

Aiken City Council Minutes

REGULAR MEETING

December 13, 2004

Present: Mayor Cavanaugh, Councilmembers Clyburn, Cuning, Price, Smith, Sprawls, and Vaughters.

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Larry Morris, Ed Evans, Pete Frommer, Glenn Parker, Anita Lilly, Richard Pearce, Sara Ridout, Philip Lord of the Aiken Standard, Josh Gelinas of the Augusta Chronicle, and about 65 citizens.

Mayor Cavanaugh called the meeting to order at 7:04 P.M. Mayor Cavanaugh led in prayer, which was followed by the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that the agenda be approved as submitted.

MINUTES

The minutes of the work session and regular meeting of November 22, 2004 were considered for approval. Councilman Cuning moved that the minutes be approved as written. The motion was seconded by Councilman Sprawls and unanimously approved.

BOARDS AND COMMISSIONS

Appointments

Planning Commission

Brohl, Kay

Woltz, Ed

Environmental Committee

Newton, Charles W.

Gladden, John

Historic Preservation Commission

Milledge, James

Mayor Cavanaugh stated Council needed to make five appointments to the boards and commissions of the city.

Mr. LeDuc stated there are 12 pending appointments to boards and committees of the city and 5 appointments are presented for Council's consideration.

Councilman Sprawls has recommended reappointment of Kay Brohl to the Planning Commission. If reappointed, her term would expire December 1, 2006.

Councilman Cuning has recommended that Charles W. Newton be reappointed to a full 2 year term on the Environmental Committee. If appointed, his term would expire December 31, 2006. He has also recommended that Ed Woltz be reappointed to the Planning Commission with the term to expire December 1, 2006.

Councilwoman Price has recommended that John Gladden be reappointed to the Environmental Committee with the term to expire December 31, 2006. She has also recommended reappointment of James Milledge to the Historic Preservation Commission. If reappointed, his term would expire December 31, 2006.

Councilwoman Price moved, seconded by Councilman Cuning and unanimously approved, that Council reappoint Kay Brohl and Ed Woltz to the Planning Commission with the terms to expire December 1, 2006; Charles W. Newton and John Gladden to the Environmental Committee with the terms to expire December 31, 2006; and James

Milledge to the Historic Preservation Commission with the term to expire December 31, 2006.

ZONING ORDINANCE

Amendment

Beauty Salon

Waterloo Street 138

Livingston, Judy

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to amend the zoning for beauty salons.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING BEAUTY SALONS.

Mr. LeDuc stated that currently beauty salons are not allowed by right in the Limited Professional (LP) zone. The Planning Commission at their November 9, 2004, meeting considered a request to recommend to City Council that the Zoning Ordinance be amended to allow beauty salons in LP zones as a Special Exception. This means that a request for a beauty salon in the LP zone would have to make application to the Board of Zoning Appeals for a Special Exception. An LP zone provides locations for limited scale professional offices, institutions, and services adjacent to residential uses. The only commercial uses allowed in LP zone are health services and other offices such as lawyers, accountants, bookkeepers, engineers, architects, etc. The main issue in this hearing is whether or not beauty salons are consistent with the uses currently within the LP zone and, in particular, are they compatible with residential areas which will be adjacent to the LP zones.

At the November meeting the Planning Commission voted unanimously to recommend denial of the proposed amendments to the Zoning Ordinance regarding beauty salons in LP.

Council approved this ordinance on first reading at the November 22, 2004, meeting. Mr. LeDuc pointed out the discussion would probably be on one particular beauty salon, but the amendment to the Zoning Ordinance would allow beauty salons in all LP zones throughout the city with Special Exception.

Mr. LeDuc stated for the benefit of all he would review some of the questions which he had been asked. One question concerned whether or not a beauty salon would have been allowed in 1999. He stated that in 1999 the Zoning Ordinance did allow beauty salons in Professional zones. He said if this request had come up in 1999, the beauty salon would have been allowed. Hayne Avenue has had some changes over the last decade. In 1992 one block area was rezoned from Professional to Residential. Then another area was rezoned west of Waterloo from Multi-Family Residential to Single Family Residential. He said the Hayne Avenue area is tending more towards a residential focus. He then reviewed the Use Table in the Zoning Ordinance. He reviewed the uses permitted in the Limited Professional Zone. He pointed out that a single family detached home could be built in a LP zone by right. Whereas, a nursing home or convalescent home could be in a LP zone, but it would require special permission from BZA. Certain conditions would be attached to a day care center. Other higher education could be in the LP zone. He said there were a number of categories in the LP zone that are allowed either by special exception, permitted by right, or with conditions. He pointed out commercial uses that could be in a Limited Professional zone include hospitals and bed and breakfast under certain conditions. Certain types of home occupations and apartments could be located in the LP zone. He pointed out if Council approved the ordinance to allow a beauty salon, there would be a category listed as beauty salon, and it would be allowed by Special Exception and would have to have approval of the BZA for permission. He said this matter was discussed in November.

Mayor Cavanaugh stated if the ordinance were approved to allow beauty salons in LP, there would still be another step, application to BZA for Special Exception. He pointed out that on the list of uses there were 13 exceptions, and for them to be allowed in the LP there must be an application to the BZA for approval. He said he felt the issue at hand is not whether the applicant knew whether beauty salons are allowed in the LP zone or not. He said anyone who owns property has the right to petition City Council for a change.

