

**COUNCIL MEETING  
SEPTEMBER 6, 2006**

A regular meeting of the Statesboro City Council was held September 6, 2006 at 9:00 a.m. in the Council Chambers at City Hall. Present were Mayor William S. Hatcher, Council Members Will Britt, Tommy Blicht, Gary Lewis, Joe Brannen and John Morris. Also present were City Manager George Wood, Director of Finance and Administration Judy McCorkle, City Attorney Sam Brannen, Planning Director Jim Shaw, and City Engineer Maz Elhaj.

**APPROVAL OF MINUTES ON AUGUST 1, 2006 AND AUGUST 15, 2006**

Councilman Brannen made a motion, seconded by Councilman Britt to approve the minutes of August 1, 2006 and August 15, 2006. Councilmen Britt, Blicht, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**PUBLIC HEARING:**

**APPLICATION RZ 06-08-01 MR. GREG HOWZE, ON BEHALF OF KGB INVESTORS, INC., REQUESTS REZONING FROM R-4 (MULTI-FAMILY RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT) WITH AN R-4 OVERLAY TO ALLOW SINGLE FAMILY ATTACHED DWELLINGS WITH A DENSITY OF 17 UNIT PER ACRE AND A MAXIMUM OF 2 BEDROOMS PER UNIT FOR A 12.82 ACRE PARCEL LOCATED ON THE SOUTH SIDE OF EAST MAIN STREET, 500 FEET EAST OF VETERANS MEMORIAL PARKWAY.**

Planning Director Jim Shaw stated the applicant is requesting the rezoning to allow separate ownership of single family attached dwelling units with a density of 17 units per acre. The project will consist of 27 two story buildings. Each will consist of 8 two bedroom town homes, totaling 432 bedrooms for the 12.82 acre parcel. Staff recommended approval of the requested rezoning. Joey Maxwell, of Maxwell Engineering representative for Greg Howze was present to answer questions.

Councilman Morris made a motion, seconded by Councilman Lewis, to approve application RZ 06-08-01 requesting rezoning from an R-4 to PUD with an R-4 overlay to allow single family attached dwelling with a density of 17 units per acre and a maximum of 2 bedrooms per unit for a 12.82 acre parcel. Councilmen Britt, Blicht, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**APPLICATION RZ 06-08-02 MR. LACEY, ON BEHALF OF CEDAR DEVELOPMENT, LLC, REQUESTS REZONING FROM LI (LIGHT INDUSTRIAL) TO PUD (PLANNED UNIT DEVELOPMENT) WITH AN R-4 OVERLAY TO ALLOW SINGLE FAMILY ATTACHED DWELLING UNITS FOR A 44.1 ACRE PARCEL LOCATED ON THE WEST SIDE OF NORTHSIDE DRIVE WEST (HIGHWAY 80), APPROXIMATELY 400 FEET NORTH OF STOCKYARD ROAD; AND ALSO LOCATED ON THE NORTH SIDE OF STOCKYARD ROAD AND ON THE EAST SIDE OF MILLER STREET.**

Planning Director Jim Shaw stated the applicant is requesting the rezoning to allow separate ownership of single family attached dwelling units for a 44.1 acre parcel. The development would have private internal streets; therefore, front yard setbacks are not required. The staff preference is for access into the development from Miller Street and Stockyard Road. The applicant is proposing 190 town homes on the property. The estimated acreage of wetlands and ponds on the property are 14.67 acres leaving 29.43 acres for development. The staff recommended approval with a maximum

net density of 7 units per acre. Brent Lane, of Lane Engineering representative for Jeff was present for questions.

Councilman Brannen made a motion, seconded by Councilman Lewis, to approve application RZ 06-08-02 requesting rezoning from LI to PUD with an R-4 overlay to allow single family attached dwellings units for a 44.1 acre parcel with staff recommendations. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**APPLICATION RZ 06-08-03 MS. PAULA RAINES REQUESTS A 10 FOOT VARIANCE OF THE 25 FOOT FRONT YARD SETBACK REQUIREMENTS ALONG WOODROW CIRCLE FOR PROPERTY LOCATED THE NORTHWEST CORNER OF NORTHSIDE DRIVE EAST AND WOODROW AVE.**

Planning Director Jim Shaw stated the applicant is requesting the variance to allow the construction of a multi-tenant commercial building on the property. The property has road frontage on all 3 sides and each side must meet the front yard setback requirements. The building is proposed to be 15 feet from the property line along Woodrow Circle and the minimum for CR (commercial Retail) is 25 feet. The site plan also shows a 15 foot vegetative buffer and an 8 foot wood privacy fence. According to Section 2302 of the Zoning Ordinance, a 15 foot buffer is required on a nonresidential use that is directly across a street from single-family or two-family residence or zoning. That buffer must contain trees, shrubs, and ground cover, but a fence is not required. Staff recommended denial, however if there is interest in approving the variance, staff recommended adding a condition requiring the provision of an 8 foot tall privacy fence between the landscaping buffer and the proposed building.

