Year	Land	Building	Appraised Total	Reason
2022	875,000	1,429,300	2,304,300	
2021	456,000	625,100	1,081,100	
2020	456,000	608,400	1,064,400	
2019	455,000	707,900	1,162,900	
2018	455,000	707,900	1,162,900	
2017	455,000	707,900	1,162,900	
2016	455,000	942,900	1,397,900	
2015	462,000	1,333,700	1,795,700	
2014	1,181,000	550,500	1,731,500	

Sales

Sale Date	Sale Price	Sale Validity	Instrument Book - Page	Grantor	Grantee
12/16/2021	4,200,000	U	LD 2654 - 0381	WEINER BARRY	JOHNSON CLAYTON DANIEL
03/18/2010	0	U	QC 359R - 308	OFF LOU & SUSAN T TRUSTEES*	OFF LOUIS S & SUSAN T
03/18/2010	1,750,000	Q	WD 359R - 311	OFF LOUIS S & SUSAN T	WEINER BARRY
01/21/2005	0	U	QC 2820 - 0247	OFF LOUIS S	OFF LOU & SUSAN T AS TRST

Land

Line Number	1
Land Type	U - UNIT
Land Code	120 - ATLANTIC OCEAN FRONT
Square Feet	8,400
Acres	.1928
Influence Factor 1	75
Influence Reason 1	
Influence Factor 2	

Influence Reason 2

Residential Building

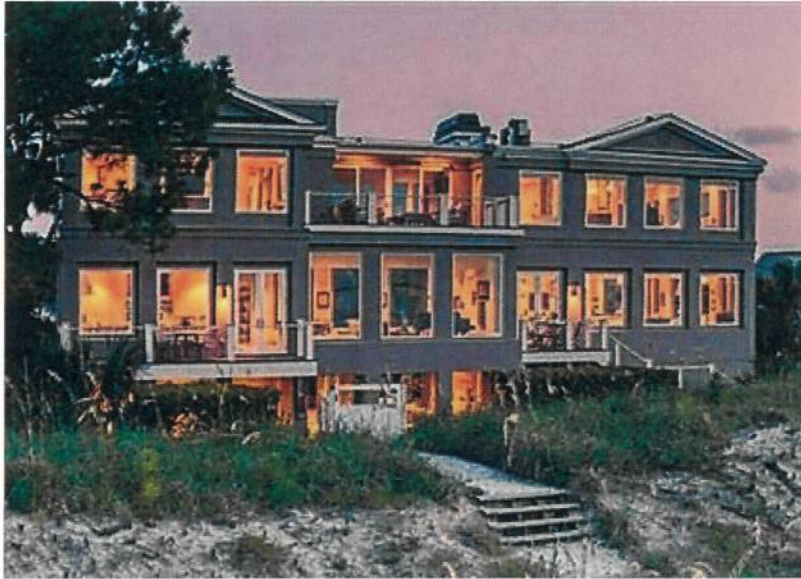
Card #	1
Actual Year Built	2001
Effective Year Built	2020
Type	1 - Single Family Residence
Style/Stories	7 - THREE STORY PLUS
Percent Complete	100
Quality	600
Condition	GD - GOOD
Living Area	5,219
Basement Area	0
Finished Basement Area	No
Bedrooms	4
Full / Half Baths	4 / 1

OBY

Card #	Description	Year Built:	Grade:	Units:	Override:	Area:
1	6616 : HOUSE LIFTING, ELEV. ABOVE FLOOD PLAIN, RAISED FLR	2006	A	1		319



Item	Area
Main Building	735
- 6616:HOUSE LIFTING, ELEV. ABOVE FLOOD PLAIN, RAISED FLR	319
A1 - 100/100:100- LIVING SPACE/100- LIVING SPACE	96
A10 - 903:903-Wood Deck (SF)	446
A11 - 907:907-Enclosed Porch (SF), Scree	147
A12 - 904:904-Slab Porch (SF) with Roof	147
A13 - 721:721-Carport, Flat Roof (SF)	735
A14 - 721:721-Carport, Flat Roof (SF)	616
A2 - 100/100:100- LIVING SPACE/100- LIVING SPACE	308
A3 - 100/100/100:100- LIVING SPACE/100- LIVING SPACE/100- LIVING SPACE	234
A4 - 100/100:100- LIVING SPACE/100- LIVING SPACE	616
A5 - 100/100:100- LIVING SPACE/100- LIVING SPACE	207
A6 - 100:100- LIVING SPACE	446
A7 - 100:100- LIVING SPACE	147
A8 - 903:903-Wood Deck (SF)	75
A9 - 903:903-Wood Deck (SF)	73





MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

September 19, 2022

Clayton Daniel and Myra Ann Johnson
1066 Coletoville Road East
Victoria, TX 77905

Re: Coastal Marshlands Protection Act (CMPA) Jurisdiction Line and Shore Protection Act (SPA) Jurisdiction Line Verification, 21 & 23 Teresa Lane, Tybee Island, Chatham County, Georgia

Dear Mr. & Mrs. Johnson:

Our office has received the survey by James Craig Brewer Georgia Registered Land Surveyor No. 3022 dated September 14, 2022 entitled "*A Recombination of Lots 21A-1 & 23A-1, Marshwinds Subdivision, City of Tybee Island, Chatham County, Georgia*". Based on my site inspection, September 7, 2022, this survey generally depicts the delineation of the marsh/upland boundary, as required by the State of Georgia for jurisdiction under the authority of the Coastal Marshlands Protection Act O.C.G.A. § 12-5-280 et seq.

