

Consideration of Items for Consent Agenda

Mayor Sessions called the consent agenda to order at 6:30PM on March 10, 2022. Those present were Brian West, Monty Parks, Nancy DeVetter, Barry Brown, and Spec Hosti. Also attending were Dr. Shawn Gillen, City Manager; Michelle Owens, Assistant City Manager; Dana Braun, City Attorney; Tracy O'Connell, City Attorney; George Shaw, Planning and Zoning; and Janet LeViner, Clerk of Council. Bubba Hughes and Jay Burke were excused.

Mayor Sessions listed the following items on the consent agenda:

- Minutes, City Council Meeting, February 24, 2022
- Approve Out-of-State Travel for Chief Bryson and Major Fobes
 - PERF Annual Meeting that is being held in San Francisco, CA this year and the dates are May 30th to June 5th, 2022.
 - IACP Meeting in Dallas, Texas, Oct 14th to Oct 19th, 2022. This was approved last year for New Orleans but was cancelled.
 - IACP Technology Conference in Milwaukee, WI, May 23rd to May 28th, 2022.
- 2022 Budget Amendments
 - IT contract services and equipment increase of \$75,000 and \$31,000.
 - DPW will purchase highway traffic signage, \$25,000
 - Repairs for Fire Department vehicle
- Budget Amendment - Fire Truck Purchase, \$1,096,000
- Second Reading, 2022-01, Film Production Fees

Mayor Sessions called the regular meeting to order. All those present for the consent agenda were present.

Opening Ceremonies

- Call to Order
- Invocation: Jan LeViner
- Pledge of Allegiance

Citizens to be Heard: Please limit comments to 3 minutes. Maximum allowable times of 5 minutes.

Pat Leiby approached Mayor and Council to invite everyone to the First Annual Lazaretto Day, March 25, 2022, 3PM at Battery Park.

Barry Brown made a motion to approve the consent agenda. **Monty Parks** seconded. Vote was unanimous to approve, 5-0.

Public Hearings

Subdivision of Land: Recombination of Lots on Mortar Avenue-Zone R-1 – Cfk Properties-Chris Koncul. George Shaw approached Mayor and Council. He stated this is a recombination as the applicant has 15 lots and would like to combine them and make four (4) lots. Most of the property is marsh, unbuildable, and several of the lots are completely marsh so it is the intent of the petitioner of take the 15 lots and combine into four (4) lots, buildable, making them bigger. Planning Commission recommended approval, unanimously. Staff recommended approval as well. Mayor pro tem Brown asked what is the zone. Mr. Shaw responded, R-1 and confirmed they will be less than substandard if approved. Ms. DeVetter asked the status of the wetlands. Mr. Shaw responded, they will have to be flagged and the City has a

25' marsh buffer where nothing can be put there. Mr. Parks expressed his concerns, as there were not pertinent documents included in the packet. Ms. DeVetter confirmed with Mr. Shaw, the petitioner would have an updated survey done which will show the marsh buffers.

- **Patricia Leiby** approached Mayor and Council. She asked if the survey on the screen was an old survey and being presented to the City Council to approve something where there is not an up to date survey and do not know if DNR will approve for the wetlands. Mr. Shaw responded the last time the wetlands were flagged were a couple of years ago and the current survey has expired. He confirmed a new survey of the wetlands be required prior to building. She recommended Mayor and Council deny. Mr. Shaw confirmed no construction could take place until a new survey done and he does not feel the lines have changed.
- **Elaine McGruder** approached Mayor and Council. She corrected the vote of the Planning Commission, as she did not vote in the affirmative. Mr. Shaw apologized and did confirmed the vote was 5-1 in favor.
- **Allen Lewis** approached Mayor and Council. Mr. Lewis distributed the last survey that was done (attached) in 2019. An application for a new survey has not been done to date. He expressed his concerns with the trees and foliage that are on the property. He would ask, prior to any clearing that is done, there be an updated survey and plat submitted. Mayor Sessions thanked Mr. Lewis for his comments.

