

PLANNING COMMISSION
Anna Butler
Beau Livingston
Robert J. Matkowski
Elaine McGruder
Ron Rimawi
David Roberts
Marie Rodriguez-Beebe



CITY OF TYBEE ISLAND

CITY MANAGER
Bret Bell

COMMUNITY
DEVELOPMENT DIRECTOR
Patricia Sinel

CITY ATTORNEY
Edward M. Hughes/ Tracy O'Connell

Planning Commission Meeting AGENDA

February 24, 2025 – 6:30 p.m.

For City Council Meeting March 13, 2025 – 6:30 p.m.

Call to order:

Pledge of Allegiance:

**Planning Commission Oath administered by Fabian Mann Clerk of Council
(2-year terms end January 31, 2027)**

Robert J. Matkowski

Ron Rimawi

Elections:

Chair

Vice Chair

Consideration of Minutes:

1. Minutes of January 27, 2025

Disclosures/Recusals:

Old Business:

New Business:

2. Variance Application: 35' height requirement. 1105A Bay Street-Zone R-1 -40021 16062 – Kiem Cao Nguyen.

Director's report:

Adjournment:

Lisa L. Schaaf

Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, or the facilities are required to contact the City at 912.786.4573 promptly to allow the City to make reasonable accommodations for those persons.

**P.O. Box 2749 – 403 Butler Avenue, Tybee Island, Georgia 31328-2749
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CITY MANAGER Item #4.

Bret Ben

**COMMUNITY DEVELOPMENT
DIRECTOR**
Patricia Sinel

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Planning Commission Meeting MINUTES January 27, 2025

Chair Elaine McGruder called the meeting to order at 6:30PM, January 27, 2025. Planning Commission members in attendance were **Anna Butler, Marie Rodriguez-Beebe, Beau Livingston, Robert Matkowski, Michelle Nooney** and **David Roberts**. Staff in attendance were **Patricia Sinel** and **Lisa Schaaf**.

Opening Ceremonies. Pledge of Allegiance

Consideration of Minutes for December 16, 2024, meeting minutes. **Beau Livingston** made a motion to approve. **Marie Rodriguez-Beebe** seconded. The vote to approve was unanimous.

Disclosures/Recusals. There were none.

Old Business. There was none.

New Business:

Tree Appeal: 17 17th Street-appeal of actions Sec. 7-100 regarding minimum tree requirements and denial of tree removal permit - Mary Freyermuth Yawn.

Patricia Sinel stated the first case is an appeal of the denial of a tree permit for 17 17th Street. The applicant is requesting to remove a palm tree with no required mitigation and to forgo meeting the minimum tree requirement (three trees per 4,500 square feet of lot size.) The tree removal application was denied by staff July 30, 2024. The tree removal permit allowing the removal of significant trees requires the landowner/permittee to comply with the requirements set forth in sections 7-050, 7-060, 7-070 and 7-080 of the land development code. There is no extenuating circumstance that justifies the removal of the significant tree without mitigation. There is not an extenuating circumstance that justifies the further reduction in tree density requirements. **Staff** recommends denial. Bruce Freyermuth, who lives at 17 17th Street, stated he and his sister own the property. He stated the Palm tree is dead and would like to take it down before it falls. Mr. Freyermuth also said he does not want to plant another tree. **David Roberts** made a motion to approve the tree appeal without mitigating. There was no second motion failed. **Anna Butler** made a motion to deny. **Michelle Nooney** seconded. Voting in favor of the denial were **Marie Rodriguez-Beebe, Anna Butler, Michelle Nooney** and **Robert Matkowski**. voting against

the denial were **Beau Livingston** and **David Roberts**. The motion to deny was 4 to 2.

Subdivision of Land Minor Plat (Amended): three lot subdivision to two lots-1, 3 & 5 7th Street-Zone R-2 -40005 20009 - Michael Brent Watts.

Patricia Sinel stated this is a minor subdivision of land. The original subdivision creating three lots was approved by City Council on October 12, 2023. This request is to combine the three lots into two lots. These will create larger lots which are in line with the character area. There is a note on the plat for the unimproved lot, stating drainage will be determined at the time of permitting. **Staff** recommends approval of submittal. Brent Watts, who lives at 703 Whitaker Street, stated he is the owner of 7th Street and will answer any questions. **Anna Butler** asked what the square footage would be of the new lot. **Patricia Sinel** stated eighty-nine hundred square feet and change. **Bob Matkowski** asked if the new home will be a single-family home or a duplex. **Brent Watts** stated the new owner plans to build a single-family home. **Beau Livingston** made a motion to approve. **Marie Rodriguez-Beebe** seconded. The motion to approve was unanimous.