Additionally, the survey by James Craig Brewer Georgia Registered Land Surveyor No. 3022 dated September 14, 2022 entitled "*A Recombination of Lots 21A-1 & 23A-1, Marshwinds Subdivision, City of Tybee Island, Chatham County, Georgia*" generally depicts the delineation of the landward toe of the dune, and the State's Shore Protection Act jurisdictional area as required by the State of Georgia under the authority of the Shore Protection Act O.C.G.A. § 12-5-230 et seq. based on my site inspection, September 7, 2022.

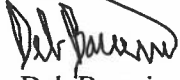
The Coastal Marshlands Protection Act O.C.G.A. § 12-5-280 et seq. and the Shore Protection Act O.C.G.A. § 12-5-230 et seq. delineations of the parcel are subject to change due to environmental conditions and legislative enactments. The CMPA jurisdiction line is valid for one year from the date of the verification. It will normally expire one year from the date of my inspection which occurred September 7, 2022, but may be voided should legal and/or environmental conditions change. SPA jurisdiction lines are normally valid for one year from date of the verification. The SPA verifications will normally expire one year from the date of my inspection which occurred September 7, 2022, but may be voided should legal and/or environmental conditions change.

This letter does not relieve you of the responsibility of obtaining other state, local or federal permission or authorization relative to the site. Authorization by the Coastal Marshlands Protection Committee/Shore Protection Committee or this Department is required prior to any construction or alteration in the marsh jurisdictional area.

21 & 23 Teresa Lane
North Waves Subdivision
Page 2 of 2

I appreciate you providing us with this information for our records. Please contact me at 912.266.3695 if I may be of further assistance.

Sincerely,



Deb Barreiro
Coastal Permit Coordinator
Marsh and Shore Management Program

Enclosure: *A Recombination of Lots 21A-1 & 23A-1, Marshwinds Subdivision, City of Tybee Island, Chatham County, Georgia*

cc: Georgia Shaw
City of Tybee
P.O. Box 2749
Tybee Island, GA 31328

JDS20220305

JDS20220304

George,

I've looked at the concept plan for the pool on Lot 23-A-1, adjacent to and east of Lot 21-A-1 (on which the residence lies).

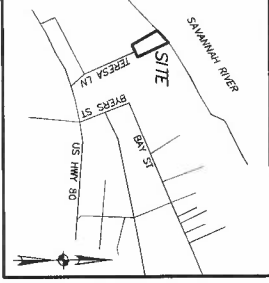
It's unlikely the pool project will have an opportunity to cause drainage problems for any neighboring property, other than 21-A-1, and that is highly unlikely. (It's my understanding these two properties will be combined).

This email is not a concurrence for a construction permit. The Shoreline Protection line is to be surveyed and confirmed by the GA CRD and the newer 25' dynamic dune protection zone shown. Similarly, the bulkheads and other portions of the GA CRD JD border at the marsh are to be shown along with the GA EPD's marsh buffer (unless the 18% rule is shown to exempt & eliminate the marsh buffer).

It may be a drafting oversight (like I tend to make), but the 20' access easement appears to be blocked. The permit drawing should be on a complete survey that will clarify this.

Please advise if you have any questions. I'll gladly look over the permit drawing for construction, if requested.

Downer



EQUIPMENT USED: TOTAL STATION
 ANGULAR ERROR: 1"/K
 ADJUSTED BY: COMPASS RULE
 PLAT E.O.C.: 1/28/2022
 FIELD E.O.C.: 1/28/2022

- REFERENCES
- 1. DB 2632 PG 374
 - 2. DB 2634 PG 381
 - 3. FNB 33-5 PG 4
 - 4. FNB 33-5 PG 5
 - 5. FNB 40-P PG 103
 - 6. FNB 40-P PG 104
 - 7. FNB 41-5 PG 19

THIS BLOCK IS RESERVED FOR THE CLERK OF SUPERIOR COURT

VICINITY MAP NOT TO SCALE

SURVEYOR'S NOTES

1. COORDINATES AND DIRECTIONS ARE BASED ON GEORGIA STATE PLANE COORDINATE SYSTEM (NAOD83) EAST ZONE.
2. ACCORDING TO THE FLOOD INSURANCE RATE MAP 13051C0213G, REVISED 08/16/2018, THIS PROPERTY LIES IN ZONE AE11, A 100 YEAR FLOOD HAZARD AREA WITH BASE FLOOD ELEVATION OF 11.00'. A PORTION OF THIS PROPERTY LIES WITHIN LIAWA LINE AREA EXPECTED TO RECEIVE 1.5-FEET OR GREATER BREAKING WAVES DURING THE 1.5-PERCENT ANNUAL-CHANCE FLOOD EVENT. THE LIAWA LINE HAS BEEN MARKED AROUND EXISTING STRUCTURES LOCATED FOR THIS SURVEY. THIS SURVEYOR MAKES NO WARRANTY OR GUARANTEE AS TO THE LOCATION, EXISTENCE, OR NONEXISTENCE OF ANY BELOW-GROUND UTILITIES OR STRUCTURES. THE PUBLIC RECORDS REFERENCED WERE USED FOR THE ESTABLISHMENT OF THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.
3. THIS SURVEY WAS CONDUCTED UNDER THE JURISDICTION OF THE DEPARTMENT OF REVENUE AND DISBURSEMENT OF THE STATE OF GEORGIA. THE SURVEYOR'S RESPONSIBILITY IS TO REPORT TO THE CLERK OF SUPERIOR COURT ANY VIOLATIONS OF THE PROTECTED AREAS WITHOUT PROPER PERMIT AND APPROVAL.
4. CHATHAM COUNTY AND OTHER PERMITTING AGENCIES MAY HAVE OTHER REQUIREMENTS THAT APPLY TO THIS SURVEY. THE SURVEYOR IS NOT RESPONSIBLE FOR THE OWNER'S AND DEVELOPER'S RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE ZONING, DEVELOPMENT, AND CONSTRUCTION REQUIREMENTS. THE PARCEL TAX PARCEL NUMBERS OF THIS PROPERTY ARE 40022 01372 AND 40022 01373.

