



Arthur A. Mendonsa Hearing Room  
June 5, 2012 1:30 P.M.  
MINUTES

**June 5, 2012 Regular MPC Board Meeting**

**Members Present:** J. Adam Ragsdale, Chairman  
Jon Pannell, Vice-Chairman  
Ellis Cook, Secretary  
Tanya Milton, Treasurer  
Russ Abolt  
Shedrick Coleman  
Ben Farmer  
Stephen Lufburrow  
Timothy Mackey  
Murray Marshall  
Susan Myers  
Rochelle Small-Toney  
Joseph Welch

**Members Not Present:** Lacy Manigault

**Staff Present:** Thomas Thomson, P.E. AICP, Executive Director  
Melony West, CPA, Director, Finance & Systems  
James Hansen, AICP, Director, Development Services  
Gary Plumbley, Development Services Planner  
Marcus Lotson, Development Services Planner  
Christy Adams, Director, Administration  
Bri Finau, Administrative Assistant  
Shanale Booker, IT Assistant

**Advisory Staff Present:** Robert Sebek, County Zoning Administrator  
Tom Bolton, City Zoning Inspector

**I. CALL TO ORDER AND WELCOME**

**II. INVOCATION**

### III. PLEDGE OF ALLEGIANCE

### IV. NOTICES, PROCLAMATIONS and ACKNOWLEDGEMENTS

#### Notice(s)

1. [June 12, 2012 Regular MPC Meeting and Planning Commission Planning Meeting at 1:30 P.M. in the Arthur A. Mendonsa Hearing Room, 112 E. State Street.](#)
2. [June 26, 2012 Regular MPC Meeting at 1:30 P.M. in the Arthur A. Mendonsa Hearing Room, 112 E. State Street.](#)

### V. PRESENTATIONS

3. [Open Meetings Update - Jonathan Hart, County Attorney](#)

**Mr. Jonathan Hart**, County Attorney, stated he was asked to present information regarding open meetings and open record law. There was a major revision in this law. He stated it has a lot of the same concepts that it had before; it's a liberally construed ordinance. Regarding disclosure of a record or having an open meeting, unless you're clear within the law you can do what you're doing, they're going to rule it has to be in the open and not take votes. Secrets have to be in the open. You must have an agenda and you must stick to your agenda and you have to publish your agenda. A lot of the same types of things before are still there.

The two biggest changes he sees is that they cover the governing authority. For the purpose of this discussion, that would refer to the MPC. They have now expanded that to sub-committees of the governing authority. Please be aware if you form a sub-committee, those meetings are now subject to open meetings. Minutes need to be kept at those meetings.

The attorney general will give ruling at a later date. Two rules apply if one committee has members on another committee or if a committee is made up of partial staff and partial members of the governing authority.

Regarding executive session, minutes have to be kept and no votes are to be taken. Attorney/client privilege advice can be given but the subject matter has to be noted and preserved in case of future challenge. If anyone talks about anything in an executive session meeting that prohibited in that type of meeting, the Chairman has the responsibility to call the person out of order. If the person continues, the Chairman will then immediately adjourn the meeting. If the Chairman does not, he will be subject to fines and possible criminal penalty.

When you talk about open meetings you also have to talk about open records. E-mails not part of a meeting are not considered a meeting; if there is a quorum, it's a meeting. Just e-mailing outside the presence of the premises, it is not a meeting. It is, however, an open record. Don't say anything you would be embarrassed to say or read about in the newspaper. If you talk about official business of the MPC in personal e-mails, it is subject to be requested.

If you are in this room in a public hearing where you are deciding the rights of people in the future, what you think needs to be said in public, not texted or e-mailed to anyone else on this board while you are in session. The people that come before you have an absolute right to present their side of the case and have an absolute right to hear what you have to say about it. You can tell them anything you want to tell, and you will be immune from that. You do not have the right to communicate back and forth to each other regarding direction of voting or feelings regarding the petitioner/opposer. I want to warn you that you will see open records requests and every one that you text or tweet is date-stamped and timed. You can get yourself in a lot of trouble.

**Mr. Ragsdale** asked if that includes handwritten notes.

**Mr. Hart** replied yes. If it is a procedural issue regarding who will make the motion or something like that, it's not substantive of issues. When you start talking about the essence of what these people are presenting, they have a right to hear what you have to say and answer the questions you have. They don't need to hear some secret agenda; that's not the way this country works.

Personal e-mail, addresses, cell phones, personal information, is still personal. But if it is about an official matter, they can look at it. You can talk among yourselves, but you can't have a quorum and talk among yourselves. You can't take action, you can only discuss things. Anything that will require action will require a vote in public. The law is really clear now that you must state who made and seconded the motion and how everyone voted. Attorney client privilege is still protected but you have to remember that there are limits to that; it has to be able to be subject to judicial review. They've cut down on the copying costs: you can only charge 10 cents a page now. Odd-sized copies can be charged actual cost. Anything above \$25 requires notification to the customer. If they pay it, they receive the document. If they don't, the next request does not have to be responded to until the previous balance has been paid for.

**Mr. Mackey** asked if there was a public meeting and it was requested that the project petitioner to meet with the community in the neighborhood. He asked if 12 of the 14 members showed up, does that constitute a meeting; are they allowed to assemble in that manner.

**Mr. Hart** stated yes, you are, but he would make a phone to call to make him aware of it. Twelve is a quorum; technically you have a meeting. There are some exceptions within the law about attending public functions where you are not necessarily the participant but attending like a member of the public. However, if you go outside afterwards and huddled up and had a quorum and expressed thoughts, then the law has clearly been violated under due process provisions. Common sense needs to be exercised. You have nice tools, but keep the tools to being tools, not communication devices. He stated he is not implying that is going on at all, just stating it has been a problem in other places and caused a lot of embarrassment for a lot of public figures.

**Mr. Thomson** stated, for the record, we've disabled the function for e-mailing between members so they cannot do that. At least not through our system.

**Mr. Ragsdale** stated for transparency, he does not want the public to think we do that.

We haven't done that in the six years he's been here.

**Mr. Hart** stated he does not mean to imply it has happened here, but it has happened in other places.

**Mr. Thomson** asked in follow up Mr. Mackey's pertinent question, if the board members refrain from commenting on the potential decision of the project at the neighborhood meeting, they are okay.

**Mr. Hart** replied that substantive questions of information are fine. Asking what is the square footage and height and the like are fine; exploring if it has to be seven stories, why can't it be five and a half etc., that is over the line. That would be interpreted as making some type of public decision and it not being made in the proper forum.

**Mr. Cook** asked if appointments to boards and commissions are subject to open meetings laws.

**Mr. Hart** replied discussion to appointments are not, but the vote to appoint has to be in public.

**Mr. Cook** stated he was confused. Appointments can be made by general consensus and have all the discussion in private. When you get outside, you've already made up your mind who you're going to appoint and then you have the vote to do that. He asked if the law is not being subverted.

**Mr. Hart** replied it depends on how the term consensus is used. If you sit there and say everyone raise your hand for consensus, you just voted. But if you have a free-flowing discussion and people discuss themselves openly, usually the chairman of that committee can say, 'We've reached as much consensus as we can. I'm hearing some for and some against. So let's go outside and vote.' That's the way it should be done.

