

Committee on Real Estate

October 12, 2020

A meeting of the Committee on Real Estate was held this date beginning at 3:04 p.m. over video conference call.

Notice of this meeting was sent to all local news media.

Present

Councilmember Shahid, Chair, Councilmember Appel, Councilwoman Jackson, Councilmember Waring, and Mayor Tecklenburg

Also Present: Ernest Andrade, Susan Herdina, Peter Racsoe, Laurie Yarbrough, Christopher Morgan, Leigh Bailey, Rick Jerue, Matt Frohlich, Chip McQueeney, Janie Borden, Tracy McKee, Jacob Lindsey, Bethany Whitaker

The meeting was opened with an invocation provided by Councilwoman Jackson.

Approval of Minutes

On the motion of Councilmember Waring, seconded by Councilwoman Jackson, the Committee voted unanimously to approve the minutes of the September 21, 2020 Real Estate Minutes.

Approval of the Consent and Third Amendment to Lease Agreement between the City and Ecovest-East Shed Development, LLC, which amends certain terms of the Master Lease Agreement executed by the City and Ecovest-East Shed Development, LLC, on October 9, 2020, and provides for approval by the City of a new subtenant for Ecovest-East Shed Development, LLC, as required under the terms of the Master Lease Agreement. [Ordinance] (Consent and Third Amendment to Lease Agreement will be sent under separate cover by the Real Estate Department.)

Ms. Bailey stated that since 2012, the City had been under a Master Lease with Ecovest-East Shed Development, LLC for the East Shed that was next door to the Children's Museum on Ann Street. Jeffrey Roberts was the managing member of the LLC and was proposing a new sub tenant to open a new bar/restaurant in the space.

Mr. Roberts stated that since 2012, they answered an RFP that Mayor Riley wanted to bring the Best Friends Train Museum from Norfolk Southern Railroad and it was sitting in the headquarters on Peachtree Street in Atlanta. He had been trying to figure out for five or six years how to get the train back. So, what they ended up doing was revitalize the East Shed which was approximately a 270 foot long old, early 1800's railroad shed that was in between the Childrens Museum and the Visitors Center. So, they came up with an idea to spend a significant portion of their capital to build the museum and revitalize that shed. Ultimately, the train was placed in there and the City contributed a portion for the Museum. They then put a tenant in there who spent a few million dollars on the upfit and, unfortunately, he had brought in a celebrity chef who came in to run it on sweat equity, and he didn't

sweat as much equity as the owner would have liked. Ultimately, the place closed down and now it had set vacant. The prior tenant had tried to make a go of it and spent millions of dollars on the upfit, as they had spent prior to that tenant, to revitalize and restore the entire shell of the shed building. The train was put in around 2013. The prior tenant left the premises. The architecture of it that the tenant wanted certainly didn't lend itself to the activation of the courtyard and public promenade and visibility into the building. This was a very unique and challenging space because it was so large and required an operator with considerable heft. They had the tenant that was interested in going into this and they had been working with City officials since October 2019. They had the tenant committed to going in there, but because of Covid-19, they had to recalibrate and brought the tenant back under post-pandemic terms. Right now, it was a group opening up a facility that would primarily be food centered with Low Country coastal cuisine. It would be open serving breakfast and lunch and then would be open for dinner and cocktail service. They were a seasoned, very well funded group. They also owned Uptown Social on King Street and were very active in civic affairs. They had worked hand in glove with Helen Hill, and Doug Warner. There was a tremendous symbiosis going back and forth. They felt the tenant was capable of operating the facility and paying the rent, but would work in the activation of the portion of the public realm and also planned on spending \$1.5-2 million of additional upfit on something that was already BAR approved and permit ready.

Councilwoman Jackson said she wasn't sure if they were supposed to actually be naming the subtenant or approving the subtenant as described. Ms. Bailey said that the subtenant would be 23 Ann Street Restaurant, LLC. The way the consent and third amendment to the lease agreement was written, it only approved that specific subtenant. Councilwoman Jackson said that was fine. She just wasn't sure if they were supposed to name the tenant. Mayor Tecklenburg thanked Mr. Roberts for bringing this to them. Since the closure of that space, it had been deactivated and they needed to bring life back to it. To be able to pull that off during Covid-19 was remarkable and the fact that the tenants were willing to invest up to \$2 million to improve the property was also incredible. For full acknowledgement, there was a rent concession that they made for the first initial year and then after that, they should recover the full rent after they got back in business because they'd be able to get a percentage of a rent addition based on a percentage of sales. He thought this was a great opportunity. Chairman Shahid said that it sounded like this was an overall good deal for the City. Councilmember Waring asked how long it had been vacant for. Mr. Roberts said that it had been vacant for about 15 months.

