

## Aiken City Council Minutes

July 14, 2008

WORK SESSION

Present: Mayor Cavanaugh, Councilmembers Clyburn, Dewar, Price, Smith, Vaughters, and Wells.

Others Present: Roger LeDuc, Gary Smith, Richard Pearce, Sara Ridout, April Bailey of the Aiken Standard, and about 15 citizens.

Mayor Cavanaugh called the meeting to order at 6:37 P.M. and stated the purpose of the meeting was to discuss appointments for boards and commissions and their terms.

BOARDS AND COMMISSIONSAppointments

Mr. LeDuc stated Sabina Craig had been working on this project for boards and commissions. She has also revised the booklet "Doing Business in Aiken." He said he had provided a copy to Council for their information.

Mr. LeDuc stated one of the goals that City Council requested at our Horizons planning retreat was to consider rescheduling all boards, commissions and committee appointments to coincide with City Council elections. Currently these individuals are selected during various months of the year; and after Council members are newly elected to their positions, they can wait up to two years before some terms have been completed and they can make their own appointments.

It has been suggested that all appointments should expire in December and coincide with the Council members' terms of office. Sabina Craig, who has been working on this project, will make several recommendations for Council to consider. These would include either shortening or lengthening current terms of office for existing boards, commissions, and committee members and determining whether or not we should stay with the current two year cycle or make it four years. If Council decided on a four year cycle, it would mean the Councilmembers elected in 2009 could make appointments which would expire in 2013, and Councilmembers elected in 2011 could make appointments which would expire in 2015. The disadvantage of two year terms is that every two years everyone on the boards and commissions would either be reappointed or new appointments be made. Potentially a whole board could turn over at one time. The Board of Zoning Appeals may have from three to five year terms. Those appointments would have to be changed if they were to coincide with Councilmembers' terms. He suggested that Council may want to lengthen the terms to four years for the boards and commissions. In addition, we are recommending that Council ask the Housing Authority to consider two additional members and to make their terms four years instead of the current five.

Mayor Cavanaugh asked which method would take more of the members of the boards and commission off at one time. Ms. Craig responded that the two year term would probably take many of the board members off at the same time. The four year terms would keep people on longer.

Mayor Cavanaugh stated he felt it was important not to take off most of the people from a board or commission at the same time. He felt a board or commission should not have all new members at one time, but should have some members on the board with some experience. He said he had no problem with the regulations for appointments for boards and commissions as they are at this time. He said in looking at the information provided, it seemed that if there were two year terms, an example would be that all the members of the Accommodations Tax Committee would expire at the same time except for one.

Ms. Craig also suggested that Council may consider a term limit. With four year terms a member could serve two terms not to exceed serving eight years (two four year terms).

She said she had looked at several cities in South Carolina as well as surrounding states and found that most cities have term limits.

Councilwoman Vaughters stated she did not understand why all the members would rotate off at one time if the terms are for two years. She felt that two year terms are a nice length of time, and members can be reappointed if they are interested in continuing to serve. She pointed out the majority of the time Councilmembers reappoint existing commission members. However, if the appointee does not want to continue to serve, has not been able to attend the meetings, or there are some other issues, a two year term is a graceful way to appoint someone else. Also, two year terms give the opportunity for more citizens to be able to be appointed to the boards and commissions. She felt two year terms are long enough, and that more people are willing to serve for a two year term rather than four years.

Ms. Craig stated the four year terms give newly elected Councilmembers the opportunity to make their own appointee.

Councilman Smith stated a new Councilmember wants to be able to appoint people to the various boards who have the same thoughts he does. He said he felt the appointment system should allow that. He pointed out that six years ago he and Councilmember Vaughters were forced to keep people on the boards that they did not think were doing a good job. He said he would recommend two year terms and adjusting the terms so they coincide with the newly elected Councilmember. He said in many cases board members are reappointed, so he did not feel that all members of a board would be replaced at one time.

Councilman Wells expressed concern because the BZA terms by state law have to be a minimum of three years. He said Council could not make those terms two years. He expressed concern that potentially all members of the BZA could be new members.

Councilman Smith pointed out Council has a choice for BZA members to have three to five year terms. Four year terms are suggested for BZA, but the terms would coincide with the terms of Councilmembers who appoint them. The other boards and commission terms would be two year terms.

Mr. LeDuc pointed out the current terms would have to be adjusted, with some terms extended and other shortened, so the terms would coincide with the Council elections and the next term be for four years.

Councilman Dewar stated he felt the opportunity would be there for a complete new BZA board, but he did not feel that would happen as he did not feel that all the Councilmembers would be replaced at one time. He said it was not likely that would happen.

Councilwoman Price stated she did not have a strong feeling to change the present system. She said she could understand a new Councilmember possibly wanting to change an appointment to someone who would represent their interests. She pointed out the board members are volunteers who give of their time and have contributed a lot to the community. In the past there has been difficulty in getting people to volunteer to serve. She said she had not experienced what others may have experienced.

Councilmember Vaughters suggested that possibly board members could be appointed in December rather than all throughout the year. That way a Councilmember elected in November could possibly have appointments to make in December.

Mr. LeDuc stated if the terms coincide with a Councilmember's term a person elected in November would have about five weeks to decide on appointments to boards if all appointments are made in December and coincide with Councilmembers' terms.

Councilwoman Clyburn pointed out the difficulty when an appointee has to fit a certain category for a board. She said it can be difficult to come up with someone who fits the category needed and also be of the same thoughts as the Councilmember. She said in

making appointments she gets willing bodies and does not question their thoughts on issues. She said she does not have a problem with the present system.

Councilman Dewar stated he was the person who brought up the issue and was probably the most affected member of Council at this time. He said having been elected in November 2007, not counting the two resignations which have occurred; he would still be waiting to make seven appointments some of which will not be made until December, 2009. The idea for bringing the discussion up was to match the appointment time with the Councilmember that is making the appointment. He felt that would be a fair way. He pointed out many of the boards and commissions advise Council. However, there are three boards that are very, very significant that do not answer to Council. He pointed out those are the Board of Zoning Appeals, the Design Review and the Planning Commission. He felt those three commissions are very important political appointments. He said he was probably the only Councilmember affected at this time. He felt it was fair to match the appointments to the person making the appointments.