**Mr. Ragsdale** asked for a simple definition of ex parte communication.

**Mr. Hart** replied it depends if it is a zoning matter, if it is, there is a whole statute under there that talks about ex parte communications. You have to clearly disclose if you have ex parte communications with people. He stated he does not recommend it. He recommends being nice and polite and saying, 'You need to tell your story in the meeting so we can talk about it there. I understand this is important to you and we will give you fair consideration.' Otherwise you can get on a slippery slope. He stated he does believe that it puts everyone in a bad position and you could be the swing vote and then you're being asked to recuse yourself. So you shot yourself and them in foot by doing that.

**Mr. Thomson** asked about public records requests. A lawyer may ask for 'all MPC board member e-mails that relate to the subject.' He asked how is that accomplished, if it is a private e-mail address, what level of due diligence do we have to do -

**Mr. Hart** replied send a memo to everyone on the committee and say and 'Look at your cell phones and computers. I need any communication you have discussing the following subject matter. I will assume nothing received means you have nothing pertaining to the subject. If you have it and did not disclose it, then that's your fault.'

Mr. Thomson thanked Mr. Hart.

## VI. ITEM(S) REQUESTED TO BE REMOVED FROM THE FINAL AGENDA

### General Development Plan

#### 4. [Dairy Queen - 7102 Hodgson Memorial Drive](#)

Attachment: [Maps.pdf](#)

Attachment: [General Development Plan.pdf](#)

Attachment: [Miscellaneous.pdf](#)

Attachment: [Staff Report.pdf](#)

#### **Board Action:**

The petitioner requested that this item be postponed to the June 12, 2012 MPC Regular - Planning meeting.

- PASS

The MPC staff recommends **denial** of the requested development setback variances and proposed General Development Plan.

#### **Vote Results**

Motion: Shedrick Coleman

Second: Tanya Milton

Russ Abolt - Aye

Shedrick Coleman - Aye

Ellis Cook - Aye

Ben Farmer - Aye

Stephen Lufburrow - Aye

Timothy Mackey - Aye

Murray Marshall - Aye

Tanya Milton - Aye

Susan Myers - Aye

Jon Pannell - Aye

Adam Ragsdale - Aye

Rochelle Small-Toney - Aye

Joseph Welch - Aye

**The Consent Agenda consists of items for which the applicant is in agreement with the staff recommendation and for which no known objections have been identified nor anticipated by staff. Any objections raised at the meeting will result in the item being moved to the Regular Agenda. At a 12:30 briefing, the staff will brief the Commission on Consent Agenda items and, time permitting, Regular Agenda items. No testimony will be taken from applicants, supporters or opponents, and no votes will be taken at the briefing.**

## VII. CONSENT AGENDA

**Approval of MPC Meeting Minutes and Briefing Minutes**

5. [May 15, 2012 MPC Meeting and Briefing Minutes](#)

Attachment: [05.15.12 MPC BRIEFING MINUTES.pdf](#)

Attachment: [05.15.12 MEETING MINUTES.pdf](#)

**Board Action:**

Recommend **APPROVAL** of the MPC Meeting and Briefing Minutes as submitted. - PASS

**Vote Results**

Motion: Stephen Lufburrow

Second: Ellis Cook

Russ Abolt - Aye

Shedrick Coleman - Aye

Ellis Cook - Aye

Ben Farmer - Aye

Stephen Lufburrow - Aye

Timothy Mackey - Aye

Murray Marshall - Aye

Tanya Milton - Aye

Susan Myers - Aye

Jon Pannell - Aye

Adam Ragsdale - Aye

Rochelle Small-Toney - Aye

Joseph Welch - Aye

**Amended Master Plan**

6. [Godley Park - 280 Highlands Boulevard](#)

Attachment: [Maps.pdf](#)

Attachment: [Master Plan.pdf](#)

Attachment: [Staff Report.pdf](#)

There was no one from the public to speak before the Commission regarding this petition.

**Board Action:**

The MPC staff recommends **approval** of the proposed General Development Plan. - PASS

**Vote Results**

Motion: Jon Pannell

Second: Tanya Milton

Russ Abolt	- Aye
Shedrick Coleman	- Aye
Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Aye
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye

### Zoning Petition - Text Amendment

#### 7. [Text Amendment - City of Savannah Zoning Ordinance - Section 8-3133\(c\)](#)

Attachment: [staff rpt.pdf](#)

There was no one from the public to speak before the Commission regarding this petition.

#### **Board Action:**

**Approval** of the request to amend Section 8-3133  
(c) - Limitations on use of land or building by  
nonconforming uses - to clarify when a building  
maybe reoccupied by a nonconforming use. - PASS

#### **Vote Results**

Motion: Jon Pannell

Second: Shedrick Coleman

Russ Abolt	- Aye
Shedrick Coleman	- Aye
Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Aye
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye

**VIII. ITEMS MOVED FROM CONSENT AGENDA**

**IX. OLD BUSINESS**

**Tower - New Facility/Nonconcealed Freestanding-Monopole**

8. [Proposed Southbridge Tower](#)

Attachment: [Staff Report 6-5-12.pdf](#)

Attachment: [ATT Need-410-362.pdf](#)

Attachment: [FAA Southbridge 01-19-11.pdf](#)

Attachment: [Southbridge Coverage.pdf](#)

Attachment: [CityScape Report-Southbridge.pdf](#)

Attachment: [Comment Letters.pdf](#)

**Mr. John Butler**, MPC Comprehensive Planner, presented the petitioner's request for a new monopole cell tower in the Southbridge community. He stated that this petition was originally heard on April 3, 2012 and was continued due to lack of a quorum. The Federal TeleCommunications Act requires action within 150 days of receipt of a deemed complete application. This application was deemed complete in mid-November 2011; we are exceeding the time limit with the consent of the applicant. However, it is important we make some sort of ruling today.

The petitioners are proposing to build a 150-foot non-concealed monopole with internally mounted antennae at 415 Southbridge. The initial issue was lack of coverage in the Southbridge community. There are existing towers in Southbridge that form a rough circle around the area, producing a gap in the coverage. The proposed location of the new tower will provide excellent coverage throughout the community. The petitioner plans to enclose the site with stockade style fencing and landscaping on the eastern and southern portions; west and north are heavily wooded.

It is recommended that the MPC approve the development of a freestanding non-concealed 150-foot monopole with the following conditions: 1) all antennae shall be internally mounted; 2) positions shall be available for five wireless telecommunications carriers; 3) all feed lines shall be located within the barrel of the support structure; 4) that the emergency generator be tested only between 9 a.m. and 5 p.m.; 5) that the enclosure fencing be brown in color; and 6) all ground equipment be concealed by the enclosure fencing. Further, the Wireless Telecommunications Facilities Ordinance requires that all wireless telecommunications facilities between 100 and 199 feet AGL be equipped with: 1) red lights (L-864) for nighttime (only) and medium intensity flashing white lights (L-865) for daytime and twilight use; and, 2) white reflective tape/sheeting installed at 20 feet above ground level and continuing upward at ten foot intervals.