On a motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above item.

Approval of a Lease of a single City parking space on Cone Street for continued use to house a trash dumpster for nearby businesses. The property is owned by the City of Charleston. (Cone Street; Part of TMS# 458-09-02-068)

Peter Rascoe stated that this was a proposal for a renewal of an existing tenancy of a single parking space on Cone Street which was part of the City's Concord Cumberland Garage Complex. It was at the rear of what they might know as the Slightly North of Broad Restaurant on East Bay Street. It was a renewal of a lease that had expired and they had continued to pay rent on the single space for a

dumpster for many years. Now, they were hopefully getting them under a lease so there would be some clean up measures for that site. The tenant was 188-192 East Bay Street Horizontal Property Regime. They consisted of four restaurants and ten offices. All of those tenants would be using the dumpster and had been for about 17 years. The term they had them on was proposed as a year to year term and the City would have a 30-day cancellation clause at the end of each year. They had also placed in the lease some stronger clean up messages. One was to have them tip the dumpster six times per week instead of the previous four times per week. They also had some stronger reporting requirements for the unsightliness of the dumpster. The rent was based on lost revenue that the City would have on one space based on the average of the previous years revenue for metered parking spaces for that section of Cone Street. They would be paying that this year based on 2019.

On a motion of Councilwoman Jackson, seconded by Councilmember Appel, the Committee voted unanimously to approve the above item.

Discussion regarding archeological ordinance (Requested by Councilmember Peter Shahid)

Chairman Shahid said that when he got elected, he had received a visit from someone concerning an archaeology ordinance. It floated around for a while and was discussed, but nothing every materialized. He had spoken with Mr. Lindsey about this before. It had recently been brought back up when they were talking about Ghost Island and grave sites located downtown. He wanted them to talk about the feasibility of an archaeology ordinance and what else may be available to fill in that gap as to some issues that popped up from time to time.

Mr. Lindsey stated that a lot of people had worked on this over the course of the year. As they all knew, Charleston was the birthplace of preservation in the nation beginning with the creation of the BAR in 1931, but they had never regulated archaeological artifacts that resided on private property. Therefore, they didn't have a governmental staff or budget around it, or processes linked to it. It was a new area for them. Staff had worked on a draft ordinance that anticipated an expansion of governmental review that would be part of the development review process. Should it be adopted, it wouldn't directly affect or get into the burial ground issue, as that was something regulated by State law surrounding relocation of human remains and relocation of historic cemeteries. But, it would create a process around the discovery and documentation of artifacts on private development sites. They did request funding for it in the last budget year, but it didn't make the final cut. The ordinance really wasn't effective then because there would be no enforcement without staff around it. That wasn't something they would recommend. So, they did create a light version of this that would be something like a resolution, but that also wasn't recommended because they would still have no teeth around which to enforce it. So, right now, they had an ordinance that was not funded to move forward. With that said, they could consider putting together a task force to work on this and move it forward if they thought funding might become available in the 2022 budget. They could look at other ways of stating a resolution that would be in support of archaeology in the City that might give a fair warning to property owners that it was something they were focused on. Other governments they had looked at that do this had a budget and a process around it. The City of Alexandria owned and operated its city museum. It was one of their city's departments. So, they had six or seven staff that were professionals in archaeology.

The second issue was burial grounds. There had been a lot of discussion about this, especially in relation to Ghost Island and other areas. It was something that the City had endeavored to try to solve. They had met with a local archaeologist and discussed it. If they didn't adopt an ordinance specifically around this, they still had the State statutes to lean on. They looked at the coroner, SHPO regulations, and the DHEC process that governed discovery of human remains and relocation of historic burial grounds. Should Council be minded to pass additional regulation around this matter, he would recommend that staff, along with the professional archaeologists in the community, do some additional research into the State statutes and processes around them, in order to better address the matter. It may be that they could tighten up the way they did business, without expanding staff or passing more ordinances. They just needed to do a little more research on that, if Council was minded to pursue that further. It was a complex issue, but it was good to do. He thought they were all minded to increase the level of awareness they had around archaeological artifacts, but they needed funding and staff to more thoroughly engage it.