APPROVED FOR RECORDING BY THE TYBEE ISLAND PLANNING DIRECTOR

PLANNING DIRECTOR _____ DATE _____

ALL STREETS, RIGHTS-OF-WAY, EASEMENTS AND ANY SITES FOR PUBLIC USE SHOWN ON THIS PLAT ARE HEREBY DEDICATED FOR THE USE INTENDED.

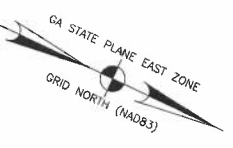
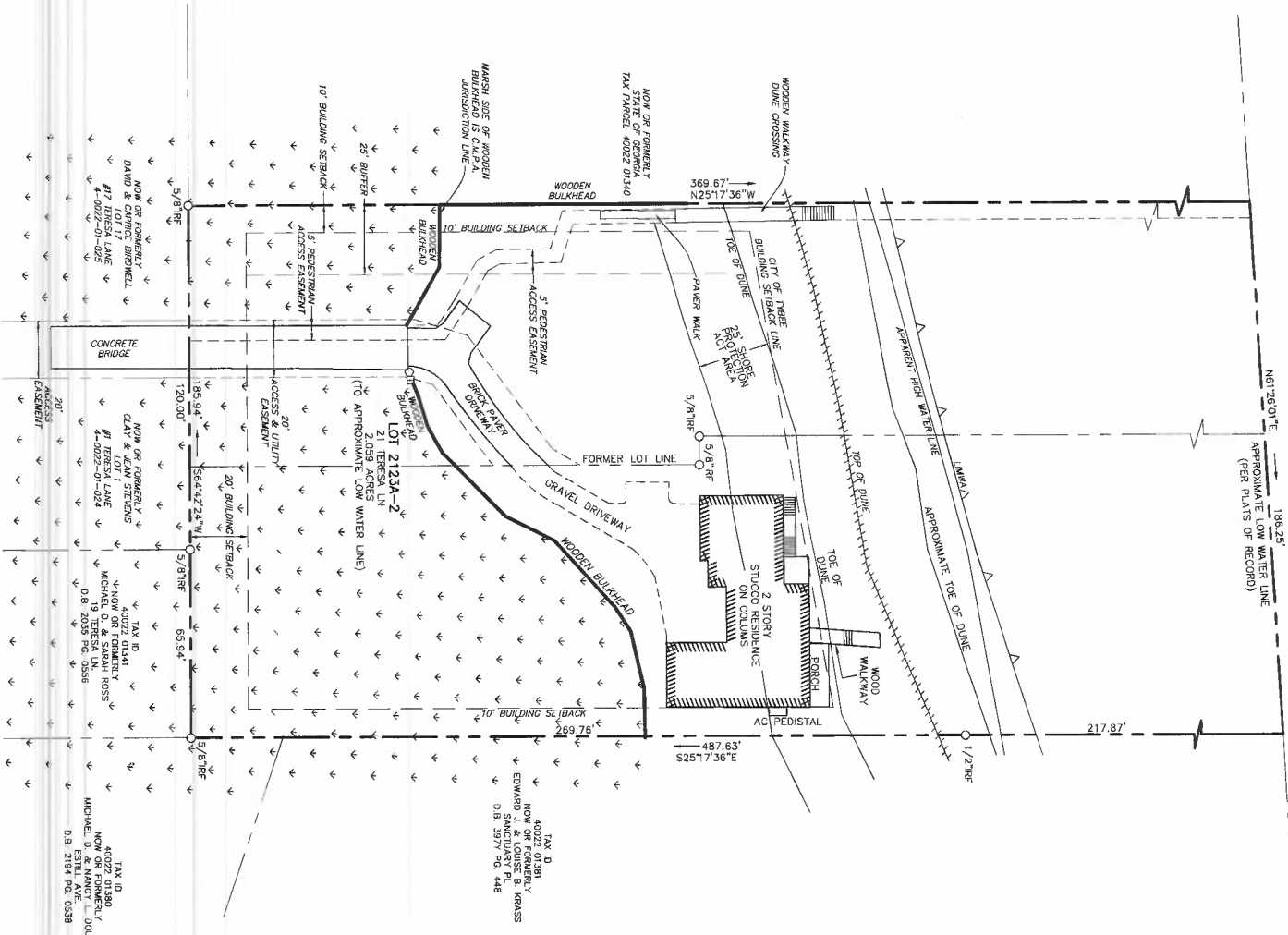
CLAYTON DANIEL JOHNSON, OWNER _____ DATE _____