**Mr. Farmer** asked if the last telecommunications ordinance was revised in 2007.

**Mr. Butler** replied it was adopted in 2007.

**Mr. Farmer** asked if the application met all of the requirements of the ordinance.

**Mr. Butler** replied yes, it does, with the noted exceptions.

**Mr. Farmer** asked about the last time this petition was heard before the Commission. The proposal for the tower to be mounted with the Southside Fire Department was discussed and determined unsuitable by staff expert. He then asked if the petitioner agrees with the recommendations.

**Mr. Butler** replied he believes so; their representative is here and he can be asked directly.

**Mr. Farmer** asked how much leeway does the board have on the recommendation under the ordinance.

**Mr. Butler** replied quite a bit; any of the standards can be varied or set additional conditions to the standards.

**Mr. Farmer** asked if the Board had the authority to deny them this location under the ordinance.

**Mr. Butler** replied no.

**Mr. Farmer** restated that all of the requirements have been met.

**Mr. Butler** affirmed.

**Mr. Ragsdale** stated it's a federal mandate by the FCC, the basis for the telecommunications section of the ordinance, that if it's proven this is the only viable location for service, it has to be approved.

**Mr. Butler** stated that was correct.

**Mr. Ragsdale** asked why does it come before the MPC.

**Mr. Butler** stated our function is to confirm that the required standards are met and propose conditions deemed necessary to minimize impact.

**Mr. Ragsdale** asked why does this come before the Commission if they have no power to do anything. It seems it should be approved at staff level.

**Mr. Mackey** stated the public would not have an opportunity to voice their opinion if it were done at staff level. He then asked what is the leeway the Commission has.

**Mr. Thomson** asked Mr. Ragsdale if the consultant could respond to Mr. Mackey's question.

**Mr. Mackey** stated he wanted to ask staff, not the consultant.

**Mr. Ragsdale** stated he believed Mr. Thomson was trying to say that the consultant would be better suited to answer his question.

**Mr. Mackey** he is aware of what he is asking and wants to ask staff.

**Mr. Thomson** offered to try to answer Mr. Mackey's question.

**Mr. Mackey** stated that in the future, let him ask his question. Let's get that straight. He asked since the board has to vote on it, what can they do and can't do. Staff can answer that question; the consultant is not needed for that.

**Mr. Thomson** stated the applicant has to demonstrate compliance with all parts of the ordinance in their application. The ability to conceal should be demonstrated. The need for the tower should be demonstrated and it meets the separation requirements. If demonstrated, they have aligned themselves for approval. This is where the consultant's expertise would be needed: there is a line between what the Commission can deal with and what the FCC says can't be dealt with. If there is an aesthetics issue, it has to be proven to be deemed an unsuitable site.

**Mr. Lufburrow** stated this has been an evolution. The public needs to understand the tumultuous tower history prior to its addition to the ordinance. We are trying to adhere to federal law with minimal impact on the public. Everyone wants good coverage but no one wants a tower in their backyard, it's unfortunate, like a power line - they do have to go somewhere.

**Mr. Farmer** asked Mr. Edwards to elaborate on Mr. Thomson's comment.

**Mr. Rick Edwards**, tower consultant, stated all opinions have to be based on findings of fact that are defensible in court. Otherwise, you will be overturned. There is control over location, height, type of structure and safety of structure, including the aesthetics. The caveat the carriers have states that if you prevent them from building their networks, then you are in violation. That is the controlling factor that is involved here. In this case, we went through the entire process. On this site nothing in the vicinity would solve the issue; existing sites are surrounding the area already, therefore colocation would be impossible for successful use. The use of the Southside Fire Department on Dean Forest Road would be too far away and would not solve the problem. The best place is the proposed site, a concealed facility. The need has been verified and there is no way to satisfy that need without building a new structure in the general vicinity, which is the proposed petition.

**Mr. Farmer** asked if this went to court, what would possibly be the outcome.

**Mr. Edwards** replied if we went to court, he suspects the petitioner would prevail.

**Ms. Small-Toney** asked what does general vicinity mean. She stated it's one thing to erect a tower on commercial buildings but another in a residential area. She understands from Mr. Thomson that locations should consider residential areas. This is a residential neighborhood.

**Mr. Edwards** replied general means something within the search ring, which shows where the site needs to be to meet the criteria. That search ring confirmed the need for that area. It was located slightly out of the ring because there was nothing available there.

**Mr. Thomson** addressed the issue of the detriment to the community. He explained it had to do with obstructing a view and alternative locations that don't overlap other towers. These considerations have been made and the petition is located in a wooded area. The question becomes does the visual impact in this location warrant a discussion of a significant view to the community. He believes the staff report demonstrates it isn't.

**Ms. Small-Toney** asked if these things take into consideration the surrounding property owners' property values.

**Mr. Thomson** stated he does not believe value comes into the equation.

**Mr. Farmer** asked if the federal law prohibits towers in residential areas.

**Mr. Edwards** replied no. Now that many are using cell phones at home as home phones, they need to be in the residential areas. They will increase in the residential areas in the future.

**Mr. Farmer** stated we don't have lot of leeway here. All of the restrictions that can be imposed to protect from intrusion have been imposed. However, it is likely we cannot stop it from going in that place.

**Mr. Edwards** added that the federal government mandated the carriers to develop these services by a certain date. Wired phones will become obsolete; all will be cell. That is why the rush is on to build out the system of networks.

**Mr. Jonathan Yates**, petitioner, thanked the MPC for their guidance. There was an ordinance created to minimize the conflict of tower placement and getting the federal courts involved. The ordinance works. We meet every single criteria of the ordinance. We are mandated by the federal government to provide a seamless service for both voice and data; we have to go into residential areas to accomplish this. People want to use their phones where they are; we are no different than power lines, water, or sewer. We have to get to the residences, but it will always be near someone's back yard. Not having cellular service is a bigger denegration than the tower.

**Ms. Small-Toney** asked how would this affect resale value of property.

**Mr. Yates** replied not having cellular service would be a negative. It is not possible to have towers not near any residential areas. In this case, there is an

intervening wooded property not slated for development. Additionally, this property is surrounded on three sides by wetlands. He stated it is not practical to expect a tower not to be next to any homes; those people have to be served.

**Mr. Farmer** stated he understood Ms. Small-Toney's question regarding property values. He stated the fact is that the technology is needed in residential areas. Lack of it has caused tremendous negative impact in some areas.

**Mr. Yates** stated today's homebuyer will not buy a home without wireless technology available.

**Mr. Ragsdale** announced he would hear from the public, allotting them seven and a half minutes each.

**Mr. Jim Batton**, president of the board of Villas on the Green Homeowner's Association, stated he represents about 47 homeowners in the shadow of the proposed tower site. He stated his simulation of the site with the proposed tower differs from that provided by AT&T. He stated his credentials as a photographer and producer merit his simulations as credible. He is requesting a delay; he does not believe all of the residents of Southbridge have had an opportunity to assess the full visual impact of the proposed tower. AT&T did meet with the community, but he stated his community takes issue with the minimized impact of the tower through the photo simulations and the balloon test made without public involvement. The ordinance calls for a balloon test with public involvement.

**Mr. Batton** continued they are concerned that the site is laid out with the opportunity for additional and/or higher towers. They would like to be assured by AT&T that the tower will not be expanded or enlarged. They would like that to be explicitly banned by the MPC.