The public hearing was held.

Mr. Bill Tucker, Attorney representing Ms. Judy Livingston, stated first reading was a mini-public hearing. He pointed out again that a beauty salon would have been allowed in 1999 and prior to amendment of the Zoning Ordinance. He also pointed out that some other things were also left out of the LP zone. He pointed out that Mr. Robbie Shellhouse is present. He was surprised to find that his funeral home is not allowed in the LP zone now. He said this means that if the funeral home ceased to exist, to reopen it would mean going through amending the zoning ordinance. He said it seems that some things were left out either intentionally or by omission from the LP zone. He said he was asking that Council consider adding beauty salons back to the Zoning Ordinance with special exception. He said the issue of traffic had been addressed and would have no more impact from a standpoint of traffic and people than many of the businesses currently in the area. He pointed out some of the facilities that could be allowed in the LP zone, such as blood collection points and check cashing facilities, would create higher traffic than a beauty salon. He said when a person goes to a beauty salon they are there for a while, so the traffic is not heavy. He said another issue he urged Council to consider is that a beauty salon is a licensed, regulated profession just like many of the other businesses which are located in the area already. He pointed out that many of the businesses in the area also have retail sales as a component to their primary business. He pointed out Shellhouse Funeral Home sells caskets and vaults. Dr. Grantham sells eyeglasses as a part of his practice. He said retail sales is not the primary focus of her business, but service. He said he was asking Council to consider amending the Zoning Ordinance to allow beauty salons as a special exception.

Ms. Judy Livingston, applicant for amending the Zoning Ordinance to allow beauty salons in an LP zone, stated she wished to reiterate that she has been a licensed, professional cosmetologist since 1968 and a salon owner since 1970. Presently she owns Hair Designs, located at 146 Greenville Street. She stated her home is located on the corner of Hayne Avenue and Florence Street. She stated she purchased the property at 138 Waterloo Street in September. She said it was in serious need of renovation, and had been for sale for at least three years. She said all professionals had ample time to purchase the property. She said she would refurbish the property in a manner superior to the condition when purchased, and it will be an asset to the community, as is her present business on Greenville Street. She presented additional names to be added to her petition, and also a letter from Mr. Eddie Sanders which directly contradicts the statement made by Councilwoman Vaughters at the last City Council meeting. She also pointed out the training and hours needed to become a cosmetologist. She also stated they are checked periodically by the State Licensing Board and by DHEC.

Mr. Bill Sloan, 204 Florence Street, stated he would like to point out three items that he pointed out as a use by right in the LP zone at the last meeting. He stated if all criteria are met a methadone dispensing lab could be permitted as a use by right at 138 Waterloo Street. Also, a blood plasma collection facility could be allowed by right under the LP zone. Another facility that could be allowed in the LP zone is a check cashing facility. He said these three facilities would be inferior to what Ms. Livingston's salon would be like. He said the other issue is the recusal he requested of Councilwoman Vaughters, since her son's petition stated he would not buy property on Waterloo Street if Ms. Livingston's business was allowed on the street.

Councilwoman Vaughters stated she still stood by her reason for not recusing herself from the matter at the last meeting. She said her son did not own property on Waterloo Street, and he does not have a contract on property in the area. She pointed out that Eddie Sanders statement was in the original package received by City Council. She said it was after the date of November 4, 2004, that she spoke to Mr. Sanders and to Mr.

Browder, and her statement was based on a conversation that she had with Eddie Sanders after she received the agenda information and before the Council meeting. She said the statement was that Mr. Sanders did not realize that the zoning would apply to all Limited Professional zones in the city and not just the one lot on Waterloo Street. Councilwoman Vaughters stated she represents her neighborhood, and she felt she was elected to do that. She said she does not have a monetary interest in the matter.

Mr. Charles Herbst, 607 Laurel Drive, stated he would like to voice his objection to the proposed change in the Zoning Ordinance. He said he could see no compelling reason to make the change. He said personally he had looked at the property on Waterloo Street for the purpose of opening an antique shop, which he felt would fit into the character of the area and a residential use. He said the property at 138 Waterloo Street was shown to him. He said he investigated the zoning of the property and found that it was not zoned for the use which he had intended and was told the chance of getting it changed were slim. He said he did not feel it would be right to change the zoning to allow something in the LP zone anywhere in the city to accommodate Ms. Livingston. He said if Council felt they needed to change it for the entire city, he felt they should go through the entire listing as to what other uses might be allowed, not just one use. He said his other objection was that there were no standards established for the BZA to use as a ruler for any petitions for special exception for beauty salons in LP zone. He said to change the Zoning Ordinance would be sending a message to the citizens that they could do what they want and then come to Council and get it approved. He asked Council to consider denial of the request.