MYRA ANN JOHNSON, OWNER _____ DATE _____

SURVEYOR'S CERTIFICATION

AS REQUIRED BY SUBSECTION (d) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY THE SIGNATURES OF THE SURVEYOR AND THE PLANNING DIRECTOR. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE COMPILED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE SURVEYOR HAS REVIEWED THE RECORDS OF THE CHATHAM COUNTY GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

JAMES BRADY BREWER, CL. R.S.# 3022 _____ DATE 9-14-2022



- LEGEND**
- IRF IRON ROD FOUND
 - CABLE PEDISTAL
 - TELEPHONE BOX

A RECOMBINATION OF
LOTS 21A-1 & 23A-1, MARSHWINDS SUBDIVISION
 CITY OF TYBEE ISLAND, CHATHAM COUNTY, GEORGIA

PREPARED FOR:
CLAYTON DANIEL JOHNSON & MYRA ANN JOHNSON

BREWER LAND SURVEYING
 604 US Highway 80W
 Pooler, GA 31322
 info@brewersurvey.com
 Phone (912) 856-2205
 www.BrewerSurvey.com
 LSF #1095

PROJECT #	220418.3
FIELD DATE	8/28/2022
PLAT DATE	9/15/2022
LAST REVISED	N/A
DRAWN BY	JCB/CAL
SCALE	1"=10'

SHEET: 1 OF 1

09/19/2022



STAFF REPORT

PLANNING COMMISSION MEETING: May 15, 2023

CITY COUNCIL MEETING: June 8, 2023

LOCATION: 711 Butler Ave.

PIN: 40005 19002

APPLICANT: Laura Solomon

OWNER: Friends of TIMA

EXISTING USE: Single family home

PROPOSED USE: Office space for TIMA

ZONING: R-2
special review

USE PERMITTED BY RIGHT: Yes, after

COMMUNITY CHARACTER MAP: Inland Cottage Neighborhood

APPLICATION: Special review for a school use in the R-2 district Sec. 4-050 (C) (2)

PROPOSAL: The Friends of TIMA would like to allow this home to be used for additional office space for teachers and administrators as there is very limited space in the existing school buildings.

ANALYSIS: Schools of general education are allowed in R-2 after special review. This building has been purchased by the Friends of TIMA to help out the school with space issues. The lease makes it clear that the building is to be used for educational related uses.

Inland Cottage Neighborhood: This traditional neighborhood west of Butler consists of R-2, NG, P-C zoning characterized by a grid of narrow, tree lined streets. Housing includes permanent residences and rental homes, along with multifamily. Both traditional historic cottages and large new residential homes are found here. Other uses include low density commercial and grocery, public/government buildings, and parks.

<i>Comprehensive Plan – Community Character Area Inland Cottage Neighborhood – Section 1.2.6</i>		
<i>Recommended Development Strategies</i>		<i>Meets Strategy Y/N or N/A</i>
1.	New development, redevelopment and restoration should be consistent with existing character of the area in terms of mass, scale, use and density.	Y
2.	Permit only compatible uses including low density residential, public/institutional, and low impact commercial	Y
3.	Develop and implement design and architectural standards	N/A
4.	Historic structures should be restored and/or preserved whenever possible.	Y
5.	The City should provide appropriate incentives for historic restoration projects.	N/A
6.	Implement streetscape improvement to improve the pedestrian/bicycle environment and encourage safety and mobility.	N/A

STAFF FINDING

This use is allowed after special review. No changes to the site are planned at this time. Staff recommends approval.

This Staff Report was prepared by George Shaw.

ATTACHMENTS

- A. Special review application
- B. Lease
- C. SAGIS map



CITY OF TYBEE ISLAND
SPECIAL REVIEW APPLICATION

Fee \$ Item #3.

Applicant's Name Laura Solomon, Board Chair Friends of TMA

Address and location of subject property 711 Butler Avenue Tybee Island, GA 31328

PIN 40605 19002 Applicant's Telephone Number 757 971 2434

Applicant's Mailing Address

Brief description of the land development activity and use of the land thereafter to take place on the property: Longterm and curriculum planning with limited use and access

Property Owner's Name Friends of TMA Telephone Number 912 665 1048

Property Owner's Address Same as subject property

Is Applicant the Property Owner? Yes No

If Applicant is the Property Owner, Proof of Ownership is attached: Yes

If Applicant is other than the Property Owner, a signed affidavit from the Property Owner granting the Applicant permission to conduct such land development is attached hereto. Yes

Current Zoning of Property R-2 Current Use Single Family Residence/STVR

Names and addresses of all adjacent property owners are attached: Yes

If within two (2) years immediately preceding the filing of the Applicant's application for a zoning action, the Applicant has made campaign contributions aggregating to more than \$250 to the Mayor and any member of Council or any member of the Planning Commission, the Applicant and the Attorney representing the Applicant must disclose the following:

- a. The name of the local government official to whom the campaign contribution or gift was made;
b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action, and the date of each contribution;
c. An enumeration and description of each gift having a value of \$250 or more made by the Applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action.

Signature of Applicant Date 19 April 2023

NOTE: Other specific data is required for each type of Special Review.