Dr. West confirmed with Mr. Shaw, the request before them tonight is just to combine the lots. Mr. Shaw confirmed. Mr. Hosti stated it is the intent of the petitioner to enlarge the lots and he is required to abide by DNR, the City's Land Development Code and therefore there is a process. The petitioner is only asking to combine the lots. Mr. Parks asked Mr. Shaw if the petitioner is allowed to do land disturbance activity. Mr. Shaw responded no, not without a permit. Mayor pro tem Brown confirmed the petitioner could not move forward without approval and permits. Ms. DeVetter asked Mr. Shaw if this request would come back to Mayor and Council at some point unless there are other variance requests. Mr. Shaw confirmed. **Chris Koncul** approached Mayor and Council to address the previous issue regarding clear cutting property on Tybee Island. Mr. Koncul stated he was not working on that specific property/project and has limited knowledge. Dr. West confirmed with Mr. Koncul, he wants to make the lot(s) bigger.

- **Mack Kitchens** approached Mayor and Council to speak against this agenda item. He stated in the past he was always required to submit documents prior to building and is concerned about the trees. Mayor Sessions thanked Mr. Kitchens.
- **Brad Buttimer** approached Mayor and Council. He spoke in favor of Mr. Koncul and recommended Mayor and Council approve. Mayor Sessions thanked Mr. Buttimer for his comments.

Spec Hosti made a motion to approve. **Brian West** seconded. Voting in favor were Barry Brown, Spec Hosti and Brian West. Voting against were Monty Parks and Nancy DeVetter. Vote was 3-2 to approve.

Subdivision Of Land: Requesting New Subdivision – 708 Butler Ave. – 40005 20006 – Zone R-2 - Cfk Properties – Chris Koncul. **George Shaw** approached Mayor and Council. Mr. Shaw stated this is a large lot, 708 Butler, with one residence on it, built in 1920, approximately. The applicant is requesting a subdivision approval to have ten (10) lots total, nine (9) lots in addition to the lot with the existing home. Mr. Shaw continued, the petitioner has ten (10) lots with a hammerhead turn around. The City's Code requires a cul-de-sac, which is a large round circle at the end where a hammerhead is an alternative. By doing this, green space will increase. The Planning Commission approved, 5-1; Chief Kendrick, Tybee Island Fire Department; and Staff recommended approval. Mayor pro tem Brown asked Mr. Shaw to explain

the moving of the driveway to the north. Mr. Shaw stated the intent of the petitioner is to protect the trees and the best way to avoid the trees is to move the entrance to go around the tree. Mr. Parks asked if this request is time sensitive. Mr. Shaw responded, not that he is aware.