Chairman Shahid said that the last thing he addressed would include some sort of protocol or checklist in the event of discovering these artifacts or human remains so that staff knew exactly what to do. He thought right now that was all done on good faith. Mr. Lindsey said that right now they didn't have regulatory power over archaeological artifacts so they didn't ask for a stoppage of work in the case of discovery of artifacts. However, with human remains, when they are made aware that there might be the potential for human remains, they could ask for sub-surface exploration, ground penetrating radar. They could ask to stop work. They routinely did that, and they also referred the matter to the State and encouraged collaboration of the owner with the State. The State made specific provisions for discovering human remains or relocating burial grounds. So, they could just look at making a checklist or protocol. That could possibly be done at the staff level.

Mayor Tecklenburg asked if under circumstances that even without the City having the ordinance, the State Historic Preservation Office was engaged. He had represented property owners before where they were required to have archaeological surveys done to satisfy SHPO. Mr. Lindsey said that was correct. It was a little out of his expertise. There were many locations throughout the City which were within the jurisdiction of the State Historic Preservation Office. The Low Battery even had to go through a SHPO review when they were doing the new design. It also included many of the landmarked properties. He wasn't an expert in what the criteria was for what was on the SHPO list and he would need to talk to the BAR or Ms. Halversen. Councilmember Appel said that he had been involved with some projects before that had undergone various levels of SHPO review. One example where SHPO was triggered was if you were trying to gain a DHEC OCRM permit for a dock. SHPO was one of the boxes checked in that State permitting process. He would imagine that if someone was doing a substantial development involving environmental clean-up, they would probably have to get involved with SHPO, as well. The other example he had run into was through what were called cultural research surveys. In Charleston County, during the PUD process, as well as some routine major subdivisions, they had to provide a survey. There were firms around the southeast that made a lot of money doing those studies. They did amazing work. An example was with Ashley Hall Plantation. His client with that development had done more work and paid to have more studies performed on Ashley Hall Plantation than anyone else in the history of South

Carolina put together. They broke ground and published papers off the work they did. They found archaeological shards from Native Americans, information about the African Americans that lived on the property. He brought that up to say that there was methodology out there that existed. If they were to pursue that, they would want to be very careful how wide of a net they casted. Imposing a requirement of that kind on individuals or low-income communities would make development of their property impossible. But, if someone was doing a major development, it might not be unreasonable to require one of those surveys to be presented to staff as part of the permitting process. Chairman Shahid said that Ashley Hall Plantation was the site of a major treaty being signed between American Colonists and Native Americans. It was a huge historical location.

Councilmember Waring asked if the ordinance would be applied to the entire City. Chairman Shahid said he didn't know. It was something that he thought was worthy of discussion. His thoughts was to possibly have a task force, like Mr. Lindsey suggested, to look at some of the loose ends and figure out how to proceed. He didn't want this to be the final discussion, even if they just created a protocol for what they would do in the event of these things being found. Everything they needed might be covered by State law already, and they might not need to do anything else except tell staff what they were supposed to do when discoveries were made. Councilwoman Jackson said that a few years ago, the two preservation organizations got together. She wasn't sure if they hired an outside person, but they did a pretty serious look at this. She thought they would be happy to see the City become more intentional about what they could and couldn't do in the realm of archaeology protections. There were people out there that had the expertise and they wouldn't necessarily need to have a full-time archaeologist on staff. So, she would propose it to Historic Charleston Foundation and the Preservation Society to see what their interest would be in helping out. Mayor Tecklenburg said along those lines, if they were going to convene a task force, another entity to include would be the Gullah Society. They specialized in this kind of work and had people who were very knowledgeable and probably glad to help out. It was worth exploring. He had been wanting to personally move something along, but had been comforted by the fact that SHPO was there for certain requirements. To have some kind of catch-all or consideration made sense. It was just a matter of doing it without adding any new employees or expenses.