Director's report:

Patricia Sinel stated the variance for 104 17th Street was approved by a vote of five to one for the driveway.

The Live Oak site plan for the fiber distribution hub was approved six to nothing. On February 24, 2025, the new Planning Commissioner **Ron Rimawi** will start. And this is the last night for Commissioner **Michelle Nooney**.

Michelle Nooney stated that if Mayor and City Council are watching she would like to thank you for this opportunity. It has been a great learning experience, and encouraged all citizens of Tybee to apply for this and some point. She said she has enjoyed working with the commission and staff for the tremendous support.

Adjournment: 8:00 pm

Lisa L. Schaaf



STAFF REPORT

PLANNING COMMISSION: February 24, 2025

CITY COUNCIL MEETING: March 13, 2025

REQUESTED ACTION: Consider for recommendation a variance to extend the building height over the maximum allowable for a single-family residential structure.

LOCATION: 1105A Bay Street

PIN: 40021 16062

APPLICANT: Kiem Cao Nguyen

OWNER: Kiem Co Nguyen

EXISTING USE: Single-family (under construction)

PROPOSED USE: Single-family

ZONING: R-1

USE PERMITTED BY RIGHT: Yes

COMMUNITY CHARACTER MAP: North Beach/Maritime District

PROPOSAL: The applicant is requesting a variance from the maximum structure height of 35 feet as set forth in Sec. 3-090. - Schedule of development regulations.