Councilwoman Clyburn stated there are some state and federal appointments that do not change with elections. Because a person is elected does not mean that person will get all of the appointments. She felt the present system has worked and is working much better than years ago when the appointments were not made by the individual Councilmembers but made by the majority of the members of Council. The Councilmember who could get four votes for an appointment got the appointment. It was not by individual Councilmembers. The present system was adopted to give all Councilmembers an opportunity to make appointments. That may not be as soon as the Councilmember is elected but at least there is a chance in four years to do something.

Ms. Craig called Council's attention to the Housing Authority and stated presently terms are for five years, and there are only five appointments rather than seven, so all Councilmembers do not have an appointee on the Housing Authority. She said she had talked to Mr. Reginald Barner, of the Housing Authority, and he does not have a problem with Council making two more appointments if Council wishes to consider this.

Councilman Dewar suggested Council may need another worksession to discuss this matter. He said a lot of issues had come up. He pointed out it is time for the regular meeting to begin.

Mayor Cavanaugh suggested the worksession discussion could continue at the end of this meeting if the meeting is not too long.

Council agreed to discuss the matter at the end of the regular meeting if the meeting is not too long; otherwise another meeting time will be scheduled.

#### Aiken City Council Minutes

#### REGULAR MEETING

July 14, 2008

Present: Mayor Cavanaugh, Councilmembers Clyburn, Dewar, Price, Smith, Vaughters, and Wells.

Others Present: Roger LeDuc, Gary Smith, Richard Pearce, Anita Lilly, Pete Frommer, Ed Evans, Larry Morris, Glenn Parker, Sara Ridout, April Bailey of the Aiken Standard, Michelle Guffey of the Augusta Chronicle and about 45 citizens.

Mayor Cavanaugh called the meeting to order at 7:03 P.M. Councilwoman Price 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. He stated Council had suggested that the worksession on boards and commissions be continued at the end of this

meeting if time allows. Councilwoman Clyburn moved, seconded by Councilman Wells and unanimously approved, that the agenda be approved as amended.

### MINUTES

The minutes of the worksession and regular meeting of June 23, 2008, were considered for approval. Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that the minutes of the June 23, 2008, meeting be approved as written.

### PRESENTATION

Water  
Fluoridation  
DHEC

Mayor Cavanaugh stated DHEC wanted to recognize the city for fluoridation of its water for 50 years.

Mr. LeDuc stated the Department of Health and Environmental Control (DHEC) and dentists from the local community want to recognize the City of Aiken for providing 50 years of water fluoridation. The Center for Disease Control and Prevention (CDC) has recognized fluoridation as one of the major health achievements of the 20<sup>th</sup> century. Thousands of research studies and 60 years of experience have shown that water fluoridation is safe, effective, and the best method of improving oral health within our communities. Studies have shown that communities with fluoridated water have 20% to 40% less tooth decay than those without fluoridation.

Dr. Charlie Wyont, dentist at 3320 Whiskey Road, stated Dr. Jim Mercer from Columbia, President of the S.C. Dental Association, as well as Christine Veschusio, from Columbia DHEC are present at this meeting. He asked that they stand with him as well as Larry Morris, Public Works Director.

Dr. Wyont stated that since its introduction over 60 years ago fluoridation has dramatically improved the health of millions of Americans, including for the past 53 years those who live in Aiken. He said water fluoridation benefits everyone, especially those without access to regular dental care. He said the Centers for Disease and Control in Atlanta stated that one of the ten greatest achievements of the 20<sup>th</sup> century was the addition of fluoride to city water systems. It is the best way to prevent the most common childhood disease known to man, tooth decay. It is 5 times more common than asthma and 7 times more common than hay fever. Water fluoridation is effective in preventing decay for Aiken's adult and senior population also. Communities with access to fluoridated water do have 30% to 40% fewer incidences of decay. It is also very cost effective for the city and the public as well. Every dollar spent on fluoridation saves 38 dental dollars. Simply by drinking water, people can benefit from fluoridation's cavity protection whether they are at home, work, or at school. He said on behalf of the Aiken County Dental Society, the South Carolina Dental Association, and DHEC he would like to present an award to the City of Aiken for its contribution to improving the health of the citizens of Aiken through fluoridation for the past 53 years. He presented the award to Mr. Morris. Dr. Wyont said the dental community appreciates the efforts of City Council and all they do to help the children of South Carolina and the citizens in Aiken. He said the city's proactive stance 53 years ago is a prime example of the fine community we have in Aiken.

Mayor Cavanaugh thanked Dr. Wyont, the representative from DHEC and the S.C. Dental Association for being present and for the recognition award presented to the city.

## BOARDS AND COMMISSIONS

### Appointments

#### Housing Authority

Wood, Sara

Dicks, Nathaniel

#### Building Code Appeals Committee

Brookshire, John

Mayor Cavanaugh stated Council needed to consider three appointments to the boards and commissions of the city.

Mr. LeDuc stated we have 7 pending appointments to boards and committees of the city, and 3 appointments are presented for Council's consideration.

Mayor Cavanaugh has recommended reappointment of Sara Wood to the Housing Authority. If reappointed Ms. Wood's term would expire May 28, 2013.

Councilwoman Clyburn has recommended reappointment of Nathaniel Dicks to the Housing Authority. If reappointed Mr. Dick's term would expire May 28, 2013.

Councilman Smith has recommended reappointment of John Brookshire to the Building Code Appeals Committee. If reappointed Mr. Brookshire's term would expire May 12, 2010.

For City Council consideration, this is approval of 3 appointments to the various boards and commissions of the city.

Councilwoman Clyburn moved, seconded by Councilman Smith and unanimously approved, that Council approve the reappointment of Sara Wood and Nathaniel Dicks to the Housing Authority with the terms to expires May 28, 2013, and the reappointment of John Brookshire to the Building Code Appeals Committee with the term to expire May 12, 2010.