Chairman Shahid said he would propose creating this task force to include a representative from the Preservation Society, Historic Charleston Foundation, Gullah Society, someone from the Charleston Museum, staff from Planning, and maybe someone from the History Commission. He was willing to serve on that and someone else could join him. They could then come back in a couple months time to see what they could put together.

Discussion regarding donut holes (Requested by Councilmember Peter Shahid)

Chairman Shahid said he represented several areas of neighborhoods that had been annexed in one by one. When he was doing campaigns, they had to check the color of the trash can to see if that person was in the City or not. There was a little bit of a push from Pinecrest Neighborhood Association, when there were some issues coming up with speed bumps and enforcement. Councilmember Waring, Councilmember Appel, and he had other neighborhoods in which they had scattered houses. It made for bad government that there were two separate entities doing basic government work like policing, fire

protection, and garbage pick-up. He knew they had wonderful cooperation with the Saint Andrews Public Service District who covered certain areas for them. But, it seemed like a waste of government money to duplicate services. He asked Mr. Lindsey to have some discussion about what they could do about this and what was the most efficient way of addressing it.

Mr. Lindsey stated that the City had historically made an effort to annex as the City had grown. That had been a long-standing policy. Previously, they had staff dedicated to this, even in the Planning Department. They didn't have those positions currently. It was especially fruitful to annex into the City in West Ashley because there was a lower tax rate. There were some constraints around doing annexation generally. It was very time consumptive. Almost every applicant that wanted to annex needed a significant amount of time with City staff to go through the processes and understand what they're doing. It wasn't automatic. For donut holes specifically, he would suggest that Planning staff work with IT and GIS to do an analysis and figure out where all the holes were. They could actually look at what parcels were included, what the acreage was, what the type of use was, and really dig into the issue and do some analysis. That wasn't easy to do, but it could be done. Secondly, after having looked at the scope of the challenge, they could review what kind of effort they would need to begin annexations on some of those donut holes. After the Comprehensive Plan was completed, they could look at reallocating some resources on staff to that effort.

Mayor Tecklenburg said it was interesting that they had Mr. Andrade there as his earlier role with the City was the annexation master. He'd be curious to hear Mr. Andrade's comments on this. He suggested they follow Mr. Lindsey's recommendations and do some research.

Consider the following annexations:

- (i) *1824 Sandcroft Dr (TMS# 353-14-00-220) 0.23 acre, West Ashley (District 7). The property is owned by Jack and Samantha Reipke.*
- (ii) *Property on Wappoo Road (TMS# 350-14-00-086) 0.38 acre, West Ashley (District 5). The property is owned by Joshua Brandner and Dan Tollens.*

On a motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above annexations.

Update from Ernest Andrade, Executive Director, Charleston Digital Corridor

Mayor Tecklenburg said that the reason he invited Mr. Andrade to speak was to give a report on the property at WestEdge. He had been managing that for them.

Mr. Andrade stated that to the issue of annexation, he had hoped that by now the Legislative community would have gotten enlightened and passed a law. This continued to be a problem in many locations. He agreed that it was inefficient to have two levels of government servicing a finite area. They had to work within the confines of State law and those changes he had hoped for had not come about yet. During his tenure, they were pretty aggressive with annexations and the intention was to have some consolidation and smart government.

Mr. Andrade continued and encouraged anyone who hadn't been for a tour yet of the facilities to do that. By way of reminder, last summer the Real Estate Committee voted to proceed with the lease at WestEdge of 48,000 square feet with a monthly price tag of \$24,000 in lease payments. They got underway and handled the upfit of the space. The CO was delivered on April 3rd when no one really wanted to receive any real estate. They had been nervous, but were really pleased that by May they were all but one space leased. In June, they were 100% leased. In June, they were running on receivables of \$24,050 and they had a liability. In this environment, they were actually able to deliver a return to the City beyond its investment on a monthly basis. Today, the building continued to be leased, and they were returning \$24,700 to the City, so \$700 more than the City was investing on a monthly basis. The intent of the Council when they took the action was to support the life sciences industry. They had 16 offices at WestEdge and 13 of them were essentially occupied by life science companies. One of the companies started with three offices and today they had almost the whole space. They had added 200 jobs since the pandemic started in the molecular testing space. They did a lot of testing related to Covid-19. Their intention of supporting life sciences and economic development had materialized in a very challenging environment. He appreciated that. They also had an employee from a San Francisco based company using the touch down spaces for a few weeks.