- **Elizabeth Alford** approached Mayor and Council and expressed her concerns with the potential Home Owners Association (HOA) that will be at the property. She also expressed her concerns regarding the potential hammerhead; traffic on Butler Avenue; maintenance of the roads, gate, and trees and who is going to be responsible to fund the maintenance. She cautioned Mayor and Council not to approve this request. Mayor Sessions thanked Ms. Alford.
- **Jane Coslick** approached Mayor and Council. Ms. Coslick expressed her concerns for the protection of the property, trees and residence as this property is historic. Ms. Coslick asked Mayor and Council to be cautious in their decision. Mayor Sessions thanked Ms. Coslick for the concerns.
- **Holly Lawe, 7 Logan Street** approached Mayor and Council. She is in front of Mayor and Council representing the Tybee Island Historic Preservation Commission (HPC). The HPC is extremely concerned regarding the preservation of the historic cottage located at the 708 Butler property. Ms. Lawe asked Mayor and Council to insure the preservation of the McNeal Cottage to whatever means are available and necessary. She is also requesting Mayor and Council balance historic preservation especially in this situation. Mayor Sessions thanked Ms. Lawe.
- **Allen Lewis** approached Mayor and Council to speak to the plan to protect the roots of the Oak trees as he has not heard or seen any. Mayor Sessions thanked Mr. Lewis for his comments.
- **B.H. Levy, Jr.** approached Mayor and Council. Mr. Levy stated he attended the Planning Commission meeting where this agenda item was heard. It is his understanding there will only be nine (9) single family homes built as shown on the subdivision plan. He recommended Mayor and Council require a Conservation Easement signed by the petitioner and filed at the courthouse. Mr. Levy then shared his concerns regarding the bend in the road around the tree. Mayor Sessions thanked Mr. Levy for his comments.
- **Dottie Kluttz** approached Mayor and Council. Ms. Kluttz stated Mayor and Council have the power and the responsibility to preserve the history of Tybee Island. She recommended the petitioner, if he cannot go forward with this request, is to turn the cottage into a community center. Ms. Kluttz asked Mayor and Council to use their vision, take their responsibility, take their power, and do things the right way. Mayor Sessions thanked Ms. Kluttz for her comments.
- **Michael Sergi** approached Mayor and Council. Mr. Sergi presented a power point regarding the history of the McNeal's Cottage. He recommended Mayor and Council put something in place to insure there will be no modifications made to the home and the trees are preserved. Mr. Sergi then provided Mayor and Council with a letter (attached) from Robert Ciucevich. In this letter Mr. Ciucevich, recommended Mayor and Council require a document guaranteeing the trees be preserved as a condition of the approval of a variance. Mayor Sessions thanked Mr. Sergi for his comments.
- **Chief Kendrick, Tybee Island Fire Department**, approached Mayor and Council. Chief Kendrick clarified that the tree(s) would not have to be removed for the emergency vehicles, only the limbs pruned. Mayor Sessions thanked the Chief.
- **Margie Levy** approached Mayor and Council. Ms. Levy referred to the Planning Commission minutes where Commissioner Reynolds made a motion to approve the subdivision request with the condition there be a legal document or agreement to preserve the trees. Ms. Levy asked the meaning of the red ribbons on trees at 708 Butler. Mr. Shaw responded the City did not mark the trees. Mayor Sessions thanked Ms. Levy for her comments.

- **Jeremy London** approached Mayor and Council. Mr. London stated he appreciates the sensitivity of the development of the property. He is asking Mayor and Council to find common ground in moving forward with this request. Mayor Sessions thanked Mr. London for his comments.
- **Sarah Jones, Tybee Island Historical Society**, approached Mayor and Council. Ms. Jones expressed her concerns with the preservation with the McNeal Cottage. She is asking Mayor and Council to hammer out a plan to save the cottage. Mayor Sessions thanked Ms. Jones for her comments.
- **Adam Hart** approached Mayor and Council to speak in favor of the integrity of the petitioner as he assisted them in preserving trees when he built his house. Mr. Hart stated even if this request is not approved, there would be some sort of development at some point in the future. It is also important to know who and when it will be developed. He recommended Mayor and Council approve this request.
- **Mack Kitchens** approached Mayor and Council referring to 2009 where he received a Conservation Easement on a property he was developing. Mayor Sessions thanked Mr. Kitchens for his comments.
- **Ken Williams** approached Mayor and Council. Mr. Williams asked at what point development is enough. Mayor Sessions thanked Mr. Williams for his comments and concerns.
- **Mack Kitchens** approached Mayor and Council. He expressed his concerns with the current water/sewer lines as the lines are very old and may not be able to provide adequate service for the proposed development. Mayor Sessions thanked Mr. Kitchens
- **Michael Sergi** approached Mayor and Council to again address the developer being held accountable with a conservation easement and the revocation of a permit for the boardwalk. Mayor Sessions thanked Mr. Sergi for his comments.
- **Chris Koncul** approached Mayor and Council. He gave a brief timeline and facts with the property. He stated he is acting in good faith and his plan has not changed. He continued that zoning allows for twenty structures which could include duplexes but he is coming before Mayor and Council asking for ten (10) total homes to include two (2) conservation areas. This will save two (2) trees in the front of the property and this action is to save the trees, which is voluntary and perpetual. Mr. Koncul confirmed not one Live Oak tree would be taken down in the tree conservation area; pruning will take place where needed which does not require a permit; the cottage has always been a dream of his to own and this has happened. He stated he would also voluntarily commit in writing that the home could not be torn down or removed for a period of ten (10) years. Since the Planning Commission he has taken the following steps:
 - Both tree conservation areas are 15' larger toward the ocean side
 - Use of pervious pavers at the entrance until they reach the end of the tree conservation area
 - Move the entrance slightly to preserve the trees
 - The existing home cannot be moved or torn down for ten (10) years (in writing)
 - Real Estate Attorney crafting language for the tree conservation area
 - Met with the City Arborist, Brent Levy, to discuss what is best and healthiest for all the trees