Ms. Christine Butler, 139 Greenville Street NW, stated she was speaking for homeowners as she has no interest in the downtown area. She said her family had made a 20 year investment in restoring an old house on Greenville Street and raising a family there. She pointed out the Zoning Ordinance was amended in 1999 for a reason. She said when a change is made to the Zoning Ordinance for one individual then the power of the ordinance is diluted. She felt the ordinance was there to protect people who own property in the city. She stated homeowners need that protection. She said there are already encroachments from different businesses in the area. She felt the Zoning Ordinance was there to regulate what businesses come to an area. She pointed out a property about a block from their home got a special exemption to be rezoned as a bed and breakfast. She said she discovered about a month ago that they had applied for liquor license with the state. She said a protest had been filed with the state. She said, however, if the license is approved, they will be able to open a bar one block from her home. She said, based on that example, she would like for Council to very carefully consider any change in the Zoning Ordinance. She said she felt Ms. Livingston's beauty salon would be fine, but if one change is made, others will follow, and a precedent will be set. She asked as a homeowner that Council carefully consider any change in the Zoning Ordinance.

Ms. Olivia Post stated she owns a business at 115 Greenville Street SW. She said she bought the building at 115 Greenville Street to use as an office. However, now she is changing the use and converting it back to a residence. She said she was getting ready to make a significant investment at 115 Greenville Street. She said Ms. Livingston's current business is directly across the street from her, and Ms. Livingston's business generates very little traffic compared to the traffic in front of her office on a daily basis. She pointed out Greenville Street is a site for the Mead Hall pickup at 3 P.M., and she has to plan her day around that traffic. She said she felt the downtown area is on track in terms of many uses. She said she felt there would be more people turning businesses back into residential units in the downtown area because of the demand for residential properties in the downtown area. She said she supports Ms. Livingston's use on Waterloo Street. She felt Ms. Livingston would do an excellent job with the building and has a good sense of time, place and taste. She felt Ms. Livingston would do a good job with the building that was in a deplorable condition when she purchased it.

Mr. John Brecht, 743 Chaffee Lane SW, stated he had lived in the neighborhood for 19 years. He said when he purchased his house he started working with his neighbors to convert the neighborhood to solidify the residential aspect and change the zoning from Professional to Residential. He said he had been before Council on numerous occasions over the 19 years regarding zoning issues. He said he felt the present zoning regulations

are strong and functioning and should be very difficult to change. He said the residents work very hard to keep the neighborhood up. He said he lives one block from Waterloo Street and feels that his investment in time and money may be threatened. He pointed out that the Planning Commission voted unanimously to deny the Zoning Ordinance change. He said presently in the neighborhood there is a fine balance between professional businesses and the residential. He said he sees any erosion of the present zoning as threatening his investment. In answer to a question, Mr. Brecht stated he felt that Ms. Livingston is a professional, but he did not want another business in the area, as he felt it would be another business which would be threatening to undermine the residential area. He said he was asking Council for help in protecting the neighborhood and the residential aspect of the area. He asked that Council also deny the zoning change to help protect the quality of the neighborhood.

Council then reviewed the changes which had been made in zoning in the Hayne Avenue area since 1992. Mr. LeDuc stated that in 1992 the north side of Hayne Avenue from Waterloo west was zoned Residential Multi-Family and was rezoned to Residential Single Family. Also in 1992 the north side of Hayne Avenue between Lancaster and Fauberg was Professional and it was changed to Residential. Then the northern side of Chaffee between Lancaster and Florence was Professional, and that was changed to Residential. Also, one small lot between Lancaster and Fauberg was rezoned from Professional to Residential. Council pointed out zoning had been upgraded in the area.

Councilwoman Price pointed out there is already a beauty salon at Hayne and Waterloo. Mr. Brecht pointed out the business had been there before he came to town, and he understood it was grandfathered. He felt it would be better if the beauty salon were a residential use. It was pointed out again that prior to 1999 a beauty salon was allowed in the Professional zone.

Councilwoman Clyburn stated the matter keeps coming up that Mayor Odell Weeks had the area changed on Hayne so the present beauty shop at Waterloo and Hayne could locate there. She asked if it was possible for one person to make such a change without action by Council and over the Planning Department. She said it had been stated several times that one man made the change and she wanted to know if that were possible. It was pointed out that the process had to be followed and one person could not make a change.

Mr. Robert Shellhouse, owner of Shellhouse Funeral Home at 924 Hayne Avenue, stated he lives at 1105 Valley Green Drive which is about two blocks from Waterloo Street. He said about 12 years ago he came before Council to request that a building which had been vacant for a few years be allowed to be used as a funeral home, and Council did add funeral homes to the list. He said he is a licensed professional as well as beauticians. He said this is a professional area, and he does not see anything wrong with a beauty salon being allowed on Waterloo Street. He said he had known Ms. Livingston for about 20 years, and everything she does is done very well. He said he had no objection to allowing a beauty salon on Waterloo Street and felt it would be a great improvement for the area, as the building has been vacant for some time. Mr. Shellhouse stated he was concerned when he discovered that his property had been changed to Limited Professional and that his funeral home is not on the list for allowable uses in the LP zone.

Councilmembers expressed concern that property owners have not been notified when zoning changes are made to an area. They felt property owners should be notified when zoning is changed in an area. Council also discussed that perhaps they need to look at the Zoning Ordinance to see if any changes need to be made to the ordinance regarding uses in zones.

Mr. Evans, Planning Director, pointed out that the funeral home is grandfathered and the funeral home can continue operating as long as it does not cease to operate for more than a year. If the funeral home closes for more than a year, then the grandfathering is lost.