Map 1: Zoning Map



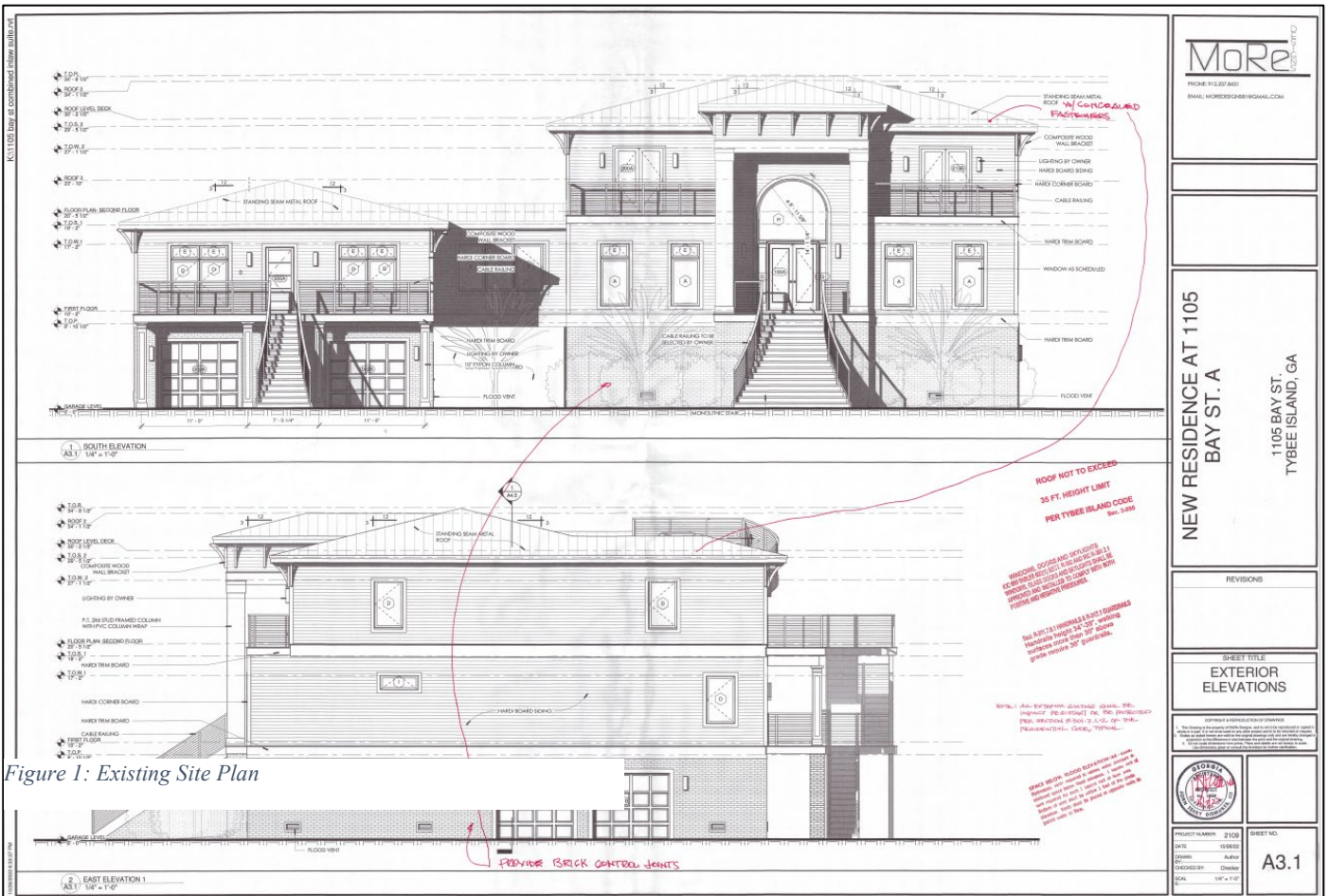
Map 2: Location Map



Picture 1: Existing structure



Picture 2: Existing structure



VARIANCE ANALYSIS.

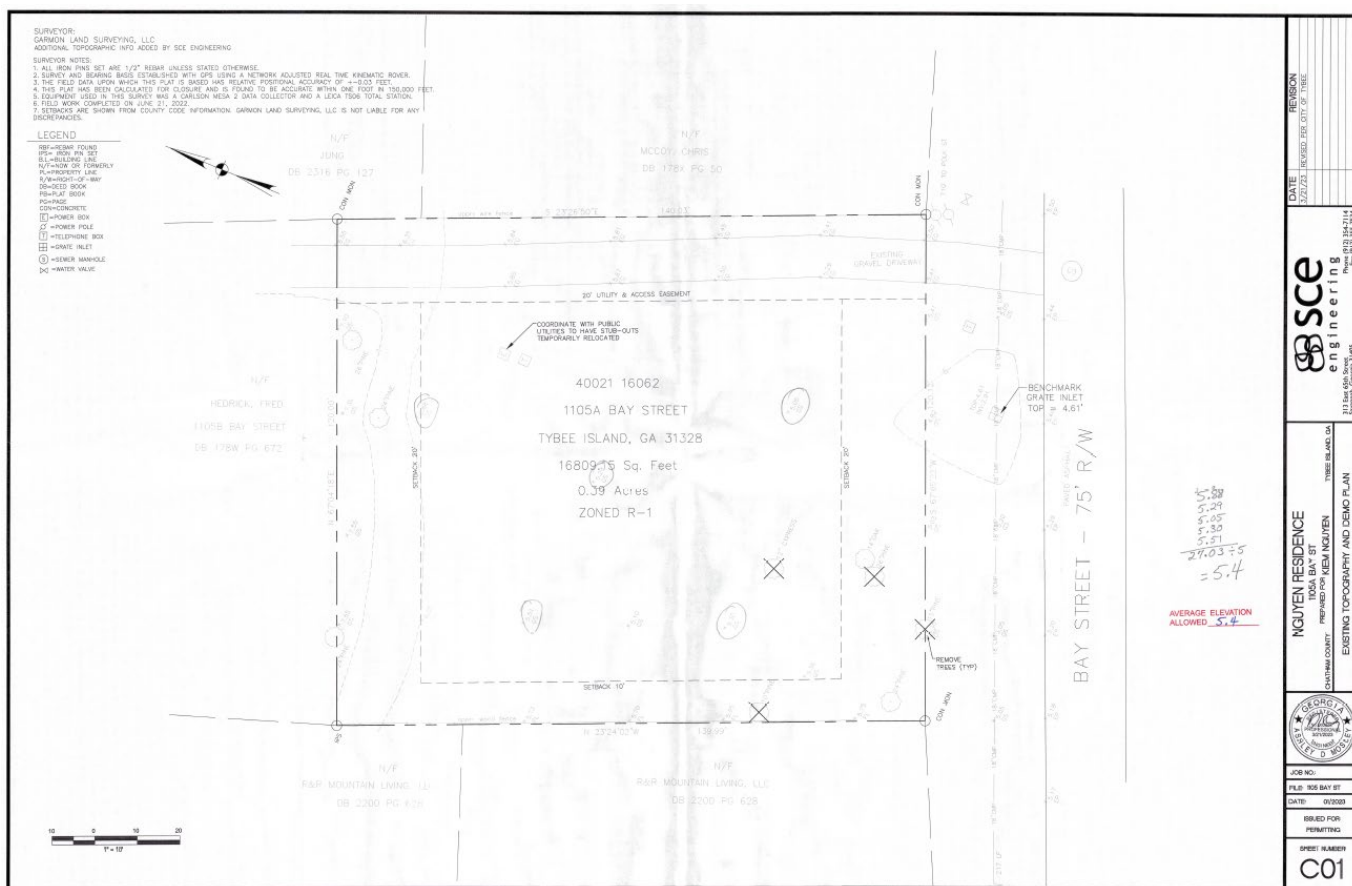
Due to an apparent construction error, the structure was built over 35 feet tall. City staff approved the building plans on April 28, 2023, showing a top of roof (TOR) height of 34’8.5” measured from the finished floor of the garage. The structure is currently in the framing stage.

