

**COUNCIL MEETING
OCTOBER 4, 2005-9:00 A.M.**

A regular meeting of the Statesboro City Council was held October 4, 2005 at 9:00 A.M. Present were Mayor Pro tem Joe Brannen who conducted the meeting in the absence of Mayor William S. Hatcher, Council members John Morris, Gary Lewis, Tommy Blich, and Will Britt. Also present were City Manager George Wood, City Attorney Sam Brannen, City Engineer Maz Elhaj, and Planning Director Jim Shaw. Director of Finance and Administration Judy McCorkle was absent.

APPROVAL OF THE SEPTEMBER 20, 2005, REGULAR MEETING MINUTES

Councilman Lewis made a motion, seconded by Councilman Blich to approve the minutes of September 20, 2005, as presented. Councilmen Lewis, Blich, Britt, and Morris voted in favor of the motion. The motion carried by a 4-0 vote.

RECOGNITIONS: LAURA MILNER & GENNY SMITH

Dr. Laura Milner, a teacher at GSU, thanked the Mayor and Council for their quick response to correct the problem regarding alcohol that was brought before them at the previous meeting. She also commended the Alcohol Control Board for holding the owners accountable for alcohol sales. Mayor Pro tem Brannen thanked Dr. Milner for making an effort to improve the community.

Mrs. Genny Smith said she appreciates the Mayor and Council's attention to the undesirable activities that have taken place in the community. Their acceptance of responsibility is commendable.

PUBLIC HEARINGS:

V 05-09-01 Mayor Pro tem Joe Brannen reported Mr. David Brown of Blanchard Equipment is requesting a variance of the 60 square-foot sign area and 8-foot sign height limitations to allow a sign with an area of 98.1 square feet and a height of 30 feet for property located at 201 Stockyard Road.

Mr. David Brown spoke in favor of the request. He reported the John Deer Company has changed its logo for the first time since 1968. He is requesting to put up a new sign. Although the request is for a 30 ft. height sign, the sign would not be any taller than the current sign. No one spoke in opposition to the request. Councilman Blich made a motion, seconded by Councilman Britt to approve the request limiting the height of the sign not over 25 ft. Councilmen Blich, Britt, Lewis, and Morris voted in favor of the motion. The motion carried by a 4-0 vote.

RZ 05-09-02 Planning Director Jim Shaw reported Mrs. Charlene Hendrix is requesting the rezoning from R-15 (Single-Family Residential) to CR (Commercial Retail) for property located at 110 and 112 North Foss Street. The applicant is proposing to expand a house on one of the lots to have a freestanding daycare center.

Since this is not a home occupation; commercial zoning is required. The Staff is concerned this would allow commercial zoning into a residential area. The Planning Commission feels this would be suitable for the area, and recommended approval of the request.

Mrs. Charlene Hendrix spoke in favor of the request. She spoke with residents in the neighborhood and they agreed to the request. Councilman Blich asked if she had a petition from neighbors agreeing to the request. The petition was given to the Planning Director. Councilman Lewis said this would help the community, and it is feasible for a daycare. He also mentioned other daycares located in the area. No one spoke in opposition to the request. Councilman Lewis made a motion, seconded by Councilman Morris to approve the request. Councilmen Lewis, Morris, Britt, and Blich voted in favor of the motion. The motion carried by a 4-0 vote.

RZ 05-09-03 Planning Director Jim Shaw reported Mr. Joseph Moore is requesting the rezoning from R-6 and R-8 (Single-Family Residential) to R-4 (High Density Residential) for property located at 210 West Main Street. The property currently contains a vacant large blue house. The applicant is proposing to demolish the house and construct townhouse apartment units on the property. The maximum number of units allowed for R-4 zoning is eleven (11). Mr. Shaw reported the property is definitely in a transitional area. He said multi-family development would probably be the highest and best use for the property. The Staff and Planning Commission recommended approval of the request.

Mr. Russell Moore, relative of the property owner, was present to answer questions from Council. Councilman Lewis said this could only help the area. Councilman Morris asked Mr. Moore if he had any preliminary plans. He said the owner is working with a local company and the plans have not materialized yet. Councilman Morris asked it would be like an apartment complex. Mr. Moore stated it would be a horseshoe area and the units would be like townhouses. No one spoke in opposition to the request. Councilman Lewis made a motion, seconded by Councilman Blich to approve the request. Councilman Blich said we do not have a copy of a plat of how the townhouses would be laid out. Planning Director Shaw said the Staff has to review the plat before it is approved. Councilmen Lewis, Blich, Morris, and Britt voted in favor of the motion. The motion carried by a 4-0 vote.