Mr. Hal Pridgen, 901 Hayne Avenue, stated the beauty shop at Hayne and Waterloo is adjacent to his home and is grandfathered, even though the current zoning is Residential. He said the current owners of the business are good neighbors, but the previous tenants were not. The business was operated at times that are not normally associated with

professional endeavors, and there was no control over activities that took place in the parking lot at 11 P.M. He said he had no objection to a beauty salon being operated on Waterloo Street, but he did object to changing an entire zoning classification to accommodate an exception. He asked Council to be sensitive to the law of unintended consequences. He said if they knew for sure that this change would not have a negative impact on this area and other similar areas, the request would not be unreasonable. However, it is not known what the impact may be. He asked that Council accept the recommendation of the Planning Commission and deny the zoning ordinance change.

Ms. Jill Ryon, 335 Chesterfield Street, stated at one time she owned a house at the corner of Barnwell and Florence. She stated she wanted to operate an antique shop in the basement of the house. She said she applied for a zoning variance, but it was denied, stating that the business did not fit with the zoning. It was pointed out that if they made an exception for her, others may make similar requests. She said she presently has an antique shop in downtown Aiken. She said she feels very strongly about preserving the neighborhoods in downtown Aiken and the zoning of the downtown.

Mr. Rocky Napier, Pediatric Dentist on Trafalgar Street, stated he had operated his business there since 1989. He pointed out that the Limited Professional zone is limited, allowing some professional use in a residential area without causing any disruption to residential areas. He pointed out the present beauty salon at Waterloo and Hayne is across the street, and zoning changes from one side of the street to another all over town. He stated the history of how the property at Hayne and Waterloo became a beauty salon, who owned it, who bought it, and how it was grandfathered in continues to remain highly questionable. He encouraged Councilmembers to do some investigative work and find out all the details of how that came about. He said he was concerned about commercialization and the "neonalization" of Waterloo Street and other areas zoned Limited Professional. He said depending on the business, signage can become quite objectionable and incompatible with the neighborhood. He said he was concerned about changing the Zoning Ordinance for everyone to correct one mistake. He said Council needed to be more restrictive and not loosen the ordinance through special exceptions. He said to change the ordinance is asking everyone who has purchased property in the Limited Professional zones to bear the burden of the mistake that was made by someone else. He said Council stated they had received a lot of letters of support from individuals regarding the change and from only a few who oppose it. He pointed out that property owners in the Limited Professional zones had not been notified of a proposed change in the ordinance. He also questioned the legality and appropriateness of using the term beauty salon. He pointed out there are cosmetologists, instructors, salons, beauticians, nail technicians, massage therapy, tanning salons, barbers, etc. He asked what was meant by beauty salon. He was concerned about what beauty salon may include. He said he purchased his property in 1989 and asked that Council honor the agreement made when he purchased that property in the Limited Professional Zone.

Mr. LeDuc pointed out that in 1999 the area was zoned Professional and a beauty salon was an allowable use.

Discussion again was that people should be notified of zoning changes, upgrading or downgrading. It was pointed out that people were not notified in 1999 regarding zoning changes, and neither were people in the various areas notified of this proposed change. Councilman Smith stated Council had agreed in their discussions of the Old Aiken Master Plan that they would not change a person's zone without notifying them. He pointed out this proposed ordinance would change a use allowed in a zone and everyone in the LP zones had not formally been notified of a proposed change.

Mr. Gary Smith, City Attorney, stated the Planning Director would be responsible for interpreting the ordinance if there were a request for a beauty salon in the LP zone. He said the Supreme Court many times looks at a dictionary definition of what a term means. He said Council could be specific if they wished and describe what would be included in a beauty salon. He also pointed out that this request before Council is a specific request by a citizen to modify the Zoning Ordinance. A petition was presented to the Planning Commission who made a recommendation as required by state law. Now City Council has to act on the petition. He said the specific request before Council is to modify the

Zoning Ordinance to allow a beauty salon as a Special Exception in the Limited Professional Zone.

There was much discussion as to a definition of a beauty salon. It was pointed out the other uses listed are broad, such as health services includes doctors, but does not list a specific kind of doctor. Ms. Livingston stated she was licensed by the State of South Carolina as a Cosmetologist, which includes facials, massages, hair cuts, hair color, and other items listed by the State. Mr. Gary Smith stated the definition could be that the cosmetologist would be the primary focus but other uses may be allowed like a nail technician, tanning salon, etc. so long as it was not the primary part of the business. He said if that is what Council desires he would suggest that on 3-14 under Specific Use "Beauty Salon" that "(operated by a licensed cosmetologist)" be added.

Councilwoman Clyburn then reviewed the list of uses that are allowed by right in the Limited Professional Zone, including lawyers, accountants, bookkeeper, engineers, architects, financial businesses, collection agencies, real estate or insurance agents, etc. She pointed out that some uses could be worse than the requested use. She said if it is not used as a beauty salon what is to stop it from being used as one of the other uses that are allowed by right. She said her concern is what the building might be used for. She felt the Zoning Ordinance needed to be reviewed, as she was concerned about some of the items being allowed in a Limited Professional zone.