## ANNEXATION – ORDINANCE 07142008

### East Pine Log Road 477

Harper, Rachel

TPN 122-10-05-004

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex 477 East Pine Log Road.

Mr. LeDuc read the title of the ordinance.

### AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY LOCATED AT 477 EAST PINE LOG ROAD AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. LeDuc stated the owner of a .32 acre lot at 477 East Pine Log Road has requested annexation under the RS-10 zone. Currently a one-story single-family dwelling unit occupies the site, which is contiguous to the city limits on the south. The areas surrounding this property are currently zoned RC, and are all within an established residential neighborhood.

The owner Rachel Harper is seeking annexation in order to receive city benefits, including sanitary sewer.

The Planning Commission at their June 10, 2008, meeting unanimously approved this request.

For City Council consideration, this is second reading and public hearing of an ordinance to annex property at 477 East Pine Log Road under the RS-10 zoning.

The public hearing was held and no one spoke.

Councilwoman Clyburn asked how close the sewer line was to this property. Mr. LeDuc responded that it was not adjacent to this property at this time, and the line will have to be extended some distance. He said usually within 3 to 5 years sewer can be provided to the location. He said under the RS-10 zoning only one house could be on the property.

Councilman Wells moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve on second and final reading an ordinance to annex property at 477 East Pine Log Road under the RS-10 zoning.

ANNEXATION – ORDINANCE 07142008A

Richland Avenue W. 3510

Patheja, Nini S.

TPN 087-20-24-003

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex property at 3510 Richland Avenue W.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY LOCATED AT 3510 RICHLAND AVENUE WEST AND TO ZONE THE SAME GENERAL BUSINESS (GB).

Mr. LeDuc stated the owner of a 3.42 acre lot at 3510 Richland Avenue W. is requesting annexation of their site under the General Business (GB) zoning. The site was formerly occupied by Satcher Motors and is currently occupied by two buildings and a car sales/repair facility. The site is surrounded by the city with the property primarily zoned GB and PC. Walgreens would like to build a drug store on the property.

A traffic study was completed for this site assuming access to Pepper Hill Way, a right-in/ right-out only from Richland Avenue, and access through the Buffet restaurant parking lot to University Parkway. The only recommendation by our Traffic Engineer was to include the study of the Gregg Avenue/Summit Drive intersection with Richland Avenue. He does not feel the impact will be significant, but further analysis of this intersection should be completed. The two recommended mitigations involve the widening of Pepper Hill Way to provide separate right and left turn lanes and the addition of a "delta" median for the right-in/right-out only from Richland Avenue. This is stated in Conditions 4, 5, and 6.

The Planning Commission recommended this annexation with the following conditions:

1. That the annexation be contingent on the purchase by the contract purchaser;
2. That a new plat depicting only the subject property be submitted prior to annexation;
3. That the Traffic Study be revised and submitted prior to first reading by City Council to include the intersection of Richland Avenue at Gregg Avenue/Summit Drive.
4. That the development comply with the Access Management provisions of the Zoning Ordinance, except that a right-in/right-out access would be allowed onto Richland Avenue W. as stated in Condition 6.
5. That a direct access to Richland Avenue be allowed, but that it be a right-in/right-out with a raised "delta" median;
6. That the development comply with the Landscape provisions of the Zoning Ordinance, except that the requirement for landscaped islands at the front entrance to the building be waived;
7. That redevelopment of the site include stormwater detention as required by the City Engineer and the Stormwater Management Ordinance passed on April 28, 2008;

8. That the portable structure, carport, auto, auto parts, and all trash outside the permanent structures be removed from the site prior to issuance of a building permit;
9. That the applicant and contract purchaser sign an agreement with the City listing any conditions and that the agreement be recorded at the RMC office prior to the annexation taking effect;
10. That all non-development conditions be met within 180 days of the adoption of the annexation ordinance, or the annexation will be null and void; and
11. That the proposed driveway connection to University Parkway be allowed, and that any provisions of the Access Management Ordinance be waived as necessary.

Mr. LeDuc stated for Condition 5 regarding the right-in/right-out access with a raised "delta" median additional language needed to be added. He said we have heard that the Highway Department probably will not allow a raised "delta" median because of some safety issues. He said the wording should be "a right-in/right-out with a raised "delta" median unless not approved by SCDOT."

Mr. Jim Holly, attorney representing Walgreens, stated the comment that Mr. LeDuc had made regarding the raised median at the Richland Avenue access is correct. He said there is a likelihood that DOT would not allow the raised median. He said the developer is comfortable with putting the raised median in, but can't if DOT will not allow it. Also, on the University Parkway access, the existing curb cut has been incorporated into the site plan. There was some concern about there being an existing curb cut into a restaurant. He said they are incorporating the curb cut into the access. There will not be multiple curb cuts. He said he thought they had found an acceptable solution to the stormwater management which involves taking some of the water on one side of the site in one direction and the other side another direction. This would meet the requirements of the city's ordinance and the state regulations.

Mr. Larry Morris, Public Works Director, stated he had been in contact with the site engineers and reviewed two plans. He said he felt they had come to a good workable solution for the site which will give some detention and some relief for the piping down stream and also allow the developer to proceed.

Councilman Smith asked about the solution in general terms.

Mr. Morris stated the site engineers were able to go back and look at the slope on the site. He said water is coming off at a good rate. He said they were able to take a portion of the site to the piping on Richland Avenue where it currently goes. By removing a portion and going into a separate smaller detention, they are able to relieve the pipe on Richland Avenue so it is no longer overloaded. Then they will provide the detention so water comes into the pipe much slower and should relieve the situation down stream very well. He said there are two pipe systems. The second pipe system comes across the property and runs diagonally from a northeast direction to a southwest direction. That pipe will have to be rerouted. He said he had talked to the site engineers about that. It is part of the developer's responsibility to reroute the pipe. The water ultimately does go to the same facility. However, with the use of the detention facility the water will be slowed down to the point that the pipe will no longer be overloaded. He said there won't necessarily be a detention pond on the site. He said he and the site engineer had been talking about some alternatives. From the figures he saw we would be reducing over 30% of the load coming from the site which should greatly reduce the load on the pipe out front. That is the pipe that was having problems in front of the motel and where there was some street flooding. There should be an improvement over what is presently draining from the area. He said it will not have an impact on the other portion of the property from the site plans which he has seen. Whatever is done on the remainder of the property will have to stand on its own.