RZ 05-09-05 Planning Director Jim Shaw reported Mr. Jason Williams, Plantation Properties and Land Investments, LLC, is requesting the rezoning from R-3 (Medium Density Multiple Family Residential) to R-4 (High Density Residential) for a 2.3 acre tract located 900 feet south of East Main Street and 500 feet east of Veterans Memorial Parkway. The same property owner owns the three contiguous properties located to the North and all are zoned R-4. This property and the other three tracts totals 12.8 acres. Mr. Williams plans to develop the property as one apartment development. The only adjacent R-3 zoning fronts Dogwood Court.

This area has been developed with duplexes, and there is no way to access Dogwood Court from this property. Access is through other R-4 properties. This property is adjacent to the Sandy Hill & Hillcrest Apartments. Planning Director Shaw said given the location and being close to the Bypass, multi-family development is the best use for the property. The Planning Commission recommended approval of the request. No one spoke in favor of the request or in opposition. Councilman Blich made a motion, seconded by Councilman Morris to approve the request. Councilmen Blich, Morris, Britt, and Lewis voted in favor of the motion. The motion carried by a 4-0 vote.

V 05-09-06 Planning Director Jim Shaw brought before the Mayor and Council a variance request by Mr. Donald Marsh to reduce the required 15' front yard buffer to 7.5' along East Olliff Street and a portion of Oak Street for property bounded by Northside Drive East, Oak Street, and East Olliff Street. This is the site of the proposed Dairy Queen. The Zoning Ordinance requires the provision of a buffer for all nonresidential uses across the street from a single-family or two-family residence or district. The requirement is to provide a 15' wide buffer with trees and shrubs. The applicant plans to provide a buffer, but in a smaller area that is 7.5 ft.

Planning Director Shaw said it appears that it would be possible to provide the required landscaping within this area without any problems. The Planning Commission recommended approval. Mr. Donald Marsh spoke in favor of the request. He is requesting 7.5 ft. buffers on the Olliff Street side in order to install two drive-thru order lanes. He said they have no problems with a buffer. It would be a new Dairy Queen with a new concept.

Mr. Bill Nevil, resident of 17 East Olliff Street, spoke in opposition to the request. He asked the City to deny the request because the 15 ft. buffer would be more suitable. Mrs. Joanne Carter, resident of Oak Street, spoke in opposition. Her concerns were traffic and noise. She also feels the 15 ft. variance should be approved. Mr. Nevil said the Council should uphold the 15 ft. buffer because it is a requirement of the ordinance. Mrs. Gina Nevil said she does not oppose progress, but is concerned about fast moving traffic in the neighborhood, as well as pest problems when establishments are torn down and there is inadequate fumigation, and backup of raw sewerage and grease in homes in the area from food establishment grease traps. She would like the City to recognize the importance of the residents that live in the neighborhood.

Mr. Marsh said he hopes the neighborhood remains the same. The block is zoned Highway Oriented Commercial (HOC), and the adjacent property is zoned the same. He said 7.5 ft. allows the driveway to be narrowed and there would be no difference. Mr. Wood asked Planning Director Shaw to describe the three types of buffers required in the ordinance. After describing the buffers, Mr. Shaw recommended a 15 ft. buffer on Olliff St., and cutting the buffer from 15 ft. to 10 ft. on Oak Street. It was determined the frontage would face Northside Drive. Councilman Lewis made a motion, seconded by Councilman Morris to approve the request as recommended by the applicant. Councilmen Lewis, Morris, and Britt voted in favor of the motion. Councilman Blich opposed. The motion carried by a 3-1 vote.

RZ 05-09-07 Planning Director Jim Shaw reported Mr. R. Brant Lane of Maxwell-Lane Engineering is requesting the rezoning from O (Office and Business Office) to CR (Commercial Retail) for a 2.29 acre tract located at the northwest corner of U.S. Highway 80 East and Cardinal Drive.

Planning Director Shaw reported this is for a standalone daycare center that requires commercial zoning. The staff concern is the single family residential development to the rear of the property. The Planning Commission recommended approval, and the Planning Director recommended denial due to intrusion of commercial retail use.