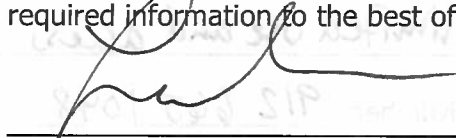
Fee Amount \$ 500.00 Check Number 4254 Date 4/19/23

City Official

NOTE: This application must be accompanied by following information:

- A detailed description of the proposed activities, hours of operation, or number of units.
- N/A 8 copies, no smaller than 11 x 17, of the proposed site plan and architectural renderings.
- Disclosure of Campaign Contributions form

The Applicant certifies that he/she has read the requirements for Site Plan Approval and has provided the required information to the best of his/her ability in a truthful and honest manner.



Signature of Applicant


11 April 2023

Date

19 April 2023
Date


Signature of Applicant

NOTE: Other specific data is required for each type of Special Review.

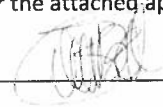
Fee Amount \$ 200.00
 Check Number 4224
 Date 4/19/23
 City Official 

Agent Authorization Form

Applicant Information

Owner	
Name	Address
Friends of TIMA	711 Butler, Tybee Island, Georgia 31328
Phone	Email
(912) 665 1048	bvanbaelen@gmail.com
Development Name (if applicable)	

I, the undersigned, do hereby certify that I am the owner of the property affected by the proposed application to the Planning Commission. I/We, the undersigned owner(s) of property involved in this application, do hereby authorize Laura Solomon to act as Agent for the attached application in my/our behalf.

Brigitte Van Baelen		04-18-2023
Print Name	Signature	Date
_____	_____	_____
Print Name	Signature	Date
_____	_____	_____
Print Name	Signature	Date

Authorized Agent	
Company Name	Contact (Individual Name)
Friends of TIMA	Laura Solomon
Phone	Email
(757) 971-2434	laura.solomon@sccpss.com

I accept this authorization to act as Agent on behalf of the above owner(s).

Laura Solomon		04-18-2023
Print Name	Signature	Date

**Detailed description of proposed activities, hours of operation, or number of units
711 Butler Avenue**

Will be used as an office space for planning by one occupant with limited use and access. Collaborative internal meetings may be held. No student or public access permitted.

Operating hours will be 8:00am to 4:00pm.

Parking will be on-site.

Lease to school

Item #3.

COMMERCIAL LEASE

This Lease Agreement (this "Lease") is dated as of May 01, 2023, by and between Friends of TIMA ("Landlord"), and Tybee Island Maritime Academy ("Tenant"). The parties agree as follows:

PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant the entire house and property including parking. (the "Premises") located at 711 Butler Avenue, Tybee Island, GA 31328.

TERM. The lease term will begin on May 01, 2023 and will terminate on June 30, 2025.

LEASE PAYMENTS. Tenant shall pay to Landlord lease payments of \$0.00, payable in advance, on the first of each year, for a total lease payment of \$0.00. Lease payments shall be made to the Landlord at PO BOX 1519, Tybee Island, Georgia 31328. The payment address may be changed from time to time by the Landlord.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

USE OF PREMISES. Tenant may use the Premises only for office space for planning by one occupant with limited use and access. Collaborative internal meetings may be held. **No student or public access permitted.** Operating hours will be 8:00am to 4:00pm. Parking will be on-site. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence.

PARKING. Tenant shall be entitled to use 1 parking space(s) for the parking of the Tenant's customers' /guests' motor vehicle(s).

STORAGE. Tenant shall be entitled to store items of personal property in house and storage building during the term of this Lease. Landlord shall not be liable for loss of, or damage to, such stored items.

PROPERTY INSURANCE. Tenant shall maintain casualty insurance on the Premises in an amount not less than 15% of the full replacement value. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

LIABILITY INSURANCE. Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$50,000.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies.

RENEWAL TERMS. This Lease shall automatically renew for an additional period of 6 months per renewal term, unless either party gives written notice of termination no later than 30 days days prior to the

end of the term or renewal term. The lease terms during any such renewal term shall be the same as those contained in this Lease.

MAINTENANCE. Tenant shall have the responsibility to maintain the Premises in good repair at all times during the term of this Lease.

UTILITIES AND SERVICES. Tenant shall be responsible for all utilities and services incurred in connection with the Premises.

TAXES. Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Tenant shall pay all real estate taxes and assessments which are assessed against the Premises during the time of this Lease.

PERSONAL TAXES. Tenant shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and /or use taxes (if any) that may be due in connection with lease payments.

DEFAULTS. Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

Friends of TIMA
714 Lovell Ave
Tybee Island, Georgia 31328

TENANT:

Tybee Island Maritime Academy
PO BOX 1519
Tybee Island, GA, Georgia 31328

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of Georgia.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

LANDLORD:
Friends of TIMA

DocuSigned by:
By: Laura Solomon Date: 5/1/2023
DEB959C2C2D842A

Laura Solomon, Chairperson of the Board

TENANT:

Tybee Island Maritime Academy

DocuSigned by:
By: Van Baelen, Brigitte
CFD71521DA1142E...