**Mr. Butler** stated any additional sites would have to come before the MPC and the availability is very minute.

**Mr. Farmer** asked what would be seen from the outside of the pole.

**Mr. Butler** stated the requirements state everything is to be inside the pole.

**Mr. Farmer** asked is it possible to make a determination that there will be no future modifications on the pole.

**Mr. Butler** replied that is not possible at this time.

**Mr. Thomson** stated all towers have to have their own ground equipment and a spacing of towers that would not allow an automatic second pole. There would have to be a hearing.

**Mr. Yates** stated that technically another pole would fit on the property.

**Mr. Lufburrow** stated another pole could not be erected if a current pole has collocation availability.

**Mr. Clyde and Mrs. Judy Sturgess**, Southbridge residents, stated they were opposed to the tower. They believe they do not belong in a residential neighborhood. They have an on-line petition with 78 signatures, minus the 10 anonymous and four duplicates, there are 64 in opposition. They also have concerns of an additional tower because the proposed tower has only 5 antennae, while each carrier would need two. She stated a CityScape report indicated another carrier would probably bypass this tower because of lack of antennae. Mrs. Sturgess also addressed landscaping concerns as well as property devaluation concerns because of the tower.

**Mr. Butler** stated the lot that has buffering is on a Georgia Power easement; if they removed it, it would have to be repainted because maintaining the buffer is a requirement.

**Mr. Terry Thomas**, member of the petitioner's group, reassured of their intent to maintain the property while providing visual buffering. They do not intend to add another tower; the wetlands surrounding the area prohibit the possibility of another tower.

**Board Action:**

It is recommended that the MPC approve the development of a freestanding non-concealed 150-foot monopole with the following conditions: 1) all antennae shall be internally mounted; 2) positions shall be available for five wireless telecommunications carriers; 3) all feed lines shall be located within the barrel of the support structure; 4) that the emergency generator shall be tested only between 9 a.m. and 5 p.m.; 5) that the enclosure fencing be brown in color; and 6) all ground equipment be concealed by the enclosure fencing.

- PASS

Further, the Wireless Telecommunications Facilities Ordinance requires that all facilities wireless telecommunications facilities between 100 and 199 feet AGL shall be equipped with: 1) red lights (L-864) for nighttime (only) and medium intensity flashing white lights (L-865) for daytime and twilight use; and, 2) white reflective tape/sheeting installed at 20 feet above ground level and continuing upward at ten foot intervals.

**Vote Results**

Motion: Ben Farmer	
Second: Shedrick Coleman	
Russ Abolt	- Aye
Shedrick Coleman	- Aye
Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Nay
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Nay
Joseph Welch	- Aye

### General Development Plan

#### 9. Family Dollar 5731 Ogeechee Road General Development Plan

Attachment: [Aerial Photos.pdf](#)  
Attachment: [Family Dollar Site Plan.pdf](#)  
Attachment: [Staff Report.pdf](#)

*Mr. Ragsdale recused himself from this petition item; his firm represents the applicant. Mr. Pannell chaired the meeting.*

5731 Ogeechee Road  
Family Dollar at Berwick  
PIN: 1-0991-08-011  
Twin Rivers Capital, LLC., Owner  
Harold Yellin, Attorney  
County Commission District: 7  
Zoning District: P-B  
Acres: .65  
MPC File No. P-120313-48385-1

**Mr. Marcus Lotson**, MPC Project Planner, presented the petitioner's request for approval of a General Development Plan. Staff is recommending approval of the petition with variances. There is room for additional parking if needed.

**Mr. Mackey** requested copies of the staff reports for the Family Dollar stores on Pennsylvania and Gwinnett, and Delesseps and LaRoche.

**Mr. Lotson** stated he provide them.

**Mr. Tom Cetti**, of Wolverton and Associates representing the petitioner, introduced himself to the board.

**Mr. Coleman** asked about the site plan's delivery entrance to the east. He asked is that where delivery will be maintained. He also asked about the dumpsters, and if there is turnaround room for the delivery trucks in and out of the subject area.

**Mr. Cetti** replied the plan is for the trucks to pull into the driveway between the Verizon store and Family Dollar during off-hours.

**Mr. Mackey** asked Mr. Cetti to relay to the Family Dollar corporate office a message: the record of Family Dollar's upkeep of their store is not very good. The store on Delesseps and LaRoche is hideous; the dumpster is not on a pad, just on the ground. Make sure that is not done here. They are left open 24-hours a day and there is a rodent problem. It is in front of people's homes and they are not enclosed. Please make sure this does not happen at this site as it does in other locations.

**Mr. Cetti** stated he is not sure how many Family Dollars locally are owned by Twin Rivers; many new ones are coming to the area but he is not sure of ownership of the existing ones.

**Mr. Farmer** asked Mr. Cetti if they are certain deliveries won't be done during the day/open hours. That would take about half of the parking spaces out.

**Mr. Cetti** stated they do deliver during the 'off' hours. It is their company policy not to deliver during business hours because of the number of spaces it will occupy.

**Mr. Marshall** stated every meeting seems to have requests for variances. The existing Verizon store did not; if they had, it would be 30% larger. We ought to be looking at the ordinance instead of granting variances because the developer that tries to abide by the rules is penalized and giving the advantage is given to someone asking for a variance. This is a significant increase over what is allowed in the ordinance. He stated he thinks it is a mistake to continue granting variances.

*After this petition was approved, Mr. Pannell returned the meeting to Mr. Ragsdale to chair.*

**Board Action:**

Staff Recommends Approval - PASS

**Vote Results**

Motion: Stephen Lufburrow

Second: Joseph Welch

Russ Abolt - Aye

Shedrick Coleman - Nay

Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Nay
Murray Marshall	- Nay
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Abstain
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye

## X. REGULAR BUSINESS

### Zoning Petition - Map Amendment

#### 10. 4219 Bull Street (B-G-1 to B-G)

Attachment: [MAPS.pdf](#)  
Attachment: [Staff Report.pdf](#)  
Attachment: [Use Comparison Table.pdf](#)  
Attachment: [Public Comment - In Opposition.pdf](#)

Petition of David W. Thorne  
Lawrence Raymond Daiss, Owner  
4219 Bull Street  
PIN: 2-0093 -21-003  
0.21 Acres  
Alderman District: 5  
County Commission District: 5  
MPC File No. Z-120504-39852-2

**Mr. Jim Hansen**, MPC Project Planner, presented the petitioner's request to zone property located at 4219 Bull Street from an existing B-G-1 (General Business - Transition) district to a B-G (General Business) district. The applicant is desiring to open a bar/tavern, which is not an allowable use. It is recommended that the request to rezone the subject property from a B-G-1 to a B-G zoning district be DENIED.

**Mr. David Thorne**, petitioner, stated he wants to open a neighborhood-styled tavern; something small. He stated the recommendation to deny is based on a plan from 26 years ago.

**Mr. Lufburrow** stated all businesses are not successful, though it may be a good idea with good intentions. However, if the zoning is changed, it's changed. If you close it or sell it, the next person may not be as reasonable as you. Sometimes the board has to vote 'no' on things because the worst case scenario has to be considered if the zoning is changed.

**Mr. Thorne** stated he is new to this process. He understands the reasoning and asked is there some way to tie it together. The liquor license is a yearly process and City Council can deny him if he is not upholding the required standards or future tenants. He feels the control issue is still maintained.