Mr. Bryant Lane, agent for Dr. L.T. Thompson, spoke in favor of the request. He reported Dr. Thompson turned down numerous offers for the property, and feels the daycare would be in line with similar uses on Hwy 80 in the corridor. The residence behind this property is a concern and will be whether there is an office or a daycare facility located on this property. The property is currently zoned as office, and allows a school which is similar to a daycare facility. He said the cars would enter into the facility off Hwy 80. He agreed to increase the buffer if this is an issue to protect the residents. He asked the Council to consider the request.

Mr. Wood said this would be a straight rezoning and not a conditional use zoning for a daycare. Once this property is zoned CR anything for CR could go here. This would allow Commercial Retail encroachment. He asked City Attorney Sam Brannen what basis would the City have for refusing commercial retail rezoning of the remainder of the lots along the frontage? City Attorney Brannen said the City would have a hard case to do this. Mr. Lane asked City Attorney Brannen if the request would have an impact if it was rezoned with a restriction. Mr. Wood said giving a conditional use for something not in the district is inappropriate. Mr. Lane asked if the request could be considered with a restriction for a daycare facility. Councilman Blich said at some time Commercial Retail is going to follow Hwy 80, and he recommended considering the request, and not to worry about the other lots. Mr. Wood said in the past the Council stood firm on this for this to remain office because of the impact on the neighborhood.

Mr. Wood said the other thing discussed was office hours. Office people leave about 5:00 p.m. – 5:30 p.m., and commercial goes beyond that time. He also said nothing precludes someone from having extended hours for daycares. Mr. Jim Darrell, resident of Merrywood Subdivision, spoke in opposition to the request. He said Cardinal Drive is the only entrance off Hwy 80 into the residential neighborhood. Safety and noise issues were concerns.

Mr. Chris Morfaw spoke in favor of the request. He is working with Dr. Thompson to develop this project. He understands the concerns of the neighborhood and is concerned about maintaining the integrity of the neighborhood. He said the project would be an asset to the neighborhood.

This is not a fly-by-night operation. He also understands the concerns of safety, and would not jeopardize children or the neighborhood even if there is a matter of extending the buffer or considering a restriction. Councilman Morris asked how many kids would attend the facility. Mr. Morfaw said approximately 100, which includes afterschool children. Councilman Britt asked what would be the hours of operation. Mr. Morfaw said 6a.m. to 6:00 p.m. Mr. Wood asked if he had plans for longer hours would he have problems extending them. Mr. Morfaw said he would have a problem extending hours because they have families as well, and has no plans of going beyond 6:00 p.m.

Chris Shaffer who lives behind 104 Mocking Bird spoke in opposition to the request. His concern was if this request is allowed anything of commercial use could be located here. He is also concerned with the entrance and exit on Cardinal Drive, as well as traffic back up on Hwy 80. Mr. Lane said as far as traffic concerns, the same impact would be the result whether it is a daycare or an office. Councilman Blitch asked if Dr. Thompson would retain ownership of the property or is he selling it. Dr. Thompson who arrived late said he is selling it. He also spoke in favor of the request. He feels a daycare would be an asset, and has always known this property not to be residential.

Mr. L.S. Peterson of Mockingbird Lane spoke in opposition to the request. He feels Commercial Retail would be open-ended. Councilman Britt asked the City Engineer's opinion on traffic entering and exiting this property. City Engineer Maz Elhaj said the potential queue, and a spill over of cars on Hwy 80 could be an issue. He said there is not a traffic count for the number of cars that frequent the area. Councilman Lewis made a point that this property has never been residential, and asked where the daycare facility would be located. Mr. Lane said the building would face Hwy 80 with an entrance off Cardinal Drive.

Mr. Darrell was also concerned about the security of the neighborhood. Councilman Lewis asked if the neighborhood has had any problems since Attorney Hall's office has been located there. Mr. Darrell said there has been occasionally drive through problems in the neighborhood, and times where he had to wait on Hwy 80 for entrance into Cardinal Drive. Mrs. Pamela Morfaw spoke in favor of the request. She said they have thought about a daycare facility for several years. She said this facility would be very structured for afterschool children. They would have activities, take trips to the library and visit lots of places. She asked that they be given a chance. Councilman Morris made a motion to deny the request based on the staff recommendation and after hearing the residents concerns. Councilman Lewis asked if this request is not approved, could it be tabled. City Attorney Brannen advised that it could be. The motion died due to lack of a second. Councilman Lewis made a motion, seconded by Councilman Blitch to table the request until the November 1st Council meeting. Councilmen Lewis, Blitch, and Britt voted in favor of the motion. Councilman Morris opposed. The motion carried by a 3-1 vote to table the request.