Mayor Sessions asked Mr. Koncul to define the ten (10) year statement regarding the cottage. Mr. Koncul responded this is something he does not have to do, only showing good faith and it is not his intent to tear the cottage down. Ms. DeVetter asked Mr. Koncul if the language as to not tearing the cottage down would be included in the HOA Covenants Draft. Mr. Koncul confirmed. Ms. DeVetter asked Mr. Koncul his proposed statement for the Covenants. Mr. Koncul responded they would not remove any Live Oak trees in the tree conservation area and reiterated that the HOA will not add any rules that

are less stringent or more stringent than those the City currently has in place. Mayor Session stated the City of Tybee could not interfere with HOA's. Ms. DeVetter stated she would like to see all this in writing prior to the approval process and would hope the attorneys can draft an acceptable document. Mark Boswell approached Mayor and Council to discuss the water/sewer concerns. Mr. Boswell stated the plans for the property include removing the old sewer line and replacing with an 8" sewer main and a manhole at the end to include an easement on both sides. As to the water meters, Tybee requires a water meter at every residence, which will be done. He confirmed he would work with the City's Arborist to properly care for the trees. Mayor pro tem Brown recommended language be included in the HOA regarding maintenance of the water/sewer lines. Mr. Boswell confirmed. Mr. Braun stated all the written conditions could be recorded as part of the final plat as well as in the Declaration of Covenants (HOA). Mr. Braun expressed his concerns with the lack of reference to the driveway being moved in the Planning Commission minutes. Mayor pro tem Brown stated the roadway was moved on eyesight, which needs to be redone. Mr. Braun stated this needs to come back on a formal drawing for consideration by Mayor and Council. Mr. Braun stated Mayor and Council do not have a formal drawing showing the proposed location of the driveway therefore cannot approve. Mr. Koncul again stated it is not his intent to take any trees down and is trying to protect them. Mr. Parks asked Mr. Braun if this agenda item needed to return to the Planning Commission or could it be on the agenda for consideration at the March 24, 2022 City Council Meeting. Mr. Braun stated it could be added to the City Council agenda for that meeting. Mr. Koncul will work with his attorney and the City Attorney to craft language regarding the trees, road and cottage. This will be on the agenda for the City Council consideration, March 24, 2022. Mr. Braun confirmed. Mr. Parks asked Mr. Koncul if there is any reason why he should recuse himself from voting on this item. Mr. Koncul stated no. Ms. DeVetter asked Mr. Braun if the conditions should be covered in the deed, plat and/or covenants of the HOA. Mr. Braun responded they could be included in all. He continued, Mr. Koncul's attorney agrees that the trees in the conservation areas that protection be put in place so they cannot be taken down. Ms. DeVetter asked if Mr. Koncul has spoken with Sarah Jones regarding the house. Mr. Koncul stated he has not and does not want to put the house into a Historic Preservation Registry. **Sarah Jones** approached Mayor and Council. She stated that Mr. Koncul has not reached out to her regarding the house and she does not feel the life of the house is only ten (10) years. Mayor Sessions referred to the Master Plan as it permits Mayor and Council to make decisions regarding historic properties. Ms. DeVetter stated she expects a report from Ms. Jones and that attorneys suggestions when they meeting on March 24, 2022. **Ms. Kluttz** approached Mayor and Council and would like them to ensure Mr. Koncul with meet with Ms. Jones to discuss the future of the cottage, as she is the expert on Tybee Island. Mayor Sessions confirmed.