Charles Ellis stated they will have a nice building with a fence, and maybe improve the community some, certainly improve the lot. Councilman Britt stated the staff asked if the square footage of the building could be dropped a little. Mr. Ellis stated we have already dropped the square footage by 2200 feet.

Councilman Blich made a motion, seconded by Councilman Morris, to approve application RZ 06-08-03 requesting a 10 foot variance of the 25 foot front yard setback along Woodrow Circle with staff recommendation on a 8 foot tall privacy fence between the landscape and the buffer. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**APPLICATION RZ 06-08-04 MS. SANDRA JEFFERS, ON BEHALF OF WYANT FAMILY LTD. PARTNERS II, REQUESTS REZONING FROM R-4 (MULTI-FAMILY RESIDENTIAL) TO HOC (HIGHWAY ORIENTED COMMERCIAL) FOR PROPERTY LOCATED ON THE NORTHSIDE OF HIGHWAY 301 NORTH (EAST PARRISH), 500 FEET WEST OF PACKINGHOUSE ROAD.**

Planning Director Jim Shaw stated on the said property the front portion is HOC (Highway Oriented Commercial) and the rear portion is R-4 (High Density Multi-Residential). When HOC zoning was established in the area, it placed the first 100 feet of the right of way HOC and the remainder residential regardless of the property line. The applicant wants to rezone the property so it can all be developed the same. Sanitary sewer is not currently available to the property. If the developer wishes to utilize the City Sewer System they would be required to extend the 8 inch sewer main from existing sewer location at the intersection of Joyce Street and East Parrish. Staff recommended approval with the condition that the junk and inoperable vehicles be removed prior to the issuance of a building permit.

Jeff Raines representing, Wyant Family Ltd Partners, stated they have several interest in the property and they can not move forward with those interest unless they get rezoned. He stated as far as getting the debris removed it is already in process with the local authorities.

Councilman Morris made a motion, seconded by Councilman Lewis, to approve the rezoning from R-4 to HOC property located on the North side of Highway 301 North (East Parrish), 500 feet west of Packinghouse Road with all recommendations from the staff. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**MOTION TO ADOPT ON SECOND READING ORDINANCE #2006-12 AN ORDINANCE AMENDING THE ALCOHOL CONTROL ORDINANCE.**

City Manager George Wood stated at the last council meeting we prepared an amendment which gives additional notification when the quarterly reports are due, and failure to file on time could result in a penalty. The other issue was on new businesses needing to know if their business would be granted an alcohol license before they invested a significant sum of money. Mr. Wood stated the amendment allows the Alcohol Control Board to approve the license, with conditions, and the business pays for the permit shortly after the Certificate of Occupancy is issued, not within 14 days of the approval. The applicant will have to meet all of the conditions to get the license issued, and only when the City actually issues an unconditional license will the State accept an application for a State Alcohol License.

Councilman Brannen made a motion, seconded by Councilman Britt, to adopt Ordinance #2006-12. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**DISCUSSION OF THE DUE DATE FOR AD VALOREM (PROPERTY) TAXES.**

City Attorney Sam Brannen stated George inserted for the Council a code section that controls the issue. He stated the taxes are due on December 20<sup>th</sup> or 60 days after being billed which ever one comes later. Mayor Hatcher stated for the citizens, he feels the City should have the same due date as the County so not to confuse anyone. He spoke to James Deal, Bulloch County Tax Commissioner, about January 10<sup>th</sup>, but it will be confirmed at the next council meeting. Mr. Hatcher stated this date gives the property owner the option to pay in 2006 or 2007.