Ms. Rosamond McDuffie, 5 Oakmont Lane, asked that Council approve the ordinance to allow Special Exception for beauty salons in the Limited Professional Zone.

Mr. Robert Purvis, Chaffee Lane, stated he built a house this year on Chaffee Lane two blocks from Waterloo Street. He pointed out that the two property owners on either side of Ms. Livingston's property do not object to a beauty salon. He pointed out the resident on Waterloo Street has no objection to Ms. Livingston's beauty salon. He said if they objected he could understand. He pointed out the people who object do not live on the street. He stated the other uses which are permitted by right in the LP zone could be detrimental to the neighborhood.

Councilwoman Vaughters stated she lives in the neighborhood and has lived there for 30 years. She said what she thinks the neighbors have decided to live with in the neighborhood is that, if a use was allowed when they moved in and the use is in the zone, even if it was allowed and changed later, the neighbors have to live with it. She pointed out the neighborhood is thriving and people are investing money in these properties. She felt the zoning had worked and the neighborhood is coming back.

Councilwoman Price stated personally she would like to see a beauty shop on the property, based on how the property looked previously and the improvements made. She said, however, others had wanted changes which were denied, and they followed the rules. She said the issue is being fair and yet not create something to meet an individual request. She pointed out the ordinance is not set in stone, but is subject to change. She was concerned about setting a precedent in making a change.

Ms. Jennie Stoker, 331 Kershaw Street, stated Council continues to talk about the strength of the residential areas downtown and how they are coming back. She said one of the reasons for that is the zoning and the buffers between commercial and residential. She said if they start to erode that then Council runs the risk of eroding the residential area. She was concerned about others asking for changes also. She asked that Council protect the residential areas.

Mr. Tommy Butler, 139 Greenville Street, stated he felt people should be able to use their property for whatever use they want. He pointed out Ms. Livingston is a successful business person in downtown Aiken and has demonstrated that she will be responsible. He did point out that he does live in the transition area of residential and has experienced some of the changes and rules living in the historical area. He said he agreed with Mr. Pridgen's comments that one does not know what the proposed change may lead to. He said if Council does not stand on the present rules there will be problems in the future. He said Ms. Livingston's not being able to use her property is not desirable, but her

having the ability to do anything that would harm other people's investment is not desirable either. He asked if Council could just grant Ms. Livingston an exception. He said Council has to respect all the people who appeared before Council concerned about changes in the zoning. He said he was concerned because Rose Hill has asked for a liquor license. He said this affects his neighborhood. He said making a blanket change to the ordinance concerns him. He said it seems there must be another way to resolve the problem.

Mr. Hugh Efird, 124 Waterloo Street, stated he was not opposed to Ms. Livingston's beauty salon. He said he had had many different businesses adjacent to this residence which had caused many problems. He said he is the only resident in the area now and it is great. He said he was very grateful to live in Aiken. He said Ms. Livingston makes people look nice. He said he was for the beauty salon. He said he was grateful for the participation by the citizens of Aiken.

Ms. Julie P. Sullivan, 1205 Two Notch Road, stated she was appearing before Council as she lives in a different neighborhood, but there is a LP zone down the street from her. She said she had great concerns for the types of services or businesses that are allowed in the LP zone that are near her home. She pointed out that the request for change is not just on Waterloo Street, but for special exception in all the LP zones. She asked Council to consider that in their deliberations for the proposed change.

Mr. Charles Herbst, 607 Laurel Drive, stated he had listened to all the comments. He said it is not an issue of one specific beauty salon at one location. He said many of the comments for the request had been limited to the beauty salon on Waterloo Street. He said many of the negatives had been for the neighborhood, and there was a comment that the change would affect all areas of the city. He said he had heard no compelling reason that the city needs to change the Zoning Ordinance. He asked that Council deny the request.

Mayor Cavanaugh stated the question may not be a compelling reason, but why doesn't something fit in an area. He said the city would not be where it is if no changes had been made from time to time. He said he was concerned about the other things that could be allowed in the LP zone already by right. He said this was not an easy issue to decide.

Ms. Judy Turner, 136 Lancaster Street SW, stated she felt wording in the Zoning Ordinance needed to be cleared up and uses in the LP zone studied. She felt some of the uses allowed should not be allowed in the LP zone. She felt that in 1999 the intent was to leave certain things out of a zone. She said once Council begins to make exceptions a precedent has been set. She felt the consideration should be is a beauty salon consistent with the neighborhood.

Councilman Sprawls stated he always tries to look out for small businesses, as he is one too. He pointed out that Councilwoman Vaughters had lived in the area for 30 years, however, he has lived in the area about 50 years. He said Waterloo Street has always been commercial. He said if the proposal was to list beauty salons as a use by right, he would not be favor of it. He said, however, by being a special exception a request would have to go to the BZA, and the Commission could decide if the use would be acceptable for each area.

Mayor Cavanaugh stated he felt Council should be clear on the definition of beauty salon. He said from previous discussion he felt the general consensus was that the use would be a licensed cosmetologist and allowing those things that normally come under a cosmetologist such as nail technician, massage therapist, etc. that are also licensed.

Mr. Ed Evans, Planning Director, stated his question is if someone wanted to open just a nail salon or just a tanning salon would that be allowed.