Councilwoman Jackson stated that she had taken a tour of 22 WestEdge and it was wonderful. It was a Friday afternoon and people were still working which was a testimony.

Mr. Andrade said that in times like these, it was challenging, but he was extremely pleased that City Council had supported the diversification of the economy. A big step in that direction was the investment of land resources and a parking facility which was now quickly becoming the Charleston Tech Center. The garage was scheduled to return to the City next month and it was basically ready. For the office building, it was 92,000 square feet with an 816 space garage. Of that 92,000 square feet, 14,000 was for the ground floor and the rest was for office space for tech and tech-related companies. 70% of the office portion that was built was leased out. Things were a little soft in the retail and restaurant scene, but that was slowly coming back. The ownership was in conversation to bring that in. He thought they would be pleased when they found out what retail and restaurant was in the mix. He thought it was a beautiful thing to say that the City leveraged their \$1.775 million for \$54 million and they would still have a Phase 2, .4 acre, to leverage a second office building that could be as big as the first. In terms of the impact, two of the companies that had signed leased were from outside of the community and they were in the midst of the upfit on the flagship space. It was the safest office building in the City as it had UV filters in the entire building and safe AC/filtration. The building would also have a 10 gig symmetric connection from a tier 1 provider. That was unprecedented in the City. They were setting some pretty high standards for office development. The office component was scheduled to come online in January, but the garage and adjacent park would be completed next month. He couldn't do it without the support of the Mayor and City Council.

Mayor Tecklenburg thanked Mr. Andrade for stepping up and helping them. The lease helped the building get underway and it was a bit of a risk for the City to do. But, he believed the dividends had paid off. They helped attract a business to Charleston that could have gone elsewhere. Two hundred good paying jobs had come online this year because of just that one company. Part of that was they had the

extra space available for them to use, in addition to the wet lab being provided on the top floor. The strategy to provide some higher paying jobs in the medical and tech community was working. They could do more and that's what this other CTC building would do. Mr. Andrade said that they had an obligation to not get distracted with short-term economic items, but he appreciated their steadfast approach to staying the course. As long as he was at the helm, they could rest assured that they would get a higher return than what the City had invested. Councilwoman Jackson said that you could look in on the staff that was doing the lab work and it was fascinating. That company was probably more diverse, percentage-wise, than any private employer they had. She thought that it was something like 26% of the overall professional staff were African-American and local people who were trained and hired. They needed to keep more of that going. Councilmember Waring said he also wanted to thank Mr. Andrade. During the early days, there was a lot of stopping and starting, and Mr. Andrade was the person that kept it going. They were all in this together. He thanked him for all the hard work.

Authorization for the Mayor to execute a Rental Agreement with St. Andrews Parks and Playgrounds for the rental of pool space at their family fitness center beginning October 13, 2020 and ending on November 7, 2020. (To be sent under separate cover by the Legal Department)

Chairman Shahid said that he had received an email a few weeks previous from a concerned citizen about pool access and the temperature of the water. This came together rapidly. He had include Ms. Yarbrough on those email chains.

Ms. Yarbrough stated that they were waiting on the MLK renovations to be finished. As the temperatures had dropped, they had a lot of small children and parents weren't happy about those temperatures. They reached out to their friends at St. Andrews Parks and Playgrounds and they would be renting pool space starting the next day if approved to let them rent pool space until the MLK renovations were done. This was a short-term measure and she thought it was a great solution. It was a fair price and it would get the kids out of outdoor pools and into an indoor pool. Councilmember Waring asked what the price was. Ms. Borden said it was \$2,934. Ms. Yarbrough stated that if they didn't need all of the dates, they could back out, so it may end up being cheaper if they could get into the MLK pool quicker.

On the motion of Councilwoman Jackson, seconded by Councilmember Waring, the Committee voted unanimously to approve the above item.

Having no further business, the Committee adjourned at 4:09 p.m.

Bethany Whitaker
Council Secretary