Mr. LeDuc stated essentially the storm drainage is a compromise. If it were a brand new site that had never been developed the city would require a certain amount of detention. Because this site had already been developed and most of the water had previously been running off this property, the solution is somewhere between.

Mr. Holly pointed out the development site requires the developer to absorb the cost of removing all the buildings, the asphalt, moving the storm water line, all at a significant expense. He said they were pleased that they were able to find a solution on the stormwater problem. He said the current site plans being submitted do not show a motel on the back of the property. The zoning will be General Business. At this time it is not known what will be on the property, but whoever develops the property behind the Walgreen's will have to meet the city's requirements on their own to develop the property. Nothing will be done at this time that will affect that part of the site.

Councilman Dewar expressed concern about how left turn traffic would be controlled if the raised median is not allowed by DOT. Mr. Holly responded there would be signage and arrows. This was the only way he was aware of to accomplish that if there is no median on the turn in from Richland Avenue. He pointed out there is a deceleration lane, or the beginning of a turn lane, on Richland Avenue to turn right on University Parkway, so the road is wider than normal.

Mr. LeDuc stated the raised median does not mean that much to the developer, but the city will be talking to SCDOT to find out why there cannot be a raised median. He said the city does feel that making left turns from that area would not be safe, especially with a driveway into the site just about 100 feet up the hill.

Council continued to discuss the problem of people making left turns if a raised median is not allowed. It was felt this would be a safety problem. Councilman Smith pointed out that he felt this could be very dangerous. He felt the traffic will increase considerably in the future on Richland Avenue in this area. He said he felt it would be a terrible mistake if the cut is allowed without a raised median.

Mr. Holly stated Walgreen's has provided maximum ways out for people using the site. He pointed out the Richland Avenue access is crucial and one of the top requirements for the project. He said he felt Walgreen's had a legal right to the access under the current Access Management Ordinance. He said they would be glad to do the raised median if allowed by DOT and would join the city in requesting it. He said, however, if DOT will not allow it, they have to abide by their requirements.

Councilwoman Clyburn asked about the exit on University Parkway and asked if they had access to the back part of the restaurant so there can be an exit onto University Parkway though it is not included in the drawing.

Mr. Holly responded that the site plans the city requires show the access, and Walgreen's does have the legal right to control it and use it. The access will come out the same place of the existing curb cut. One may also enter or leave on University Parkway. He said the exemptions in the Access Management Ordinance say that access that existed on an existing lot of record at the time of the effective date of the Access Management Ordinance stays in place if it would deprive the owner of all direct access to an abutting street. He said to not allow the access would prevent direct access to an abutting street. He said he felt they have the right to use the existing curb cut on Richland Avenue under the exemptions in the Access Management Ordinance.

Councilman Wells stated he was in favor of the project and felt it would be a definite improvement on Richland Avenue. He said a Mr. Hadden, who is a property owner next door to the Walgreen's on Whiskey Road, has sent several complaints to the city about his property being damaged during the removal of some of the existing buildings. He also has some questions about closed access to Owens Street which he previously had. He is concerned about a fence which has been constructed too close to his property. He pointed out Mr. Street is the developer of both Walgreen's. He wondered if Mr. Street was aware of the complaints of Mr. Hadden. He asked if someone could check on these complaints. Mr. Holly responded that he would give the complaints to Mr. Street to see what accommodations could be made.

The public hearing was held and no one spoke.

Councilwoman Price moved that Council approve on second and final reading an ordinance to annex 3.42 acres at 3510 Richland Avenue W. under the General Business (GB) zone with the conditions as stated in the ordinance with the addition of the wording "unless not approved by SCDOT" to condition 6. The motion was seconded by Councilwoman Clyburn.

Councilman Dewar stated he was not a member of Council when the Access Management Ordinance was adopted. He stated he was concerned that one of the first times for the ordinance to be used, it is being waived. He felt the intersection in this area should be considered a major intersection and that there will be further development in this area. He was also disturbed about not widening Pepper Hill Way. He felt there is a way that this developer should be encumbered with his portion of widening that road when it needs to be widened in the future. He said he knew it was a decision of Council not to require this developer to pay a share of the cost in the future. He said he was not happy with the left turn off Richland Avenue. He felt this would be creating a traffic problem. He felt there should be a median or some way of preventing a left turn into this project from Richland. He said he could not support the project for these reasons.

Mayor Cavanaugh suggested that the City write a letter from City Council to SCDOT, who has the final decision on the median.

Councilman Smith stated he agreed with Councilman Dewar's comments. He suggested changing the condition that if DOT approves the raised median the cut is allowed; if DOT does not approve the median, no cut should be made.

Mayor Cavanaugh pointed out currently there is a cut there, and there will be a cut off Pepper Hill Way and University Parkway. He asked if the question is that the cut which is already there should not be allowed.

Councilman Smith stated there is currently a cut there, but there is an Access Management Ordinance which he feels should be followed. He said the issue is a safety matter. He felt a right turn only with a raised median would restrict the traffic trying to get across a very busy street and will be busier in the future. He felt this would be perpetuating a safety hazard if the cut is allowed without the raised median. He felt the appropriate thing to do would be to widen Pepper Hill Way and reduce the number of cuts on a major thoroughfare and have interconnections. He was concerned about having two cuts within 100 feet of each other on Richland Avenue and felt this would be creating a serious problem.

Council then discussed their feelings on the direct cut into Richland being a safety problem coming into Richland Avenue with all the turn lanes and traffic in the area.

Mr. James Holly, attorney, stated if the Richland Avenue access is removed the application for Walgreen's would be withdrawn. He said that cut is that important to the project. He said they could live with there being a "delta" median, but there had to be access on Richland Avenue. He said for the project to proceed there has to be the existing curb cut on Richland Avenue and then a cut off Pepper Hill Way. He said there needs to be direct access to Richland Avenue using the existing curb cut. He said the traffic studies did not indicate that the Richland Avenue cut should be closed.