Mayor Cavanaugh stated under the statement he made a cosmetologist would be allowed and the other things would have to be under the cosmetologist, not as separate businesses. The cosmetologist would be the primary business.

Councilman Smith stated a beauty salon is a beauty salon and it is like a doctor's office or doctor's clinic. It is under a licensed cosmetologist. He said the other things just follow naturally. He said he felt a beauty salon and a medical office, in the generic sense, are an accurate description of the intent. He said he felt stating a beauty salon under the guidance of a cosmetologist is clear.

Councilman Cunning stated the intent is not just to allow a tanning salon in one location. He said the intent would be a beauty salon which may include nail technician, massage therapy or a tanning salon under a cosmetologist.

Mr. Gary Smith, City Attorney, stated he felt he could defend the term beauty salon in court.

Councilwoman Clyburn stated it appears to her that uses listed in the Limited Professional zone may not be a good mix, especially in some areas. She said citizens are concerned now what may be allowed in the LP zone near them in other areas of the city. She felt this should be reviewed.

Councilwoman Vaughters pointed out there are not a lot of vacant properties in the Waterloo Street neighborhood. She stated people are looking for property in the neighborhood. She stated she also runs a small business like Councilman Sprawls. She pointed out that Mr. Strickland, Dr. Walker, Dr. Grantham, and Dr. Napier have paid taxes in this area for years, and they are all opposed to the proposed ordinance. She stated she wanted stability in the neighborhood.

Councilman Cunning moved, seconded by Councilman Sprawls, that Council pass on second and final reading an ordinance to amend the Zoning Ordinance to allow beauty salons as a special exception in the Limited Professional zone.

Councilman Smith stated it has been a very good discussion on the matter. It has been a balance of people on both sides of the issue. He said he felt everyone on both sides made good arguments and the comments give the Councilmembers some difficulty in making the right decision. He said he consistently opposes rezoning like this, even though he understands that a beauty salon would fit and the immediate neighbors do not object. He said, however, there are a lot of LP owners in the city that are not aware of a proposed change, but will learn about it from the newspaper.

Councilman Cunning stated he felt the request to allow beauty salons as a special exception in the LP zone was a reasonable request.

Mayor Cavanaugh stated he feels that a beauty salon fits in the Waterloo Street area. He said he looks at things, why not rather than reasons not to. He said he sees nothing wrong with the process. He said if other requests come, Council will have to discuss them and make a decision. He said he would support the request as he feels it would be a good fit. He said he did feel that Council needs to look at the list for LP and review it and try to communicate better in the future.

Mayor Cavanaugh called for a vote on the motion.

The motion was denied to amend the Zoning Ordinance by a vote of 3 in favor and 4 opposed. Those in favor were Mayor Cavanaugh and Councilmembers Cunning and Sprawls. Opposed were Councilmembers Clyburn, Price, Smith and Vaughters.

DEVELOPER AGREEMENT – ORDINANCE 12132004Marion Street CottagesCottagesMarion StreetCharles, SamanthaWright, ChuckBarnwell Avenue

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to accept a developers agreement for Marion Street Cottages.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SAMANTHA CHARLES.

Mr. LeDuc stated that several weeks ago City Council discussed with Samantha Charles and Chuck Wright a proposed developer's agreement. The agreement meets one of City Council's goals to help with the redevelopment of neighborhoods and to add residential units on the north side. They would like to develop several cottages off of Marion Street just north of Barnwell Avenue. The six to eight cottages would range in size from 1,000 to 1,200 square feet and be built in the early 1900's style with hardwood floors and wood interiors. They anticipate the price to be in the low \$100,000's to \$150,000 range. The land which they purchased is platted for 13 lots, and they would like to enter this property via a private drive off of Marion Street. A couple of the lots currently face Williamsburg Street and would not be developed at this time.

One of the major highlights of this agreement includes the City installing the water and sewer mains and laterals to the property line for this development. The developer would reimburse the city for the cost of the lines at the time they obtain building permits. The City would also deed one half of the right of way of Marion Street in front of the project to the developer, and they would install a private drive to the homes. The driveway would be located to minimize tree cutting and will meander if necessary. The deeded portion of the Marion Street right of way will be maintained in a natural state, with a minimum of trees cut for the driveways and utilities. No houses could be built on the newly deeded street right of way, and the area would remain green space for the homeowners.

A public hearing was held and no one spoke.

Councilman Sprawls moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on second and final reading an ordinance to approve a developer's agreement for the Marion Street Cottages.

AUDIT – ORDINANCEFiscal Year 2003-04FY 2003-04Cherry, Bekaert, and HollandBudget

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to approve the Fiscal Year 2003-2004 audit and the variances to the 2003-2004 budget ordinance.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ACCEPTING THE FISCAL YEAR 2003-2004 AUDITED FINANCIAL STATEMENTS AND AUTHORIZING THE VARIANCES TO THE FISCAL YEAR 2003-2004 BUDGET ORDINANCE.