**Mr. Farmer** asked Mr. Thorne if he'd ever been shut down or had his license revoked.

**Mr. Thorne** replied no.

**Mr. Farmer** stated from a zoning standpoint, Mr. Lufburrow is correct. Changing a zoning for a particular user for a particular use is opening Pandora's box. However, in this situation, you would still be subject to strict license requirements and could be shut down if not adhered to. He asked Ms. Small-Toney's opinion.

**Ms. Small-Toney** motioned to accept staff's recommendation to deny the request.

**Ms. Milton** asked if there was parking and which building is it.

**Mr. Thorne** stated there is parking and stated the building is on the corner, formerly Pat's Antiques.

**Mr. Welch** asked if the current use is automobile storage.

**Mr. Thorne** stated he thinks that is its use right now.

**Mr. Welch** asked if the neighborhood was notified.

**Mr. Thorne** replied no, this is the first step he's taken in this process.

**Mr. Farmer** reminded the board about spot zoning. However, a petitioner with a good record under the law should be taken into consideration and that he would have to operate under a license.

**Mr. Ragsdale** asked if the site could support the off-street parking requirements.

**Mr. Hansen** replied no, it could not. A site plan for review has not been received; this is merely a zoning request. This was reviewed in terms of what could be placed on the site. Our recommendation is based on what could be placed on the site; B-G is an intensive commercial usage and many uses could result in this area that we do not feel to be appropriate.

**Mr. Marshall** asked where along that corridor could the establishment go, south of Victory Drive.

**Mr. Hansen** replied the area was rezoned to B-G-1 in 1986; there may be a

spot or two closer to Victory Drive which will allow alcohol, but in this particular area of the street, alcohol is not permitted. Prior to 1986, B-G-1 did not exist and it would have been allowable.

**Mr. Marshall** stated a concern about a penalizing a business person who has successfully operated in our community a business that needs to be close to a residential area. We should be encourage him to do something with a building that is not so attractive right now

**Mr. Ragsdale** stated under UZO, this would be allowed as a special use.

**Mr. Pannell** stated which has to go to City Council for final approval.

**Mr. Farmer** stated so does this.

**Mr. Ragsdale** confirmed.

**Mr. Abolt** stated the applicant was very forthright in his innocence; this is his first time. He stated he listened to the City Manager's recommendation and has come to the same conclusion that it may not pass. He asked Mr. Thomson if it would be in the applicants best interest for the applicant to have more time, since it's not well-thought out, so he can learn what his choices might be.

**Mr. Thomson** agreed.

**Mr. Abolt** moved to table the petition.

**Mr. Farmer** stated he thinks its a good idea to wait. He agrees with Mr. Abolt; it may be premature to make a decision at this point.

**Mr. Coleman** stated he is bothered by making decisions based on a 'good person' coming up and therefore, we are going to give consideration outside of what the ordinance says and those rules. That is not a part of the pattern of which we are supposed to be making zoning decisions. He may be the person who's here now with this business, but this is a zoning decision that translates beyond whomever is standing now as a petitioner. He stated he thinks it should be viewed from that premise. It is almost a spot zoning situation also. Before we start talking about how we are going to work with someone, we need to understand what we are doing and how it translates to the ordinance.

**Mr. Lufburrow** stated he wants to support Mr. Coleman's statement. When you look at the use comparison table, there are a lot of other uses that can go in here that would be detrimental to the neighborhood. There was not much discussion about that.

**Mr. Farmer** asked what is your point.

**Ms. Small-Toney** stated the basis for her recommendation to accept staff's recommendation was because of the residential area. The environment is one in which the neighborhood has not changed over that period of time. Secondly,

when it comes before City Council, neighborhood outreach will be one of the factors to guide the decision. If the motion to table passes, she recommended contacting the neighborhood association and get that process underway. Fundamentally speaking, she stated she opposes it and not recommend approval to City Council because of the residential areas around it.

**Mr. Farmer** stated there are a lot of uses under B-G that we would not want to see there. We should give consideration to upstanding business owners in the community.

**Mr. Pannell** stated he grew up in the area and his parents still live there. Moving this from B-G to B-G-1, there could be no telling as to what could happen. The other businesses are 9 to 5. Once the change is made, the door is open. He supports staff recommendation to deny the petition.

**Mr. Mackey** stated that neighborhoods and lounges don't mix together anymore, his petition may not fare well. He stated he believes the intent of the County Manager was to give the petitioner time to rethink with no date in mind. Bring it back and hopefully it will be better than what is before us now. If we proceed with what we have, it may not be in your advantage.

**Mr. Lufburrow** stated whatever we decide, it is simply a recommendation.

**Board Action:**

Postpone the petition to give the applicant opportunity to learn more about the process. - PASS

**Vote Results**

Motion: Russ Abolt

Second: Timothy Mackey

Russ Abolt - Aye

Shedrick Coleman - Nay

Ellis Cook - Aye

Ben Farmer - Aye

Stephen Lufburrow - Nay

Timothy Mackey - Aye

Murray Marshall - Aye

Tanya Milton - Aye

Susan Myers - Aye

Jon Pannell - Aye

Adam Ragsdale - Aye

Rochelle Small-Toney - Aye

Joseph Welch - Nay

11. [Savannah Lofts - 120 East 61st Street](#)

Attachment: [Maps.pdf](#)  
Attachment: [General Development Plan.pdf](#)  
Attachment: [Elevations.pdf](#)  
Attachment: [Miscellaneous.pdf](#)  
Attachment: [Staff Report.pdf](#)

Savannah Lofts  
120 East 61st Street (northeast corner of Abercorn and East 61st St.)  
PIN: 2-0106-04-002 & 003  
Agent: Cliff Kennedy  
Engineer: KRI Engineering, Inc.  
Owner: Cathryn Dunn  
Developer: Chance Partners - Bill Newell  
Aldermanic District: 4  
County Commission District: 1  
Zoning District: R-M-25  
MPC File Number: P-120517-54534-2

**Mr. Gary Plumbley**, MPC Project Planner, presented the petitioner's request for consideration of a General Development Plan/Group Development for a proposed multi-family residential development to be located at the northeast corner of Abercorn Street and East 61st Street (PIN 2-0106-04-002 & 003). The proposed development will consist of three structures with a total of 32 residential apartments.

The petitioner is also requesting approval of a 22.5 foot building setback variance from the required 25 feet along East 61st Street.

The MPC staff recommends **approval** of the requested variance and General Development Plan subject to conditions as follows:

1. Revise the General Development Plan to split each of the two longest buildings to minimize the impact of the mass of the residential structures. The separation should be not less than 15 feet and established as greenspace. This condition will be subject to a determination by the City Landscape Architect that moving the development 15 feet closer to Abercorn Street will not jeopardize the existing Live Oak trees near Abercorn Street.
2. Approval by the Mayor and Alderman to delete the no on-street parking designation of the north side of East 61<sup>st</sup> Street and the acceptable relocation of the affected light standards by the City Traffic Engineer. In absence of this, the proposed on-street parking shall be eliminated from the proposed General Development Plan.
3. The existing address of the site is 4634 Abercorn Street which is

incorrect. The correct address of this site is 120 East 61<sup>st</sup> Street.  
Please use this address for all future submittals.