5/1/2023
Date: _____

Brigitte VanBaelen, Chairperson of the Board

TYBEE ISLAND MARITIME ACADEMY

May 1, 2023

Addendum to Lease for 711 Butler Explanation of Purpose and Intended Use

Tybee Island Maritime Academy "TIMA" intends to use the property at 711 Butler to provide expanded room for teachers and administrators to further the operations of the school. Currently, there are three directors that do not have dedicated office space. These roles focus on planning for family and community engagement, strategic initiatives, curriculum, instruction, development, and testing. TIMA teachers also frequently share classroom space, so occasionally, teachers need space to plan for their lessons. Additionally, with expanded grades, there is a need for storage to support both academics and athletics.

LANDLORD: Friends of TIMA

DocuSigned by:
Laura Solomon
By: DEBBE9C3C2D842A
Laura Solomon, Chairperson of the Board

Date: 5/2/2023

TENANT: Tybee Island Maritime Academy

DocuSigned by:
Van Baelen, Brigitte
By: CE074521DA4442E
Brigitte VanBaelen, Chairperson of the Board

Date: 5/2/2023

714 LOVELL AVENUE - PO BOX 1519 - TYBEE ISLAND, GA 31328 - (912) 395-4060

PARID: 40005 19002
RLH HOLDINGS, LLC

711 BUTLER AVE

Most Current Owner

Current Owner	Co-Owner	Care Of	Mailing Address
RLH HOLDINGS, LLC			PO BOX 99 TYBEE ISLAND GA 31328

Digest Owner (January 1)

Owner	Co-Owner	Address 1	Address 2	City	State	Zip
RLH HOLDINGS, LLC		PO BOX 99		TYBEE ISLAND	GA	31328

Parcel

Status	ACTIVE
Parcel ID	40005 19002
Category Code	RES - Residential
Bill #	3029259
Address	711 BUTLER AVE
Unit # / Suite	
City	TYBEE ISLAND
Zip Code	31328-
Neighborhood	20216.00 - T216 TYBEE BTL WEST
Total Units	
Zoning	R-2
Class	R3 - Residential Lots
Appeal Status	

Legal Description

Legal Description	15A WD 2 TYBEE
Deed Book	1683
Deed Page	0709

Permits

Permit #	Permit Date	Status	Type	Amount
210102	02/22/2021	Complete	AD - ADDITION	\$1,000.00
190243	05/07/2019	Complete	RF - ROOF	\$4,500.00
010215-1	07/23/2001	Complete	-	\$0.00

Inspection

Inspection Date	Reviewer ID
09/30/2021	RKRYZAK
01/17/2020	RKRYZAK

03/14/2017 MWTHOMAS
 06/10/2014 MWTHOMAS
 05/10/2007 GDWHIDDO

Appraised Values

Tax Year	Land	Building	Appraised Total	Reason
2022	350,000	76,900	426,900	
2021	175,100	87,800	262,900	
2020	174,700	74,300	249,000	TRANSACTION
2019	175,100	102,200	277,300	
2018	175,100	100,100	275,200	
2017	175,100	93,300	268,400	
2016	175,100	92,200	267,300	
2015	175,100	94,900	270,000	
2014	175,100	91,000	266,100	

Sales

Sale Date	Sale Price	Sale Validity	Instrument	Book - Page	Grantor	Grantee
07/30/2019	249,000	Q		1683 - 0709	MARY C. MULLE AND ALICE MULLE	RLH HOLDINGS, LLC
04/27/2006	0	U	NA	306H - 0197	MULLE MARY ESTATE	MULLE MARY C & ALICE*
06/21/2002	220,000	Q	WD	237G - 0749	CRAWFORD CULLEN B	MULLE MARY

Land

Line Number	1
Land Type	U - UNIT
Land Code	01 - SINGLE FAMILY RES
Square Feet	0
Acres	.109
Influence Factor 1	
Influence Reason 1	
Influence Factor 2	
Influence Reason 2	