Mr. LeDuc stated that every year City Council approves the authorization of changes to the original budget. This is to reflect the spending needs during the fiscal year which

may vary per each individual line item. The audit presented by Cherry, Bekaert, and Holland at the work session showed all the changes to the 2003-2004 budget with respect to the proposed and actual revenue and expenditures. In essence the audit is a reconciliation of what was approved by Council in June, 2003, and what was spent during the fiscal year.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilwoman Vaughters and unanimously approved, that Council pass on first reading an ordinance approving the Fiscal Year 2003-2004 audit and the variances to the 2003-2004 budget ordinance, and that second reading and public hearing be set for the next regularly scheduled meeting.

WOODSIDE PLANTATION - ORDINANCE

Right-of-Way

Woodside Property Owners Association

East Gate Drive

Spencer Drive

Bedford Place

Traffic Circle

Water

Sewer

Storm Drainage

Deed

Street

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to deed the right of way of East Gate Drive from the edge of the traffic circle to the gate of Woodside Plantation to the Woodside Plantation POA.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING THE SALE AND CONVEYANCE OF THE PROPERTY OWNED BY THE CITY OF AIKEN KNOWN AS THE REMAINING SOUTHWEST PORTION OF EAST GATE DRIVE IN AIKEN, SOUTH CAROLINA.

Mr. LeDuc stated that the City of Aiken owns a small portion of the East Gate Drive right of way from the traffic circle at Spencer and Bedford Place to the gate at Woodside. The Woodside Property Owners Association (POA) currently maintains this portion of the right of way and due to an irrigation system that jointly connects this portion of East Gate Drive with another portion on their property, it's in the best interest of the City to deed this property to Woodside. The deed would retain the City's ownership of all water, sewer and storm drainage main lines in the area.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council pass on first reading an ordinance to deed the right of way of East Gate Drive from the edge of the traffic circle to the gate of Woodside to the Woodside POA, and that second reading and public hearing be set for the next regularly scheduled meeting.

AVIATION BUSINESS PARK - ORDINANCE

Lease Agreement

R.L. Enterprises

Fixed Base Operator

FBO

Aiken Airport

Bonzer Air, LLC

Lyle, James

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to reassign the lease for the hangar located at the Aiken Municipal Airport from R.L. Enterprise to Bonzer Air, LLC.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING A HANGAR SALE AND ASSIGNMENT OF A LEASE BETWEEN R-L ENTERPRISES AND BONZER AIR, LLC.

Mr. LeDuc stated that in 1993 the City approved a land lease agreement with R L Enterprises which was modified in 1999 and 2001. We allowed our current Fixed Base Operator at Aiken Airport, R L Enterprises, to construct a building on property owned by the City adjoining the taxiway off of Aviation Boulevard. The lessee would now like to sell the hangar and assign the lease to Bonzer Air, LLC. This is being done as a tax restructuring, as the ownership partners are still involved. The company will continue to abide by all of the agreements under the current lease agreement. Item 12 of this agreement requires City Council approval when a company reassigns their lease to another company.

In 2001 the FBO made a similar request to change the lease to the name of James Lyle, but this transaction was never completed. Instead they will now, upon City Council's approval, substitute Bonzer Air, LLC in its place.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council pass on first reading an ordinance to reassign the lease for the hangar located at the Aiken Municipal Airport from R L Enterprise to Bonzer Air, LLC, and that second reading and public hearing be set for the next regularly scheduled meeting.

HORSEPLAY

Donation
Becker, Katrina
Magnolia Mare
Rye Patch

Mayor Cavanaugh stated that Council needed to accept the donation of a horse to be displayed at Rye Patch donated by Katrina Becker.

Mr. LeDuc stated that last April we received four requests concerning acceptance of some of the Horseplay horses. We recently received an additional donation request from Katrina Becker to display "Magnolia Mare" at Rye Patch.

If Council agrees to accept this donation an appropriate plaque will be placed designating the donor and the name of the horse. Three of the horses donated earlier are displayed in the downtown area and the fourth horse is currently located at the Thoroughbred Racing Hall of Fame. This horse has been placed near the fence on Whiskey Road near the detention pond at Hopelands.

Councilwoman Vaughters moved, seconded by Councilwoman Price and unanimously approved, that Council accept the donation of a horse to be displayed at Rye Patch donated by Katrina Becker.

AIKEN CORPORATION

Richland Avenue
York Street
Property
Snipes, Bruce
McNeil Appraisal Services

Mayor Cavanaugh stated that Council needed to consider the purchase of property at the northeast corner of York and Richland Avenue for \$275,000 and to obtain a 6 month option at \$25,000.

Mr. LeDuc stated that at the last Council meeting Aiken Corporation asked City Council to purchase the corner lot at York and Richland for open space. Council asked the City

Manager to determine the asking price and the conditions under which an option could be obtained. Council also wanted an appraisal of the property.

Bruce Snipes, the owner of the property, is now asking \$275,000 for the property. He will give the City an option for 6 months upon receipt of \$25,000. For every 6 months' extension it would be another \$25,000 up to 5 extensions. The \$25,000 installments can be applied to the purchase price. He states that he is in no hurry to sell the property and that he purchased it as an investment. Regardless of the appraisal, he appears to be firm about the asking price. The City has received an appraisal for this property from McNeil Appraisal Services, and they have appraised the property at \$250,000. He pointed out Ms. McNeil had a difficult time appraising the property, and she pointed out the prices in the downtown area have been increasing dramatically. She stated property in the downtown over the last couple of years has been basically a seller's market. He said the city had done a good job making the downtown attractive for development. Mr. LeDuc stated if Council approved the purchase of the property, funds would come from the one cent sales tax. He said the funds would have to be borrowed internally from city funds until the one cent sales tax funds are received.