RZ 05-09-08 Planning Director Jim Shaw reported Mr. Brad Williams of Dabbs Williams General Contractors LLC is requesting an amendment of the previous PUD approval by modifying the height limitation to allow two residential structures with a height of 48 feet for a 3.56 acre tract located at the northeast corner of Tillman Road and South College Street. He reported approval was granted in June of this year to rezone this property to PUD with an R-4 overlay. It also allowed a front yard setback of 10 feet and a height limit of 45 feet, instead of the normal 35 ft. The request is to modify the height limit to 48 ft.

Planning Director Shaw reported the zoning ordinance defines the height of the building as the buildings vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest point on the roof. The height is not the peak of the roof. The Planning Commission feels this is not a significant change and recommended approval of the request.

Mr. Wood said this request needs to be limited to three stories on the building. Planning Director Shaw said it could go four stories as long as they stay within the height limitation of 48 ft. Mr. Ron Kicklighter, project manager, said the intent is to build a three story building. He said they would probably gain 1 to 1 ½ ft., but would not exceed 48 ft. Mr. Wood asked Mr. Kicklighter if approved would they be comfortable with a restriction not to exceed three stories. Mr. Kicklighter said yes. No one spoke in opposition to the request. Councilman Britt made a motion, seconded by Councilman Lewis to approve the request with a restriction that the building does not exceed three stories. Councilmen Britt, Lewis, Morris, and Blich voted in favor of the motion. The motion carried by a 4-0 vote.

AN 05-09-09 Planning Director Jim Shaw reported Mr. Charles Perry of EMC Engineering Services, Inc. is requesting the annexation and zoning assignment of CR (Commercial Retail) of a 1.16 acre tract located at 16779 Highway 80 West. Planning Director Shaw said Mr. Perry hopes to develop this property with property immediately to the South. The Staff and Planning Commission recommended approval. Mr. Wood said the Planning Director agrees to the zoning assignment, but a public hearing needs to be held. City Attorney Brannen said the owners need to submit a written request for annexation, along with eight copies of the recordable plat.

Mr. Chuck Perry spoke in favor of the request. He said the developer purchased 41 acres of property and two lots adjacent to it in order to subdivide the 41 acres, and cut out 3 ½ acres immediately adjacent to Hwy 80. He would also like to add the 1.16 acre tract purchased on Hwy 80 to make a 4 ½ acre tract. This property must be annexed and rezoned. No one spoke in opposition to the request. Councilman Morris made a motion, seconded by Councilman Britt to approve the request contingent upon the annexation process. Councilmen Morris, Britt, Lewis, and Blich voted in favor of the motion. The motion carried by a 4-0 vote.

RZ 05-09-10 Planning Director Jim Shaw reported this property is already in the City, and Mr. Charles Perry of EMC Engineering Services, Inc. is requesting the rezoning from L-I (Light Industrial) to CR (Commercial Retail) for a 3.5 acre tract located on the west side of Highway 80 West, 1600 feet north of its intersection with Stockyard Road. Mr. Perry discussed this property in the above request. No one spoke in opposition to the request. Councilman Lewis made a motion, seconded by Councilman Blicht to approve the request. Councilmen Lewis, Blicht, Britt, and Morris voted in favor of the motion. The motion carried by a 4-0 vote.

SECOND READING OF ORDINANCE #2005-11 AMENDING THE STATESBORO MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGES

Councilman Morris made a motion, seconded by Councilman Blicht to adopt the second reading of ordinance #2005-11 amending the Statesboro Municipal Code regarding alcoholic beverages (proximity requirements). Councilmen Morris, Blicht, Britt, and Lewis voted in favor of the motion. The motion carried by 4-0 vote.

SECOND READING OF ORDINANCE #2005-12 AMENDING THE CODE OF ORDINANCE REGARDING THE LOCAL HOTEL-MOTEL TAX

Councilman Britt made a motion, seconded by Councilman Morris to adopt the second reading of ordinance #2005-12 amending the code of ordinance regarding the Local Hotel-Motel Tax. Councilmen Britt, Morris, Blicht, and Lewis voted in favor of the motion. The motion carried by a 4-0 vote.

FIRST READING OF ORDINANCE #2005-13 AMENDING THE STATESBORO MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGES (RECORDS RETENTION & FILING, NO DRIVE-THROUGH SALES, RATIO OF SALES, PRICING, & MISREPRESENTATION)

Mr. Wood reported after the last meeting a total view of the Alcohol Ordinance was conducted. Police Chief York was instructed to investigate the allegations made. Mr. Wood said the ordinance does not address the issue of whether the City should continue allowing on premise consumption at restaurants, private clubs, and bars.