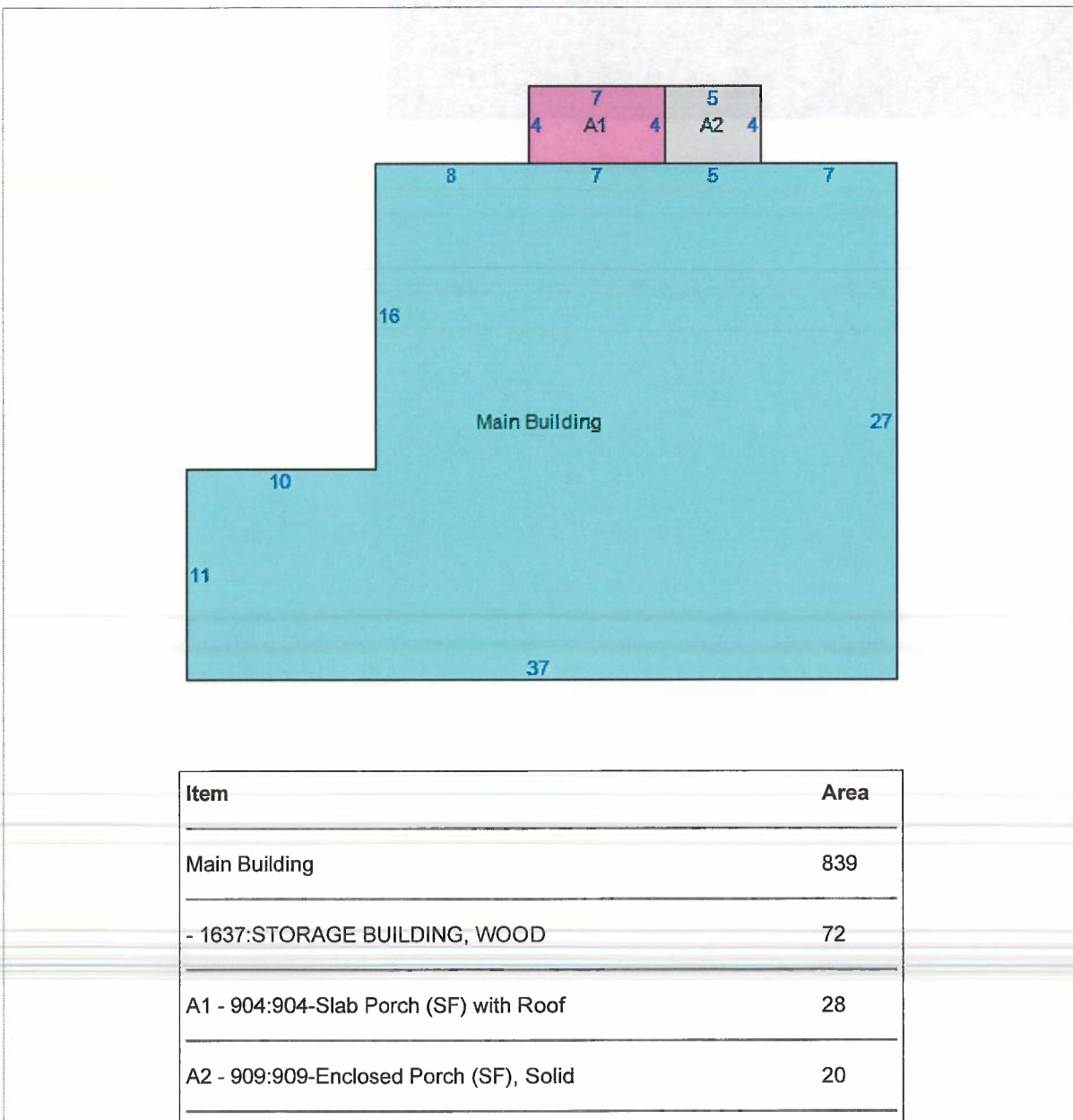
Residential Building

Card #	1
Actual Year Built	1946
Effective Year Built	1980
Type	1 - Single Family Residence
Style/Stories	1 - ONE STORY

Percent Complete 100
 Quality 300
 Condition GD - GOOD
 Living Area 839
 Basement Area 0
 Finished Basement Area No
 Bedrooms 2
 Full / Half Baths 1 / 0

OBY

Card #	Description	Year Built:	Grade:	Units:	Override:	Area:
1	1637 : STORAGE BUILDING, WOOD	1980	D	1		72





Area	Year
1037-STORE BUILDING WOOD	75
A1 - 804-804-Slab Pouch (SF) with Roof	70
A2 - 804-804-Enclosed Pouch (SF) 804	70



STAFF REPORT

PLANNING COMMISSION MEETING: May 15, 2023

CITY COUNCIL MEETING: June 8, 2023

LOCATION: N/A

APPLICANT: City of Tybee Island

OWNER: N/A

EXISTING USE: N/A

PROPOSED USE: N/A

ZONING: N/A

USE PERMITTED BY RIGHT: N/A

COMMUNITY CHARACTER MAP: N/A

APPLICATION: Amendment Land Development Code (LDC) Article 3

PROPOSAL: This amendment changes the 90 day STR rental requirement to 60 days and lays out a procedure for petitioning for an exemption from this requirement

ANALYSIS: This amendment reduces the yearly rental requirement from 90 days to 60 days and would provide a process to petition for an exemption to the 60 day rental requirement if their home is damaged or affected by other calamities.

STAFF FINDING:
Staff recommends approval

This Staff Report was prepared by George Shaw.

ATTACHMENTS
A. Amendment

**Z-2 – Section 3 Amended
Abandoned-Nonconforming Use**

ORDINANCE NO. 2023-18

ENTITLED:

EXCEPTION TO RENTAL REQUIREMENTS FOR CERTAIN CALAMATIES AND AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF TYBEE ISLAND GEORGIA, SO AS TO AMEND NOTICE OF AN ABANDONMENT AND NONCONFORMING USE, PREVIOUSLY SECTION 3 TO ORDINANCE NO. 2022-04 (Z-2) TO REDUCE THE REQUIRED 90 DAYS OF RENTAL TO 60 DAYS OF RENTAL SO AS PROVIDE FOR RELIEF IN CERTAIN INSTANCES OF OR FROM THE REQUIREMENTS OF THE 90 OR 60 DAY PROVISION DUE TO CERTAIN CALAMATIES OR FORCES OF NATURE, INCLUDING BUT NOT LIMITED TO PANDEMICS AND/OR PHYSICAL DAMAGES TO A STRUCTURE AND OTHER CIRCUMSTANCES, TO PROVIDE FOR PROCEDURES FOR ADDRESSING REQUESTS FOR SUCH RELIEF AND TO CONFIRM THE EFFECT DATE AND ADOPTION OF SECTION 3, NOTICE OF ABANDONMENT AND NONCONFORMING USE, TO REPEAL CONFLICTING ORDINANCES OR PROVISIONS AND TO INSURE CONFORMITY AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia (hereinafter the “City”), is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is the Mayor and Council thereof; and