- **Marti Williams** approached Mayor and Council. Ms. Williams recommended Mr. Koncul put the cottage on the Historic Registry and in that way, there will be restrictions to the home.
- **Michael Sergio** approached Mayor and Council. He asked if the discussion regarding the hammerhead will be on the next agenda or considered tonight. Mayor Session stated it is to be deferred to March 24, 2022.

Barry Brown made a motion to defer until March 24, 2022, City Council Meeting giving the petitioner an opportunity to meet with the attorneys; complete paperwork of all the items that were discussed; to come to some kind of agreement; to attach to the deed; and put in writing. The concerns include the trees and what can be done about the house, the preservation of the house. **Monty Parks** seconded. **Discussion: Ms. DeVetter** recommended Mayor and Council be provided language prior to the City Council Meeting on March 24, 2022. Mayor pro tem Brown

amended his motion to include all water/sewer lines go on the north side of the road. **Monty Parks** accepted the amendment. Vote was unanimous, 5-0.

Variance: Requesting Hammer Head In Lieu Of A Cul- De-Sac – 708 Butler Ave. – 40005 20006 – Zone R-2 – Cfk Properties – Chris Koncul. George Shaw approached Mayor and Council. Mr. Shaw stated in order to preserve green space specifically around the home, the applicant proposed the hammerhead as opposed to a cul-de-sac. His main concern is with public safety. Mr. Shaw did speak with Chief Kendrick and he confirmed as long as the road is 20', he is comfortable with the hammerhead. Staff recommended approval and the vote of the Planning Commission was 5-1 to approve. **Margie Levy** approached Mayor and Council. She stated at the Planning Commission meeting it was discussed there would not be parking on Butler Avenue. Mr. Shaw confirmed that it was a stipulation. Mr. Koncul stated that would be included in the Covenants. Mayor Sessions thanked Ms. Levy for her comments. **Michael Sergi** approached Mayor and Council. Mr. Sergi expressed his concerns with residents getting to their homes and wanted to be assured his voice is being heard with all his concerns. Mayor Sessions thanked Mr. Sergi. **Barry Brown** made a motion to take this agenda item unit March 24, 2022. **Spec Hosti** seconded. Vote was unanimous to approve 5-0.

Consideration of Local Requests & Applications – Funding, Special Events, Alcohol License

Agenda Request: Back River Brewery LLC: Alcohol and Entertainment License, Brewery: Liquor, Beer/Wine, Sunday Sales. **Spec Hosti** made a motion to approve the Alcohol License only. **Barry Brown** seconded. Vote was unanimous to approve, 5-0. **NOTE: Will come before Mayor and Council on March 24, 2022 for consideration of the Brewpub approval.**

Agenda Request: Alcohol and Entertainment License, Beer/Wine, Liquor, Sunday Sales-Taco Aloha LLC dba Chamacos Tacos & Surf. **Barry Brown** made a motion to approve with the stipulation outside music must stop at 10:00PM and inside music must stop at midnight – no windows or doors open. **Nancy DeVetter** seconded. Vote was unanimous to approve, 5-0.

Council, Officials and City Attorney Considerations and Comments

Shawn Gillen gave a brief update regarding **Atlantic Waste Service**. He stated Atlantic Waste would be sending out correspondence regarding a \$2.00 increase in the service.

Monty Parks made a motion to adjourn to Executive Session to discuss ligation. **Spec Hosti** seconded. Vote was unanimous to approve, 5-0.

Monty Parks made a motion to return to regular session. **Barry Brown** seconded. Vote was unanimous to approve, 5-0.

Monty Parks made a motion to adjourn. **Brian West** seconded. Vote was unanimous to approve, 5-0.

Meeting adjourned at 9:45PM.