City staff reached out to the builder in November 2024 to require verification of height prior to the ordering of the framing inspection. In December 2024, the property owners provided a height verification from a licensed surveyor verifying the building measures at 41.6’ mean sea level (MSL), or **35’7” above average grade**, with the average grade being calculated at 5.9’ MSL.

The Land Development Code (LDC) defines “**Height of building**” as the vertical distance measured from the average adjacent grade of the building to the extreme high point of the building, exclusive of chimneys, heating units, ventilation ducts, air conditioning units, and similar appurtenances. The portion of an elevator shaft necessary for the operation of an elevator may extend above 35 feet but no elevator doors may open above 35 feet without a variance.

Average adjacent grade is the average natural elevation of the ground surface, **prior to construction**, next to the proposed walls of the structure. Please note that city staff calculated the average adjacent grade to be 5.4’ MSL on the set of engineering drawings signed by staff on April 28, 2023, and provided to the applicant shortly after. Staff calculates existing structure height to be 36’1” if using the average adjacent grade of 5.4’ MSL.

New construction structure height on lots with previously removed structures is measured from the lower of the average adjacent grade of the lot or the elevation of the crown of an existing improved street, public or private, that abuts or is nearest to the property on which the proposed structure is planned.



VARIANCE REVIEW CRITERIA.

Per **Section 5-090-Variations**, the mayor and council may grant a variance from the strict application of the provisions in this Land Development Code only if physical circumstance, condition, or consideration exists:

- There are unique physical circumstances or conditions or considerations beyond that of surrounding properties, including a substandard lot of record that existed prior to March 24, 1971; irregularity; narrowness; or shallowness of the lot shape; or exceptional topographical or other physical circumstances, conditions, or considerations related to the environment, or to safety, or to historical significance, that is peculiar to the particular property; and

- Because of such physical circumstances or conditions or considerations, the property cannot be developed in strict conformity with the provisions of this Land Development Code, without undue hardship to the property.
- A nonconforming use or structure does not constitute a unique physical circumstance, condition, or consideration.

Section 5-090(B) Height (Variance) states that no part of any structure shall project beyond 35-feet above the average adjacent grade of a property except:

- Height of building defined exceptions
- 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.

Per **Section 3-090 (C) Structures above 35 feet**, if a variance is granted by the mayor and council for a building with a height in excess of 35 feet, in no event shall a building permit be granted without the following restrictions:

- Structures greater than 35 feet in height shall be fully equipped with fire safe guards consisting of sprinkler systems, smoke detectors and any other fire protection measures deemed necessary at the time by the mayor and council.
- Before a permit can be granted on said request, an affidavit of the builder and owner must be executed agreeing to same to be completed within an agreed upon reasonable time.

No permitting requirements of the LDC are waived, modified, or varied by the approval of this variance.

STAFF FINDING. Staff recommends denial. The application does not meet the defined criteria for a variance.

STAFF CONTACT

Patricia Sinel, AICP, CFM, CNU-A
 Community Development Director
Patricia.Sinel@cityoftybee.gov
 912-472-5031

ATTACHMENTS

- A. Application (6 pages)
- B. Verification of building height (1 page)
- C. SAGIS map and record card (3 pages)
- D. Elevation pages from construction plans (2 pages)
- E. Existing topography survey (1 page)