Councilwoman Vaughters suggested that possibly this property could be interconnected to the adjacent property. She felt that would help a lot with traffic on the major roads. It was pointed out there is a tremendous elevation change between the two properties and probably an interchange between the properties would not be possible.

Councilman Dewar stated the projects could be piecemealed one at a time, but we will end up with a problem. He again expressed concern about allowing a left turn from Richland to Walgreen's. He said traffic designing is a factor in preventing some future problems.

Mr. Holly pointed out that having an access directly between the Sub Shop and Walgreen's would not work because of the drop in elevation. Customers of the Sub Shop

could access the new driveway and go to the doctors' offices, to Pepper Hill, and to the undeveloped site. He said there will be interconnectivity between the properties in the area.

Mr. Ed Evans, Planning Director, stated the Access Management Ordinance requires a separation of 200 feet between driveways on a major arterial. He also pointed out there had been mention about a sign on University Parkway directing people to Walgreen's. He pointed out the sign ordinance would not allow this, so if Council wants to allow a sign they need to include a condition waiving that part of the sign ordinance to allow an offsite sign.

In response to a question from Mayor Cavanaugh regarding whether the current cut is necessary and has to be a part of the project, Mr. Holly stated none of the traffic engineers recommended that the cut not be allowed. DOT has not recommended that the cut not be allowed. Secondly, Walgreen's has certain standards that they require for sites, and they have to have direct access because of their experience with their customers and for safety and ease of leaving and coming in. Also, how hard it is to get into the store does affect economic viability of the project. With no direct access people have to figure out how to get in. He pointed out the existing curb cuts had been there for businesses for some time with no indication of any safety problems. He said the volume of traffic that comes into that area is from the west turning onto University Parkway. He said he did not see the problems that some of Council envisions.

Mayor Cavanaugh pointed out the curb cut has been there for many years. He said he lives in the area and is on the road almost every day. He questioned penalizing Walgreen's for wanting to build something nice and take away the curb cut that has been there for many, many years. He pointed out that Access Management Ordinance is new.

Councilman Smith stated at the time the cut existed there were no regulations. He pointed out that until recently Richland Avenue had a rating of 20% to 30% traffic load. He said, however, the traffic volume is moving up and we need to look at the future, not the past.

Councilwoman Clyburn pointed out years ago there used to be a shopping center where Walmart is located today. There use to be several large car dealerships on Richland Avenue, and Richland was probably the Whiskey Road in the 70's. The traffic was heavy. She felt the level of service might have been high then. She said everything was on Richland Avenue before Whiskey Road developed. She said she did feel that it would be crucial to have a sign on University Parkway indicating they could get to Walgreen's from University Parkway.

Councilwoman Price agreed that Richland Avenue had heavy traffic in the past, with the car dealers and shopping areas.

Mayor Cavanaugh stated Councilwoman Price had moved that Council approve on second and final reading an ordinance to annex 3.42 acres at 3510 Richland Avenue W. under the General Business (GB) zone, with the conditions as stated in the ordinance with the addition of the wording "unless not approved by SCDOT" to condition 6. The motion was seconded by Councilwoman Clyburn. The motion was approved by a vote of 5 in favor and 2 opposed. Those opposing the motion were Councilmembers Dewar and Smith.

#### ANNEXATION – ORDINANCE 07142008B

Boardman Road 624  
Kummel, Polly  
TPN 122-06-05-004

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex property at 624 Boardman Road.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY LOCATED AT 624 BOARDMAN ROAD AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. LeDuc stated the owner of a .47-acre lot at 624 Boardman Road is requesting annexation of their single-family home under the RS-10 zoning. The applicant is interested in seeking city benefits along with sanitary sewer. The property is in an established residential neighborhood and is contiguous to the city on the north and is surrounded on the other sides by County property.

The Planning Commission unanimously recommended approval of this annexation.

For City Council consideration, this is second reading and public hearing of an ordinance to annex a .47-acre lot at 624 Boardman Road under the RS-10 zoning.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to annex a .47-acre lot at 624 Boardman Road under the RS-10 zoning.

SMOKING BAN – ORDINANCE 07142008C

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend Chapter 22 of the City Code to impose an indoor smoking ban for certain public spaces.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING CHAPTER 22 OF THE CITY CODE OF AIKEN, SOUTH CAROLINA TO ADD NEW ARTICLE IV, SECTION 22-64, ET SEQ., REGARDING REGULATION OF SMOKING IN THE CITY LIMITS.

Mr. LeDuc stated a few months ago Council asked that the city consider a smoking ordinance that would not allow smoking in certain public areas. On May 20, 2008, Council held a public meeting to get comments from various citizens on a proposed ordinance. We have also been working with Aiken County and the City of North Augusta. We have provided Aiken County and the City of North Augusta with copies of our proposed ordinance for their review. They are considering an ordinance in line with the one adopted by the City of Greenville, which ours follows. Our basic exception to the Greenville ordinance is that ours allows smoking in outdoor public areas, while theirs allows indoor designated smoking rooms. We used the Greenville ordinance as a model because that ordinance has already been approved through the court system as an ordinance that meets legal testing. Aiken County will be reviewing theirs over the next few months, after passage by the two cities.