4. Approval by the City of Savannah review departments including the City Landscape Architect, the City Traffic Engineer, and the City Engineer.

There are no variances for off-street parking.

**Mr. Farmer** stated this is a situation to make something better and more aesthetically pleasing. He thinks it is helping make the neighborhood better.

**Ms. Small-Toney** asked if it were discussed with the neighborhood.

**Mr. Plumbly** replied yes.

**Mr. Coleman** stated he is comfortable with this revised site plan.

**Mr. Marshall** asked if the open space would be shifted back to the lane, when it is taken off of 61st.

**Mr. Plumbly** stated that is what the site plan indicates.

**Mr. Cliff Kennedy**, petitioner, stated he was comfortable with staff's presentation.

**Mr. Mackey** stated he was happy to hear people are working again.

**Board Action:**

The MPC staff recommends approval of a 22.5 foot building setback variance and General Development Plan subject to conditions as follows:

1. Revise the General Development Plan to split each of the two longest buildings to minimize the impact of the mass of the residential structures. The separation should be not less than 15 feet and established as greenspace. This condition will be subject to a determination by the City Landscape Architect that moving the development 15 feet closer to Abercorn Street will not jeopardize the existing Live Oak trees near Abercorn Street.
2. Approval by the Mayor and Alderman to

delete the no on-street parking designation. **PASS**  
of the north side of East 61<sup>st</sup> Street and the acceptable relocation of the affected light standards by the City Traffic Engineer. In absence of this, the proposed on-street parking shall be eliminated from the proposed General Development Plan.

3. The existing address of the site is 4634 Abercorn Street which is incorrect. The correct address of this site is 120 East 61<sup>st</sup> Street. Please use this address for all future submittals.
4. Approval by the City of Savannah review departments including the City Landscape Architect, the City Traffic Engineer, and the City Engineer.

**Vote Results**

Motion: Timothy Mackey

Second: Stephen Lufburrow

Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Aye
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye
Russ Abolt	- Not Present
Shedrick Coleman	- Aye

12. [Kroger Redevelopment-318 Mall Blvd-General Development Plan / Group Development](#)

Attachment: [Kroger Site.pdf](#)

Attachment: [Kroger Landscape Plan.pdf](#)

Attachment: [11-100 Kroger 697 Parking Demand 05-23-12 REVISED.pdf](#)

Attachment: [Elevation.pdf](#)

Attachment: [Kroger Demo.pdf](#)

Attachment: [Staff Report - Mall Blvd Kroger.pdf](#)

318 Mall Boulevard  
Kroger Grocery Store Redevelopment

PIN(s): 2-0533-01-004, (006) (025) (028) & 2-0534-10-004C  
Market Walk Investors, LLC., Owner  
Harold Schraibman, Agent  
Aldermanic District: 4  
County Commission District: 1  
Zoning District: BC (Community - Business)  
Acres: 23.9  
MPC File: P-120221-61834-2

**Mr. Marcus Lotson**, MPC Project Planner, presented the petitioner's request for approval of a General Development Plan / Group Development for the purpose of renovating an existing shopping center.

The petitioner is also seeking the following variances:

1. A reduction from the required 1,077 parking spaces to 1,015. A total proposed reduction of 62 spaces.
2. A 12 foot height variance to the 35 foot maximum for a total proposed height of 47 feet.
3. A 1.5% reduction to the 20% required greenspace for a total of 18.5%.

MPC staff recommends approval of the petition.

**Mr. Lufburrow** asked how was the percentage of current parking used to create the percentage for the new use, especially if the purpose is to increase their market share.

**Mr. Lotson** stated the addition of the 400 proposed parking spaces deals with that issue. The proposed plan has less commercial square footage than there is on the site today.

**Mr. Farmer** stated the space taking out for parking from self-storage and replacing it with retail is not a fair comparison. The self-storage is getting very little activity. One can't just look at the size and say we're taking out 100 self-storage units that gets four to five visits a day and throw it into this mix. Secondly, he asked about ingress and egress consideration. He stated one can't get out of the area now. Especially with the proposal of a gas station on the property; there will be a great deal of fuel traffic as well.

**Mr. Lotson** stated a traffic impact analysis was done by the petitioner.

**Mr. Coleman** stated looking at the site plan, with the new development, there is an entry and exit point with a traffic light when coming out from Oglethorpe

Mall across from the Taco Bell. There will be an improved traffic flow because there will be a signal on Mall Boulevard.

**Mr. Marshall** asked how many variances are in place right now for the uses that are there.

**Mr. Lotson** stated he believes the existing site did not require any variances. Everything there, to his knowledge, meets current code.

**Mr. Marshall** asked how many square feet of rentable space does the 78-space variance request equate to.

**Mr. Lotson** replied when dealing with a shopping center of this size, the parking requirement is a little different. The total is 16,000 square feet.

**Mr. Marshall** asked what could they build if only developing to a non-variance requirement. He stated instead of allowing variances, the rules should be changed. In that way, any developer can meet the code without variances. He expressed his concern with the number of variances being allowed. It's an economic issue. When one reads the books as a developer looking in from out of town, unless you think you have a chance to get a variance, you're not going to do as much. Sixteen thousand of rental square feet makes a difference as to whether you do the project or not. But, is it fair to the general public to continue to grant these variances that just put more and more square footage into the area that our ordinance says shouldn't be there to begin with.

**Mr. Ragsdale** asked to that point, what would the parking under UZO be.

**Mr. Lotson** replied stated it would be 240 spaces less than what is required by the current ordinance. They would meet the parking requirement under UZO; they would have 140.

**Mr. Marshall** stated that supports his thought that things should be approved incrementally as they come up like this.

**Mr. Ragsdale** stated he agreed.

**Ms. Small-Toney** stated she is comfortable with granting the variances since public transportation was taken into consideration.

**Mr. Mackey** asked if the over-sized parking area allows the developer to come in and ask for approval to put in other items inside of the parking lot. For example, the K-Mart that was on Skidaway: the parking lot was huge, and now there are two or three businesses in the parking lot. So what was initially not a parking problem becomes a parking problem when you had adequate parking. It is a huge parking area.

**Mr. Ragsdale** stated there does appear to be an outparcel within the parking lot.

**Mr. Lotson** stated there are existing restaurants.

**Mr. Farmer** stated it is a large area of land. He stated he would like to see the traffic study; he asked how big do they need it to be. He is concerned about adding a lot more traffic and parking to an existing area based on different uses.

**Mr. Ragsdale** asked if the City Traffic Engineer has accepted the petitioner's traffic and parking study.

**Mr. Lotson** stated they have not accepted it, but they are in the process of reviewing it. They still have the ability to work with petitioner and have them comply with any results they find from their review.

**Mr. Ragsdale** stated any motion that may be made in support of staff recommendation would be contingent on acceptance by City staff.

**Mr. Lotson** confirmed.

**Mr. Marshall** asked if the site will have traffic lights to access the area. There is only one now on Hodgson Memorial. The one in front of Taco Bell is not for the project site.

**Mr. Thomson** stated there is a lot of capacity and the light in front of Taco Bell will be a measure of control. Our staff has reviewed the traffic report; we just have not gotten feedback from the City yet.