Councilman Britt made a motion, seconded by Councilman Brannen, to wait until the September 19, 2006 Council meeting to set the date. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**MOTION TO AUTHORIZE THE MAYOR TO REQUEST A RIGHT TURN IN ONLY/RIGHT TURN OUT ONLY ACCESS ONTO VETERANS MEMORIAL PARKWAY FOR A TRACT OF LAND BY BRANNEN STREET TO THE NORTH AND VETERANS MEMORIAL PARKWAY TO THE EAST TO BE DEVELOPED AS A COMMERCIAL AREA, CODITIONED UPON THE FOUR ITEMS IN THE CITY MANAGER'S MEMORANDUM OF SEPTEMBER 1, 2006.**

City Manager George Wood stated we're not approving the site plan; we're requesting the Mayor to request a right turn in only and right turn out only access onto Veterans Memorial Parkway. The Georgia DOT is in agreement but will only grant to a governmental entity. Mr. Wood stated City Engineer Maz Elhaj and he recommend the Mayors approval subject to the following conditions: **1.**The access point must be substantially in the location shown on the attached preliminary layout and agreeable to GDOT, with appropriate acceleration and deceleration lanes. **2.**

The access point must be a road designed and built to city standards that will be dedicated to the City for ownership upon completion. **3.** The access road must traverse the entire tract so it stops at the edge of the adjoining property substantially as shown on the attached preliminary layout, thereby allowing this access road to become a continuous frontage road facing Brannen Street as the other properties on Brannen Street develop. **4.** The developer agrees to dedicate at no cost at least 1.5 acres of the tract abutting the County's proposed greenway bike trail to Bulloch County for use by this facility. Mr. Wood stated the staff recommends approval.

Councilman Blich made a motion, seconded by Councilman Brannen, to authorize the Mayor to request a right turn in only/right turn out only access onto Veterans Memorial Parkway from the state of Georgia with the four conditions. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**MOTION TO APPROVE A REIMBURSTMENT TO JENNINGS CONSTRUCTION & DEVELOPMENT CO. IN THE AMOUNT OF \$14,200.31, FOR THE DIFFERENCE IN PIPE SIZE NEEDED FOR HIS DEVELOPMENT VERSUS UPGRADING TO MEET THE CITY'S MASTER PLAN FOR WATER DISTRIBUTION.**

Director of Wastewater Wayne Johnson stated in the past we began reimbursing developers when the size of the water or sewer main the city requires in our master plan to serve future growth is larger than the size they needed to serve their development. Our master plan calls for 12" water main for future growth and they needed only 8" inch water main. The council approved the Phase 1 and we're asking the same approval for Phase 4. To pay the difference in price and, note the City only pays them for the material which is \$14,200.31.

Councilman Blich made a motion, seconded by Councilman Lewis, to approve the reimbursement to Jennings Construction in the amount of \$14,200.31 for the difference in the pipe size. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

**MOTION TO SCHEDULE A WORK SESSION TO DISCUSS:**

- a) THE RED LIGHT ENFORCEMENT PROGRAM**
- b) PROPOSED ORDINANCE PROVISION ON PARKING IN FRONT YARDS; AND**
- c) PROPOSED BUSINESS LICENSE ORDINAN**

City Manager George Wood stated all three of these items are going to take an in depth discussion. The Council agreed to schedule a workshop on September 21, 2006 at 10:00 am. Councilman Britt stated he'd like to add Polycarts to the list. Councilmen Britt, Blich, Brannen, Lewis, and Morris were in agreement.

**APPEAL BY EL SOMBRERO MEXICAN RESTAURANT FROM THE FIRST OFFENSE AND \$1,000.00 FINE IMPOSED BY THE ALCOHOL CONTROL BOARD, AND THE LOSS OF HAPPY HOUR DUE TO OFFENSE.**

City Attorney Sam Brannen stated this is an appeal to the Council regarding El Sombrero Mexican Restaurant. Officer Ron Huckaby from the Georgia Department of Revenue and Statesboro Police Department Detective Rob Bryan did a compliance check at El Sombrero and discovered three young ladies on the premises with alcoholic beverages who were underage. They checked the ladies ID, spoke to the waiter who served them, and brought a case against El Sombrero. The testimony was given by Rob Bryan and evidence was submitted to the Alcohol Control board. The first offense is a \$1,000.00 fine, owner Abel Leon, through his attorney, requested an appeal.

Mr. Leon stated we did not know the ID's were fake. Councilman Morris stated on Jamie Capes ID it states she is 5'4 and her weight 107lbs. The fake ID stated she was 6'1 and weighs 125lbs. which is a significant difference. Councilman Lewis stated the ladies admitted they were in violation and they were given a citation. Mr. Wood stated Juan Salazar, the waiter involved, testified that he only looked at the age. Detective Bryan stated the ID presented to the waiter was not fake, but belonged to other people. Georgia Code 3-3-23 states that proper identification means any document issued by a government agency that includes driver's license. In section 'H' it states any case where a reasonable or prudent person can be in doubt of the person's age or if the ID seems to be falsified is authorized to write down the name, drivers license, and address, or seize the license and contact law enforcement immediately. Councilman Britt asked what has happen to the ladies and Mr. Salazar. Detective Bryan stated the ladies were charged with underage possession of alcohol and also uses of a fake ID and pled guilty. They are currently on probation. Mr. Salazar was charged with one count of serving alcohol to persons' underage and the case is being continued in court.