The changes in our proposed ordinance primarily allow smoking on the outside of restaurants. In our proposed ordinance we revised the definition of enclosed areas to exclude areas that are at least 50% exposed to the outdoors. Previously, the ordinance said three sides had to be open, but this has been changed to two sides. Basically that would mean that any downtown restaurant would be able to allow smoking in the outdoor areas. Ceilings or roofs are not calculated as part of the 50% of unexposed space. He gave some examples such as Aiken Brewing Company, The Bowery, and Davor's which is all open. The Pizza Joint and Papa Russ have areas that are at least 50% open. The proposed ordinance is different from North Augusta's. North Augusta was given a copy of our proposed ordinance, which was basically presented to their City Council. However, Council changed the ordinance as they reviewed and studied it. The Greenville ordinance and the North Augusta ordinance would not allow smoking at facilities such as Virginia Acres and Smith Hazel. The ordinance before Council tonight would allow smoking at outdoor facilities, such as Citizens Park in the parking lot areas, and at Virginia Acres and Smith Hazel. Aiken County is waiting for Aiken and North Augusta to adopt an ordinance before making changes to their ordinance. If Council adopts an

ordinance, changes could be made if it is found that something is not working well. He said the proposed ordinance is a basic model that says smoking is not allowed inside a building unless it is a private club that wants to allow smoking. It does allow hotels to designate rooms as smoking rooms if they are clearly marked.

Mr. LeDuc pointed out a letter had been received from Ian Hamilton of the Americans for Nonsmokers' rights. The letter points out their objections to the ordinance and these objections are the same objections they had to the Greenville ordinance which include private clubs, fines, and some of the definitions. These items were in the Greenville ordinance and have a proven track record.

It is hoped that the Aiken County and North Augusta ordinances will be similar to Aiken's ordinance. If it is found that there are major changes in the ordinances, the ordinance can be revisited at a later date and changes made.

For City Council consideration this is second reading and public hearing of an ordinance to ban smoking in certain indoor spaces.

The public hearing was held.

Mr. Scott Singer, 317 Live Oak Road, stated he was present on behalf of himself and Aiken County Councilman Chuck Smith from North Augusta, who serves on the Judicial and Public Safety Committee. He said on Tuesday the Judicial and Public Safety Committee will be reviewing the ordinance adopted by Aiken and will go back to the full County Council with a recommendation for some changes in Aiken County's smoking ordinance. He said he believes there is great value in having consistency amongst the different regulations between the major municipalities and the County. Mr. Jim Holly, County Attorney, is working on a matrix which goes into some detail showing the different ordinances for Aiken County, Aiken City and North Augusta to make sure the details are similar enough so enforcement by the Sheriff's Department, Aiken Public Safety or North Augusta can all make sure they understand how this ordinance works. He said he was present to make a point on behalf of Chuck Smith and himself that they do believe consistency is important. He asked that the City of Aiken provide whatever information is available to Mr. Holly so he can have all the facts to present to the Judicial Committee and the County Council so they can move forward with their ordinance.

Mr. Pete Seaha, 161 Laurel Ridge Circle, pointed out the proposed ordinance states the City of Aiken has established a priority to improve the quality of life in Aiken which is in the best interests of the general health, safety and welfare of the city and its citizens. It also states that numerous studies have concluded that second hand smoke is a health risk, a known carcinogen, an impairment to normal respiratory functions, and a fire hazard. He said he did not feel that anyone could defend smoking. He said at the first reading one of the things he heard was about studies that second hand smoke causes cancer. He said he had done some research and was unable to find any study which actually took place using human beings in a controlled situation where they breathed second hand smoke over a period of time and it was concluded that the second hand smoke caused cancer. All of the studies he saw made assumptions that because cigarettes contain carcinogens that anyone subjected to second hand smoke may cause cancer. He said he did not feel there was a study which actually proves that second hand smoke causes cancer. He pointed out the ordinance is proposed to be passed as a health issue. He said he understands that with regard to government property and buildings you feel you have the right to take people's rights of smoking because of the health effects from smoking. He said he can't argue there are not health issues. He does argue, however, that if Council concludes they are responsible for health issues in the City of Aiken then, rather than consider a partial ban on smoking in particular areas, why not pass an ordinance that bans the sale of tobacco in the entire city. If health is such an issue and Council feels responsible for the health of the citizens, then why use a small measure to ban smoking when you could bring could health effects to everyone in the city. He felt it was because of a revenue stream, as taxes are derived from the sale of tobacco products.

Mr. Gary Smith, City Attorney, pointed out that the decision to legalize or illegalize the sale of tobacco has been preempted by state statute as state law says it is okay. He

pointed out state law governs this and the city has no authority to ban the sale of tobacco or alcohol in the city.

Mr. Seaha stated if we have an issue with smoking we should have an issue with alcohol because it kills and creates as many problems as smoking does. He said since the city cannot ban the sale of tobacco products, then in considering a ban on smoking you should not intrude upon private businesses. He felt restaurants and bar owners and patrons should be the decision makers as to whether or not smoking is allowed on their premises. He did not feel this was a function of government. He felt this was a government intrusion and felt it was an individual's right. He asked that Council look very carefully at the aspect of individual rights. If Council wants to do a smoking ban on city property that is okay, but do not intrude on individual rights of restaurant owners, bar owners and the patrons who frequent their establishments.

Mr. Sam Erb, 1556 Dibble Road, The Bowery Restaurant owner, stated in May when a proposed ordinance was first discussed, he asked for uniformity between ordinances for Aiken City, Aiken County and North Augusta. He said he wished the governments had met prior to North Augusta's ordinance being written, as they eliminated outdoor smoking and smoking in bars. He encouraged Council to postpone voting on the ordinance at this meeting until the three can get together and come up with one ordinance for all three. He pointed out presently there will be three different ordinances, and this will be confusing to the citizens as the ordinances are different. He then proceeded to point out some of the differences in the ordinances. He pointed out that times are hard at this time for independent businesses. He stated Council had passed an ordinance regarding two hour parking in the downtown area which he was in favor of. He questioned whether Council wanted to take a chance and pass another ordinance and again restrict what independent owners can do. He pointed out that independent restaurants employ a lot of people and bring in large tax revenues to the city. He questioned if this was a good time to jeopardize the hospitality industry of Aiken. He pointed out most independent restaurants are smoke free already, including his, but bars are different. He suggested passing an ordinance for banning smoking indoors for businesses, including restaurants, but leave bars that have separate rooms with separate HVCA units up to the business owners to make that decision to be smoke free or not. He pointed out hotels and retail tobacco stores are allowed to have smoking areas, so some businesses are allowed to have smoking in part of their building. He said he felt that bars that are separate rooms and have separate heat and ventilation systems should be allowed to have smoking. He agreed to ban smoking in restaurants, but a bar is different. He asked that Council adopt an ordinance for an Aiken solution for an Aiken situation. He said basically he is for a smoking ban ordinance for restaurants but not for bars. He said the downtown has many successful bars with responsible business owners. Let them make that decision. He felt the business owners should have the choice.