**Mr. Coleman** stated the traffic light will serve a stronger purpose than it appears to right now.

**Mr. Mark Senn**, petitioner, explained their expansion plan. There are tenants and restaurants that would like to be a part of the redevelopment. The road next to Taco Bell with the traffic light will be widened and it will be a main entrance to the development; there will be two, including the traffic signal on Hodgson Memorial. There will be a total of eight access points. The green space is going from 10 % to 18.5 %. The request for variances is because of it being a redevelopment.

**Mr. Marshall** asked how much improvement is proposed to be done on the northside of the intersection to encourage people to use the traffic light. He asked what is the use for the outparcel and is it part of the proposed 18% greenspace.

**Mr. Senn** replied it is not part of the 18%, it will not be lost because it will have its own requirements. It is anticipated that it will be a freestanding restaurant. The road can be widened if that is necessary to make the entrance way work better.

**Board Action:**

Staff recommends approval of the parking variance, and the General Development height variance, and Group Plan green space variance - subject to Traffic Engineer's approval. - PASS

**Vote Results**

Motion: Rochelle Small-Toney

Second: Joseph Welch

Russ Abolt	- Not Present
Shedrick Coleman	- Aye
Ellis Cook	- Aye
Ben Farmer	- Aye
Stephen Lufburrow	- Aye
Timothy Mackey	- Aye
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Aye
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye

**Zoning Petition - Text Amendment**

13. Historic District Height Map, Section 8-3030(n)(2) of the City Zoning Ordinance, modify height zones in the northeastern section of historic district

Attachment: [Text Amendment Historic District Height Map - Application and Submittal.pdf](#)

Attachment: [Pictometry Aerial View- looking south.pdf](#)

Attachment: [Existing Historic District Height map.pdf](#)

Attachment: [Petitioner Proposed Historic District Height Map.pdf](#)

Attachment: [Staff Recommended Historic District Height Map.pdf](#)

Attachment: [Staff Report.pdf](#)

Attachment: [MPC HDBR Height Map Amendment 060112.pdf](#)

**Ms. Sarah Ward**, Historic Preservation Officer, presented the petitioner's request to amend the Historic District Height Map (established in Section 8-3030(n)(2), Historic District, Design Standards, Height, of the City of Savannah Zoning Ordinance) to modify the height zones in the northeastern quadrant of the historic district.

The amendment proposes to allow a maximum of three stories or 45 feet above Bay Street in the northeastern corner of the district extending 165 feet along the Savannah River to the north and bounded by the Marriott Hotel to the east and General McIntosh Boulevard (Bay Street) to the south as illustrated in the attached application and submittal.

Staff recommends approval of the petitioner's request to amend the Historic District Height Map, referenced in Section 8-3030(n)(2) of the Savannah Zoning Ordinance, with the condition that the two story height limit along the riverfront be retained and the three story or 45 feet above Bay Street zone be limited to the southern portion of the property as illustrated in the attached Staff Recommended Historic District Height Map.

**Ms. Myers** asked if the property is north or south of River Street.

**Ms. Ward** replied the current height map treats it as north.

**Ms. Small-Toney** asked with the Marriott Hotel and the Georgia Power buildings as bookends, what is the value of limiting the height of the proposed structure. She asked what would it protect.

**Ms. Ward** replied that the current development pattern of the riverfront of the Historic District, which is very significant feature, maintains very low heights along the waterfront with taller buildings on the south side of River Street. We are trying to continue that development pattern into the area immediately adjacent to the National Landmark District to help preserve the character of that area and provide a transition to the Marriott, which is outside the district.

**Ms. Small-Toney** expressed to not allow it doesn't really do much, other than limit the development of that site. She stated she does not see the value doing it; she does not think the tourists will run away from it. She believes the developers will develop it in a way to be attractive and invite more tourists to the area.

**Mr. Farmer** stated it would be a valid argument if the Marriott wasn't already there; now it's just a matter of which color building you're looking at. Adding that one story will not negatively impact the area.

**Ms. Myers** stated even though the Marriott is there, this parcel helps transition the two areas. Limiting the project to two stories yields a relationship between the people and the buildings, and some relief.

**Mr. Coleman** stated he thinks the whole complex of buildings is being missed. Rather than looking up from River Street back, look back from General MacIntosh: there is only a small slot to look through. The architecture and how the hotel ends the view corridor is what matters.

**Mr. Harold Yellin**, representing the petitioner, stated the project is not a part of National Landmark District. He stated they met with the MPC staff for direction in developing the four acres of property.

**Mr. Patrick Shay**, petitioner, presented pictures and a model to support his request. This parcel was chosen because it is not part of the north side of River Street, which was designated as protected in the ordinance. It was not always flat and open. An 1891 engraving shows the same area with large-scale industrial buildings. The Marriott actually replicates the historic pattern.

**Mr. Shay** submitted information from the Chadbourne report that he interpreted as supporting his petition. He stated they are volunteering to save a historic building. They plan to install a public park in the area. To acquiesce to staff recommendation, much more of the view is lost for human scale, including the proposed park.

**Mr. Farmer** asked if the extra requested height was necessary to make the project economically feasible.

**Mr. Shay** replied yes.

**Mr. Mackey** asked what was different from staff's recommendation and his request.

**Mr. Shay** stated the staff's recommendation eliminates the public park and blocks the view from the old fort. He requested the petition to be approved as it was submitted.

**Mr. Lufburrow** asked if this were approved, what would be the probability of his client coming back for bonus height.

**Mr. Shay** stated they hope they can live without it. The issue will be the parking needs of the hotel.

**Mr. Lufburrow** stated it would be good to flush that out because if it comes back and you get a height bonus, it will be a whole different animal than what we are looking at now.

**Mr. Shay** stated it will meet the highest standards of the Historic District Zoning Ordinance.

**Ms. Myers** stated the bonus floor is not automatic. It has to be earned.

**Mr. Marshall** recommended reconsidering what the height limitation is; this area is the anchor at the end of the historic area. He suggested going higher to get a better perspective from a pedestrian standpoint.

**Mr. Farmer** stated he felt comfortable with the submitted information of the Chadbourne report supporting his request.

**Mr. Daniel Carey**, representing Historic Savannah Foundation, is in opposition of the petitioned request as submitted. He is happy to hear the Georgia Power building may be saved. He suggested considering the view from Hutchinson Island and from the river itself.

**Mr. Ted Clarke**, citizen, stated he was confused as to what the Commission is to vote on.

**Ms. Ward** responded a text amendment to the Historic District Height Map.

**Mr. Clarke** asked if any details regarding ingress and egress are being reviewed.

**Mr. Ragsdale** replied no.

**Mr. Clarke** asked about docks or water access or traffic lights.

**Mr. Ragsdale** replied no. This is a text amendment that City Council will act upon and the developer will be responsible for coming back to the Historic Review Board with the design process.

**Mr. Clarke** asked if anything was looked at going below sea level.

**Ms. Linda Ramsay**, current chair of the Historic District Board of Review. She stated she is present to answer any questions regarding the letter submitted from the Historic District Board of Review.