City Attorney Sam Brannen stated you may over turn the Alcohol Control Board or you may sustain the Alcohol Control Board's actions in this case. Judy McCorkle stated El Sombrero was fined \$1,000.00 and loss of Happy Hour for 1 year. Councilman Britt stated Juan Salazar made a mistake. He did a poor job at identifying someone's age but, Mr. Leon and all the employees should not pay for Salazar mistake. Happy Hour brings in a lot of revenue and sales to the company and the employees. Councilman Morris stated if you're going to run a business selling alcohol you need to have the employees properly trained so these incidents will not occur. Councilman Lewis stated we have an Ordinance in place and we can't play favorites; if we stood by the law in one case we need to stand by the law in every case. Everyone needs to be treated the same way, no exceptions.

Councilman Brannen made a motion, seconded by Councilman Morris, to uphold the Alcohol Control Boards decision. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

#### **MOTION TO SET THE DATE FOR AN APPEAL OF THE ALCOHOL CONTROL BOARD'S DECISION TO GRANT A CONSUMPTION-ON-THE-PREMISES DISTILLED SPIRIT LICENSE TO RUDE RUDY'S.**

City Manager George Wood stated the party has waived their right to a 14 day notice. Wes Taulbee, representative for Jonathan Starkey of Rude Rudy's, stated we certainly do not dispute Mr. Wood having the right to file this appeal. We believe the City inappropriately denied Mr. Starkey's license after it was granted. We checked and the State will not issue a license until this appeal has been heard. We would like an appeal to be held as quickly as possible. Mayor Hatcher stated the 14 days notice is not just for the Council but for the citizens of this community, who are involved and have a right to be heard. Councilman Brannen made a motion, seconded by Councilman Morris to set the appeal date for September 21, 2006 at 9:00 am for Rude Rudy's. Councilmen Britt, Blich, Brannen, Lewis, and Morris voted in favor of the motion. The motion carried by a 5-0 vote.

#### **REPORT FROM STAFF:**

**Director of Finance and Administration Judy McCorkle:** Ms. McCorkle invited the council to attend the GEFA Workshop (Georgia Environmental Facilities Authority) on Friday September 8, 2006 at 8:00 am in the Council Chambers. Secondly there have been several changes on the financial and campaign disclosures from the State Ethics Commission effective January 1, 2006; however, we just received the information last week. She provided the Council with their last report and the new forms. She stated there will be training sessions for the reports and asked the City

Attorney to attend the training, so they better serve the Council. She encouraged the council to go to one of the training session, also.

**Director of Planning Jim Shaw:** Mr. Shaw announced three Public hearings for the next Council Meeting. Application V 06-09-01: Bulloch Hospitality Services, LLC, requests a 13 foot variance of the 35 foot maximum building height for a 2.5 acre parcel located on the east side of Veterans Memorial Parkway, 500 feet south of Brannen Street.

Application RZ 06-09-04: 2195 Group, Inc, requests rezoning from CR (Commercial Retail) to PUD (Planned Unit Development) with a CR overlay to allow hotels, conference center and out parcel for a 6.036 acre parcel located on the southwest corner of Veterans Memorial Parkway and Highway 67 (Fair Road).

Application T 06-09-07: An amendment of the Zoning Ordinance to remove the parking requirement for residential uses in the CBD (Central Business District) zoning district and to allow single family attached dwellings in the CBD zoning district.

**OTHER BUISNESS:** Mayor Hatcher stated the Council and staff has received a letter from the Georgia Board of Public Safety regarding their October Board meeting in Statesboro. The Board members are presenting a Resolution on October 12, 2006 at 10:00am at Nessmith Lane Building at Georgia Southern to Mrs. Connie Averitt honoring the service of Hall Averitt.

#### **EXECUTIVE SESSION**

An Executive Session of the City Council was held on September 6, 2006 to discuss two personnel matters. Present were Mayor William Hatcher, Council Members John Morris, Gary Lewis, Joe Brannen, Will Britt, and Tommy Blicht. Also present were City Manager George Wood, City Attorney Sam Brannen, Director of Finance and Administration Judy McCorkle. No action was taken and the meeting adjourned at 10:50am.

#### **RECONVENED SESSION**

A regular meeting of the City Council reconvened after the Executive Session. Mayor Hatcher announced there was no action taken in the personnel matters discussed.

#### **ADJOURNMENT**

Being no further business, the meeting adjourned at 10:52