After outlining changes in the ordinance, Mr. Wood said the City Attorney has reviewed the proposed ordinance and all provisions are legal. He recommended approval. Councilman Morris made a motion, seconded by Councilman Blicht to approve the first reading of ordinance #2005-13. Councilman Blicht would like the City to research the difference between family restaurants and bars. Mr. Wood recommended a public hearing be held on October 18, 2005. Mr. Wood asked the City Attorney under the Ethics Ordinance if someone whose livelihood would be affected by this would be able to vote on it. City Attorney said it would be a conflict of interest if there is a monetary interest in it. Councilmen Morris, Blicht, and Lewis voted in favor of the first reading. Councilman Britt abstained. The motion carried by a 3-0 vote with one abstention.

MOTION TO SCHEDULE A PUBLIC HEARING TO DISCUSS THE AMENDMENT OF ORDINANCE #2005-13

Councilman Morris made a motion, seconded by Councilman Blicht to schedule a public hearing to discuss the amendment of ordinance #2005-13. Councilmen Morris, Blicht, Lewis, and Britt voted in favor of the motion. The motion carried by a 4-0 vote.

MOTION ON A REQUEST TO CLOSE AN ALLEY BETWEEN COLLEGE BOULEVARD AND PARK AVENUE, FROM SAVANNAH AVENUE TO E. GRADY ST.

Mr. Wood reported the City has a sewer line in the easement and recommended not closing the alley between College Boulevard and Park Avenue, from Savannah Avenue to E. Grady Street. He said there was also a request for the City to maintain the alley, but there are two problems: 1) the citizens are encroaching on the easement, and 2) the City's sewer line. Councilman Blicht made a motion, seconded by Councilman Morris to accept the recommendation of the City Manager to deny the request. Mr. Wood said the City needs access to the property. Wayne Johnson, Director of Water and Wastewater said it is critical that the City retain ownership. Councilmen Morris, Lewis, and Blicht voted in favor of the motion. Councilman Britt abstained. The motion carried by a 3-0 vote with one abstention.

STAFF REPORTS:

CITY MANAGER – FRONTIER DIRECTORY; NON-CONTIGUOUS ANNEXATION ON GA 67; KBB ELECTRONICS RECYCLING; RESIGNATION OF THE CITY MARSHAL

Mr. Wood reported Frontier is in the process of sending mail-outs in order to correct the problem in the directory that excluded the City of Statesboro's listings.

Mr. Wood informed the Mayor and Council that recently 65 acres on GA 67 from Briarwood to Joe Hodges Hill was annexed into the City. He said initially there was a second piece of property that would have made this contiguous but the owner backed out of the annexation. Consequently this property is zoned contiguous. The State law says the property can be made non-contiguous annexation provided the property owner, City, and Bulloch County Commissioners agrees. The Commissioners have agreed and adopted a resolution that included several provisions. Their main concern was an increase of traffic on Burkhalter Road. Mr. Wood said this makes the annexation effective, and it is in the City.

Mr. Wood reported the City is offering electronic recycling through KBB and encouraged everyone to use the recycling facility.

Mr. Wood reported the City Marshal has submitted a letter of resignation. He wished him well. The position is being advertised.

DIRECTOR OF FINANCE & ADMINISTRATION

Mr. Wood encouraged the Mayor and Council to look at the renovations in the Finance Department.

CITY ENGINEER – RESURFACING ON CHANLDER ROAD/LINEAR PARK

City Engineer Maz Elhaj reported the resurfacing on Chandler Road is completed. He reported the last phase of the Linear Park landscaping is being completed.

PLANNING DIRECTOR – PUBLIC HEARING

Planning Director Jim Shaw reported the following public hearing is scheduled for the next Council meeting: 1) The Federal Express Ground Facility is requesting a variance at 306 North Zetterower. Mayor Pro tem Brannen asked Planning Director Shaw to include the Planning Commission’s recommendation on the requests.

OTHER BUSINESS:

CITY MANAGER’S COMPLETION OF 5 YEARS OF SERVICE

Mayor Pro tem Brannen congratulated City Manager Wood for completing five years of service to the City on October 1, 2005.

ADJOURNMENT

Councilman Morris made a motion, seconded by Councilman Blicht to adjourn the meeting at 11:25 a.m. Councilmen Morris, Blicht, Lewis, and Britt voted in favor of the motion. The motion carried by a 4-0 vote.