**Mr. Lufburrow** asked Ms. Ramsay which of the two options are the lesser of the two evils.

**Ms. Ramsay** stated she is currently speaking as chair of the Board. She would like to address her opinions later.

**Ms. Ramsay** stated if there are no questions about the letter submitted from the HDBR, she would continue as someone who has served on the review board for 10 years. She wanted to make two points: there is no guarantee that Mr. Shay and his clients will move forward as presented. But the height map will be changed, permanently. Please consider that. Secondly, as chair of the review board, a major criteria when reviewing projects that come before us is visual compatibility. Looking at the existing buildings on Bay Street, they are all back from the street. These come right up to General McIntosh Boulevard and Bay Street; they come to the property line. We have nothing to judge visual compatibility from; there is nothing visually compatible, except City Hall, which is further down Bay Street. If this text amendment passes, you're giving the review board an almost impossible task. The same applies on River Street; only the Hyatt is that height in the Historic District.

**Ms. Ramsay** continued it has been her experience that if a height is allowed and a project comes before the board at that height, and it is not visually compatible, they usually have to help the petitioner design the building to make it visually compatible.

Addressing Ms. Myers question regarding the extra story, Ms. Ramsay informed the dedication of the public park might qualify the extra story.

**Mr. Coleman** stated the hotel and the parking relate more to other things that are happening in the Historic District. Visual compatibility goes beyond what is immediately adjacent to the site. He believes she is arguing something beyond what anyone can do at this point.

**Mr. Farmer** asked is the parcel in the Historic District.

**Ms. Ramsay** stated it is and the HDRB reviews projects in the Historic District - this is in it. The Marriott is outside of it, which is why it looks like it does.

**Mr. Mackey** stated he's been on this Board since 1998. He stated he can't remember in all these years a case where a member of the Planning Commission has gone to the HDRB to dictate how it should vote. That puts him in a precarious position because we have a charge and however we vote on this charge and pass on to another board for it to rule, then you should rule on that. You stated it would be impossible for you to do that. He stated he does not know how to handle that as a sitting commissioner, because you're saying if we make a decision, you can't rule. That's playing it real close. He asked if she was speaking on behalf of the review board or as a resident of downtown.

**Ms. Ramsay** stated she tried to make that clear: she was not speaking on behalf of the review board. She does live downtown; she was speaking as a ten-year member of the HDRB.

**Mr. Mackey** stated he thinks that clouds the Board's ability to make a decision. You had your chance to deal with it, now it's to us and we'll deal with it. If it's on two opposite sides of the pole, then we'll come back and deal with it at that point. For you to come and dictate how we should vote on it, that clouds his ability to vote. In the name of the HDRB; he can't remember anyone doing that before. He stated he preferred that not happen and be allowed to make decisions based on facts presented.

**Ms. Ramsay** stated she is not asking them how to vote; the Commission received the letter that had the opinion of and how they were derived from the HDRB. It's facts.

**Mr. Marshall** stated the developer has petitioned for a variance to the height map. There is merit from his side and from staff, but it is an economic thing. We ought to get something for it: no buildings along the rest of the river front. Give some height on the east end that already has a height 'issue'.

**Ms. Small-Toney** stated 'we' don't own the property. Also, the developers are givin something. This is a time in Savannah's history and future that we are balancing guarding the historical versus what is on the horizon for redevelopment. The Marriott and Georgia Power buildings cannot be ignored, in or out of the Historic District. This is an opportunity to make it economically viable, because right now it isn't. The public realm is being overlooked. Mr. Shay's rendition of their proposal shows a significant opportunity for the public would be taken away, along with a continuation of the plazas and walking experiences. She does not want the area 'concreted and built up' just to have less of a story or two and end up with another big building with the Marriott being placed there. The River Walk does allow the river front experience and it runs to the eastern edge of the property. We can't judge character, but she does not believe this to be a group that will say one thing and do another. The text

amendment is the focus.

**Mr. Lufburrow** stated we would not be here if it were not for those that work had to preserve the Historic District. That's what people come here to see. He does not want to denigrate their testimony; they are the reason the petitioner wants to build there. Pause should be given to what may happen. That is a valid consideration. As a developer, you have to get to a point to get to the final decisions.

**Mr. Cook** stated the guidelines were put in place for a reason. If you change for one developer, what will stop others from challenging to have a variance approval. He thinks it is the start of a slippery slope. The guidelines should be adhered to.

**Mr. Henry Reed**, president of the Downtown Neighborhood Association, stated the residents are very aware of this project. The Board of Directors has instructed him to support the HDRB's letter and urged to not to accept the petitioner's request. There is a lot of consideration to do so. The ordinance is the only thing to protect the downtown citizens. Any changes will be forever and for all proposals to come. He requested not making it a blanket change, make it site-specific. He also requested limiting the amount of stories the petitioner can have by adding conditions.

**Mr. Brian Williams**, representative of Charles Morris, the owner of Trustee's Garden, expressed Mr. Morris' support of the petitioner's project. He expressed concern about the view because it will affect his business venues; he hopes they will not accept plan B for it blocks the view.

**Mr. Cook** asked Mr. Shay why are they requesting a text amendment that will affect the entire height map rather than a height variance that would apply just to his project.

**Mr. Shay** stated a variance would yield asking the Board of Appeals to grant many stories of height variance that would have a major impact on the whole community. The more transparent way - and as advised by MPC staff - was the correct legal path to come. We are not trying to avoid anything; we will be back before the HDRB and meet their compatibility standards.

**Mr. Cook** stated a variance would apply only to your project. You are proposing to change the whole height map where anyone could do things not eligible to do previously.

**Mr. Farmer** asked Mr. Thomson why was it better go with the text amendment than the height variance.

**Mr. Thomson** stated we believe they wanted six or seven stories on the waterfront. The HDRB does not have the authority to address that many additional floors above the height map.

**Mr. Farmer** asked how many vacant parcels will this text amendment affect in

the future.

**Mr. Thomson** stated only this one.

**Mr. Coleman** stated it is very specific to this location. Mr. Pannell agreed.

**Board Action:**

Approval of the petitioner's request to amend the  
Historic District Height Map, referenced in  
Section 8-3030(n)(2) of the Savannah Zoning Ordinance, to allow 3 stories/45' above Bay Street. - PASS

**Vote Results**

Motion: Jon Pannell

Second: Rochelle Small-Toney

Russ Abolt	- Not Present
Shedrick Coleman	- Aye
Ellis Cook	- Nay
Ben Farmer	- Aye
Stephen Lufburrow	- Nay
Timothy Mackey	- Aye
Murray Marshall	- Aye
Tanya Milton	- Aye
Susan Myers	- Nay
Jon Pannell	- Aye
Adam Ragsdale	- Aye
Rochelle Small-Toney	- Aye
Joseph Welch	- Aye

**XI. OTHER BUSINESS**

**XII. ADJOURNMENT**

14. [Adjournment of June 5, 2012 Regular MPC Meeting](#)

There being no further business to come before the Board, Chairman Ragsdale entertained a motion to adjourn the June 5, 2012 MPC Meeting at 6:46 p.m.

Respectfully submitted,

Thomas L. Thomson  
Executive Director

TLT/bf

**Note: Minutes not official until signed.**

**XIII. DEVELOPMENT PLANS SUBMITTED FOR REVIEW**

*The Chatham County - Savannah Metropolitan Planning Commission provides meeting summary minutes which are adopted by the respective Board. Verbatim transcripts of minutes are the responsibility of the interested party.*