WHEREAS, the governing authority desires to revise a zoning ordinance under its police and home rule powers; and

WHEREAS, following numerous public hearings, meetings, and update shops, conference calls, and focus group sessions, conducted in order to address Short-Term Rentals in R-1, R-1-B and R-2 areas; and

WHEREAS, the City previously addressed and adopted ordinances revising the Short-Term Rental code; and

WHEREAS, the City adopted certain zoning ordinances addressing Short-Term Rentals and finds a need to revise Section 3 of Ordinance No. 2022-04 now Ordinance No. 2023-12; and

WHEREAS, the provisions of Section 3 of Ordinance No. 2022-04, as previously adopted, has among other things, a requirement of at least 90 days of rental at full market value within the preceding 12-month period and a presumption that the use has been abandoned and becomes unauthorized if such rentals are not established; and

WHEREAS, the City wishes to revise the same so as to provide a procedure for relief from the 90-day or 60-day requirement in the event the inability to rent is shown to be a result of damages to the property resulting from fire, hurricane or storm damage, and/or due to situations such as spread of disease, such as the pandemic experienced in recent years and potentially for other circumstances justifying relief; and

WHEREAS, the City wishes to consider reducing the 90-day rental requirement to 60 days of rentals; and

NOW THEREFORE, it is hereby ordained by the governing authority of the City of Tybee Island that the Code of Ordinances be amended so as to revise Section 3 of Ordinance No. 2022-4 as follows:

SECTION 1, AMENDMENT TO SECTION 3 OF ORDINANCE 2022-4, SECTION 3:

SECTION 3 – NOTICE OF AND ABANDONMENT OF NONCONFORMING USE

If a property holding a Short-Term Rental permit in zoning districts R-1, R-1-B and R-2 fails to conduct short term rentals (rentals of less than 30 days each), at least 60 days of rental at full market value within the preceding 12-month period, it shall be presumed that such short-term rental use has been abandoned and therefore such use shall be unauthorized. It is the owner or rental operator's burden to establish the rentals. The existence of rentals shall be proven by the applicable tax returns filed by the owner for that location. In the event tax returns or other verifiable tax documentation are not available due to the rental occurring, or allegedly occurring, through a marketplace innkeeper or an online booking service, (such as Airbnb or similar providers), the owner may establish rentals through other documentation including rental records to the City's satisfaction. No new permit or renewal of a permit shall be granted if an owner or rental operator fails to make this showing of rentals. Any new owner seeking a permit is responsible to demonstrate the prior property owner's rental history.

Any previously operated Short-Term Rental within the R-1, R-1-B and R-2 zoning districts which is determined abandoned will no longer be allowed to operate as a Short-Term Rental.

Any property holding an STR permit is exempt from the above requirement to establish the short-term rental history for any period where the property is subject to a written lease for a long-term rental. "Long term rental" as used herein means a bona fide written lease agreement for a period of 30 days or more.

Further, and notwithstanding the provisions above, property owners, managers or agents thereof may petition the Mayor and Council for relief from the 60-day requirement by demonstrating that due to damage to the property from fire, hurricane or other storm, and/or due to the unexpected spread of disease, such as the recent pandemic, the property was not available or appropriate for rent or there was no ability to rent during a period making compliance unachievable as a practical matter, relief may be granted if the Mayor and Council determines that the circumstances shown to exist were of such an extent, duration and/or nature that rentals would be substantially impaired for a period of time not less than 45 days.

In addition to the circumstances identified in the above paragraph, a property owner or representative of a property owner may apply for an exception to the 60-day rental requirement when circumstances exist which are peculiar to the particular property and which involve circumstances that the owner or representative contend(s) to be justification for allowing relief or an exemption to the 60-day requirement. The owner or representative must petition for relief with identifying circumstances contended by the owner or representative believed to justify an exception to the requirement. Such circumstances must relate to the property and involve conditions that, although are not identified in the calamities described above, would create an undue hardship or other exceptional circumstances that would warrant relief. The circumstances must be such as to significantly impact the availability or marketability of the property in question and must be directly related to the property itself, as opposed to any unique circumstances of the owner or representative of the owner.

Applications for relief from the requirements of this ordinance shall be made by petition on such forms as the City may designate and will identify the calamity or circumstances the owner or representative contend support entitlement to an exemption to the time rental requirements under the ordinance. The matter will be reviewed by the Planning Commission and a public hearing will be held by the Mayor and Council pursuant to applications and ordinary procedures for a variance such as those provided in Section 5-090. The Mayor and Council will determine, following a public hearing, whether the calamity or circumstances justify the exemption or relief and such conditions or terms as would be applicable to the relief.

SECTION 2

If any section, subsection, clause, or provision of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance which is not invalid or unconstitutional. Where the provisions of this ordinance are in conflict with other ordinances, the most restrictive provision shall be enforced.

SECTION 3

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

SECTION 4

It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become effective and be made a part of the Code of Ordinances, City of Tybee Island, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 5

This ordinance shall be effective upon its adoption by the Mayor and Council pursuant to the code of the City of Tybee Island, Georgia.

This ordinance has previously been determined to be effective as of May 1, 2023. That determination was prior to this amendment.

ADOPTED THIS ____ DAY OF _____, 2023.

MAYOR

ATTEST:

CLERK OF COUNCIL

FIRST READING: _____

SECOND READING: _____

ENACTED: _____