Mayor Cavanaugh stated Mr. Erb had mentioned having an ordinance the same for Aiken, Aiken County and North Augusta. He said that would be nice, but none of the three entities is the same. They are very different in many ways. He pointed out the City Manager had spent a lot of time with the managers of Aiken County and North Augusta discussing the proposed smoking bans. He said the Councils of the entities will make their decisions on what they feel is right for their community. He pointed out also there are reports about whether or not second hand smoke really is harmful. He said from what he has read he believes it is harmful, and if he can protect somebody he is going to do it. He said he had struggled with the issue for a long time. He said there are employees who work in businesses with a smoke environment, and they are concerned about it, but hesitate to say anything because they don't want to lose their job. He said he plans to vote for the ordinance because he feels it is very important. He pointed out North Augusta had postponed their third reading and will probably make some changes. Also, Aiken County is considering making changes to their ordinance.

Councilwoman Price pointed out that one business in the Valley was concerned about the no smoking ordinance in the County and the impact on his business and how much harm it was going to do to his business. He did ban smoking in his business, and he has seen an increase in people coming to his business as a result of the no smoking ban. She also pointed out there were some people who wanted a total ban on smoking with no smoking

downtown, indoors or outdoors. She felt this was too restrictive and very difficult to police.

Councilwoman Vaughters asked if the city had asked the downtown bars what kind of economic impact this will have on their business. She felt this was real important.

Mr. Jet Beckum, 188 Governors Lane NW, stated smoking bans are big business and are organized by people from the west coast and are moving this way. They are financed by the one billion dollar tobacco settlement agreement where the cities and counties sued the tobacco companies for people smoking and claiming they were sick from smoke. He said everyone knows smoking is not good for you. He said these people have a vested interest. He said the claims that second hand smoke hurts you are not true and said there were some articles that back that up. He said smoking ban people are socialists and are the same people that say guns kill people. He pointed out that people who drink like to smoke. He said this would be taking rights away from people. He said he sees rights taken from people time and time again saying it is to help somebody. He said even if everybody died from cigarette smoke, it's not right to take the right to smoke away from people if they wish to smoke. He said that right is given to them by the Constitution. He said no one cares about the smoking ban except the smoking ban groups who are getting money. He said if cigarettes kill people that will be a benefit. We don't have to pay Social Security to them. He said this is not about smoking, but about human being rights. He said people who have plenty of money don't smoke. The only people who smoke now are the poor people. He said a smoking ban would hurt the small bars and restaurants. He felt Council is making a big mistake.

Ms. Jane Page Thompson, 240 Knox Avenue, stated since the June 16, 2008, meeting she had visited bars, restaurants, tobacco retailers, and the local branch of DHEC. She named the places she had visited. She said she did not go to places like Outback, Ruby Tuesdays, or Applebees as she agrees those places should be a smoke free environment and their management has already made that a national policy because of their national health care interests. She said she also visited the three advertised tobacco retail stores. In visiting the 20 bar-restaurants the average number of employees working in those twenty restaurants during their peak hours of operation was about 101 employees. She then presented a petition signed by over 135 of the employees of the 20 restaurants she visited. The petition stated they represent the waitstaff, bartenders, food service, and hospitality industry workers in the City of Aiken. They stated they work where they choose to work and their rights and health are not in jeopardy by their exposure to any form of offensive or dangerous air pollutant. If we feel that our lives are in jeopardy while working we would take that issue up with our employer, and our concerns would be addressed or we would choose to work elsewhere. We would handle it in a private way as a business should. The petition continues that the 135 signatures are for a smoking ban in restaurants, but for a restaurant-bar where the patrons are not allowed to be served if they are under the age of 21, and where smoking signs are posted at the entrance, they ask that those businesses be allowed to continue to operate and that the ordinance remove them from the list.

Ms. Thompson pointed out that in speaking to 135 of the employees which this ordinance is supposed to be protecting, she encountered only 6 people that worked in these 20 restaurants that signed the petition that don't smoke. She said they like working where they work because smokers tip well. In fact smokers drink more and they tip more. The waiters make more when they work in a restaurant-bar. She said a lot of the staff in these restaurants smoke themselves. About eight places where she went the owners and staff that were serving the patrons were smoking while they were working. Bars are allowing smokers a place to work without infringing on their private rights and personal liberties. The smoking ban may not hurt the city's outdoor events' revenue, but other businesses that do not have outdoor dining facilities would suffer. These places should have the right to determine the way they conduct their business. They offer a service to their customers. The customers can choose or not choose to dine there, and it should be up to the individual business owner what restrictions he puts on his own stream of revenue. She felt the ban constitutes a public taking of private rights. She then quoted from some people from bars when a smoking ban was put into place in their city saying it had hurt their business and some had closed. She felt the smoking ban would hurt Aiken's

economy as much as it might protect the health of the citizens. She said this is a nation that prizes liberty and stamps out oppression. "Punishing smokers for their own good is repulsive to the basic libertarian principles that ought to limit the use of government force." This is a quote from Jeff Sewell stated in the defense of bars on Sullivan's Island and Folly Beach where smoking bans were not put into effect because they were a public taking of private rights. She pointed out some information in the Council packet is from the Americans for Non Smokers' Rights Organization, which is a California organization. She asked that Council listen to the citizens of Aiken—a 135 wait staff that does not think their jobs or health is in jeopardy or they choose to work where their health is in jeopardy because they make more money. She said she also has a petition signed by African-Americans that live within the City of Aiken. The South Carolina African-American Tobacco Control Network alleges that Council needs to put this ordinance and ban into effect in order to help African-Americans not fall prey to the habit of smoking in order to eliminate possible future deaths of this demographic. She said she talked to a lot of African-Americans in the City of Aiken, and they think they should have the ability to determine what is good for them. She pointed out that Ms. Diane Wilson of the S. C. African-American Tobacco Control Network does not live here and these people do. She said this is an Aiken situation which needs an Aiken solution. She pointed out that July 14 is independence day in France. They followed our example by revolting against a tyrannical government in order to uphold freedom and liberty. France and America both fought to safe guard liberty and freedom and eliminate governmental taxes and controls over small business. She said the challenge is not whether smoking is good or bad for you, but for the freedom of choice and for individual liberties. She said City Council should not enact a tyranny, but should uphold the freedoms of choice and the individual liberties. Save the American bar as the destination for smokers and allow businesses to set their own regulations on their own private property.