Mr. Michael Anaclerio, 306 Colleton Avenue, stated he would like to appeal to Council to seriously consider the purchase of the lot at the corner of York and Richland Avenue. He said this property is vacant and is available for purchase. He said this lot is in a very strategic location and very visible at a main entrance to the city. He felt the property should be purchased and used for outdoor art. He felt this could be a real draw for people to visit the city. He said he realized the asking price was \$25,000 more than the appraised value, but he felt the property would continue to increase in price.

Mayor Cavanaugh stated one of his concerns was that the lot would become a parking lot. Mr. Anaclerio answered that he did not expect the lot to become a parking lot, but for it to be used for art or green space.

Councilman Cuning stated he was opposed to the purchase of the lot. He said he was opposed to using taxpayers' money or one cent sales tax money and paying \$10.75 per square foot. He said this was unbelievable.

Councilwoman Price pointed out that the Parker property was purchased for \$350,000 several years ago. Also, the service station was purchased for \$90,000 and was available 4 or 5 years prior to paying \$90,000 at \$30,000. She pointed out the price tripled in a few years. She also pointed out that the price for the Cultural Center increased in price once the corner lot was cleared. She said the more the downtown is improved and the more people move downtown, the more valuable the property will be.

Councilman Cuning stated the old service station is now a very useful parking lot in the downtown area. He also pointed out there were six houses built on the Parker property and are on the tax base. He said he felt the property was too high, and that the lot should be used for something to add to the tax base.

Councilman Sprawls stated he agreed with Councilman Cuning. He said he was not opposed to the concept or idea for the African-American Cultural Center, but was opposed to the price for the property. He said he felt the property owners are asking too much for the property. He said he worked hard to get the lot at the corner of Richland and York cleaned up, but did not realize he would be voting on whether to buy it or not. It was pointed out the property had been up for sale for a long time.

Mr. Michael Anaclerio asked for Council to consider this lot as an important center for the city. He said if the property is sold for something else, the City will be sorry. He felt this lot was an important lot for the city. He felt the lot could be used for art competitions and could be a draw for people to come to Aiken.

Councilwoman Vaughters stated her problem was that she looked at all the blocks behind York and north of Richland Avenue E, and she sees so many things that need to be done in those blocks. She pointed out the sewer work had not been done. She stated there were many vacant lots and townhomes could be built on those lots, or the lots could be

used for green space and not be as expensive to purchase. She pointed out that the corner of Richland and York is a very busy area. She said she could not see a neighborhood green space at that corner and the lot being safe for use.

Councilwoman Clyburn stated she felt the purchase of the lot could be justified. She said she felt the property was worth the asking price. She said the city could buy the property as an investment, and if it does not work out, sell it later for a profit. She said that is what the city did with the Parker property.

Councilwoman Price stated the city has received concerns from citizens about traffic in certain areas. She pointed out the city is going to do whatever they can to fix the traffic problems with millions of dollars. She stated there are people who feel that the purchase of this lot is just as important to be used for green space in the inner city. She stated the lot purchase is not tied to the proposed Cultural Center, but is proposed to be used for green space for the downtown area.

Council continued to discuss the proposed purchase of the property at length. They discussed the previous purchase of lots in the downtown and the benefits received from those purchases, as well as the development of Citizens Park and its benefits to the city.

Mayor Cavanaugh stated he felt the lot was very small, and it was hard for him to visualize what it could be used for. He said the lot is an entranceway to the city. He said, however, it could be a dangerous place for a children's park.

Councilman Smith stated his biggest problem with purchase of the lot is that he feels the price is too high for the lot. He said he felt \$200,000 was a good price for the property. He said the city could make an offer of \$225,000 and offer cash. He said Mr. Snipes had been holding the property for a year.

Councilman Sprawls stated he did not understand the comparison of the lot with Horseplay. He pointed out the city did not buy property to place the horses on. He said the city could have art in other places; the city did not have to buy property to place art on.

Mr. LeDuc stated a lot of cities have "pocket parks," which are small pieces of land in a busy area. They may have benches or sculptures and landscaping. He said the parks provide open areas to break up the landscape. He said the parks are seen in a lot of downtown areas.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council approve the purchase of the lot at the northeast corner of York and Richland Avenue for \$250,000 and obtain a 6 month option at \$25,000. The motion was denied by a vote of 3 in favor and 4 opposed. In favor of the motion was Mayor Cavanaugh and Councilmembers Clyburn and Price. Opposed to the motion were Councilmembers Cuning, Smith, Sprawls and Vaughters.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council approve the purchase of the lot at the northeast corner of York and Richland Avenue for \$225,000. The motion was approved by a vote of 4 in favor and 3 opposed. Those in favor were Mayor Cavanaugh and Councilmembers Clyburn, Price and Smith. Opposed were Councilmembers Cuning, Sprawls and Vaughters.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:25 P.M.



Sara B. Ridout
City Clerk