Ms. Thompson then referred to her remarks at the June 16, 2008, meeting regarding issues concerning people infected with herpes in America but we are not banning their public participation in society. The fact that the City of Aiken is not banning cell phones, Wi-Fi and laptops which have a link to cancer. She also referenced the economic burden and that not only businesses would be affected but the taxpayers in order to enforce the ordinance. She also noted that she referenced some demographic studies comparing populations to Greenville and Aiken. One factor other than Aiken being half the size of Greenville's population, is that Aiken has \$13,000 more income per household, and also 14% less air smog than Greenville.

Mr. Johnny Johnson, 316 Pine Drive, stated he was opposed to the ordinance the way it is currently written. He pointed out that at the last meeting the question was raised as to whether anyone had read the studies referred to in the proposed ordinance which are used as the reason for the proposed ordinance which is health. He said in reading the Supreme Court's decision on the Greenville ordinance, the only reason to pass such an ordinance is to protect the public health. He said he did not think Council had that proof. He did not think there was any study which proves that a person died from second hand smoke. He said he did not know of a case where anyone had been kidnapped from the street and forced to go into a place that allows smoking and forced to eat and inhale smoke. He said in looking at the court decision, he did not think Aiken's ordinance would stand the test of the Greenville ordinance because of some exceptions made in the ordinance. He felt bars should be allowed to have smoking if they have separate air conditioning. He felt the proposed ordinance had a poor definition of open space. He questioned how open space is defined and what is considered 50%. He pointed out areas he felt would not fit in the definition and wondered how the open space would be counted. He questioned about walls and rails and how they were counted.

Mr. Victor Woolley, 308 Berrie Road, stated while reading the article in the Aiken Standard on smoking areas, it occurred to him the issue is larger than that, and the issue is freedom. He said this could be one piece of freedom taken away and then another. He was concerned about freedom being taken away by parts. He asked that Council look at the larger issue.

Ms. Diane Wilson, of the South Carolina African-American Tobacco Control Network, said she works in African-American communities, but she also works with other

communities as a whole as well. She said the issue is a workers issue. She pointed out that although Ms. Thompson had a lot of people who signed the petition, they may have signed for various reasons, some fearful of jobs, etc. She said the workers don't always have a choice to go somewhere else. She wondered why someone would want to expose someone to their smoke knowing the dangers. She pointed out 16 local communities have passed a smoking ban, and no one regrets passing an ordinance. She said she visits many cities and talks to many people who want to see an ordinance passed, not only for their health but for the workers. She pointed out studies on the effect of second hand smoke had been questioned. She pointed out it is unethical to test a human in terms of second hand smoke. She pointed out, however, there are family members who are very concerned that their relatives died from exposure to second hand smoke. She said the fear of second hand smoke is legitimate. She said it is logical to allow smoking outside, but in enclosed areas smoking should not be allowed. She said she supported Council and asked that they move forward in favor of the proposed ordinance.

Ms. Jann Smith, 193 Dogwood Road, stated she felt Council was doing the right thing and asked that Council pass the proposed ordinance.

Mr. Willie Fuller expressed concern about not allowing people to smoke in restaurants and bars. He felt the city and the businesses would lose revenue. He felt it would cause other problems. He felt Aiken is a tourist town, and many of these people smoke and drink. He asked that Council really think about this before passing a smoking ban.

Mr. Ian Hamilton, of the South Carolina Cancer Alliance, thanked Council for listening to everyone. He pointed out that many people feel strongly about the smoking ban and many have had family members who have died from second hand smoke. The SC Cancer Alliance is very much in support of comprehensive work smoke free ordinances and have assisted a number of municipalities and counties implementing smoking bans. He said the issue is not "does smoking kill." He pointed out that two years ago the Surgeon General stated that second hand smoke is harmful and does kill. He said there are studies that demonstrate the benefits over time of places that have implemented smoke free ordinances.

Councilwoman Vaughters stated she had talked with some doctors who agree that smoking is dangerous for your health. However, they have stated that double blind control studies don't exist and studies are not done to negate a negative. She said she was not saying cigarettes are good for people, but she does question the data on second hand smoke studies.

Councilwoman Clyburn stated she felt the smoking ban rates with the seat belt laws, motorcycle helmets, speed limits, gun control and things that tend to appear to erode personal rights. However, she feels there comes a time as a lawmaker that you look at your own personal experience and you try to weigh whether you are eroding personal rights or doing some small thing that might protect some innocent person from harm. She said she had looked at the smoking issue and ban, and she feels it is more of a regulation. She was not trying to stop anyone from smoking. She said she knows first hand, as she watched her brother die, that smoking kills. She said she did not need a study for that. She said she had seen the effects of cigarette smoke on young people who ride in cars with parents who smoke and who live in homes with people who smoke. She said she had seen an increase in asthma and other illnesses among children who live in families where there is a lot of smoke. She felt this is an issue where she feels she may be eroding personal rights, but she felt in the end for her it might be worth it. She said many times when she goes into a place where there is a lot of smoke it makes her cough. She said she had tolerated that because she respected other people's rights. She said she felt she would be doing the right thing by saying a person can smoke, but there are places where smoking should not be allowed. She said she felt that in some small way what has been proposed is not the detriment of the city or this community or the Constitution. She said she intends to vote for the smoking ban.

Councilwoman Vaughters asked how the smoking ban would be enforced. She expressed concern about enforcing the proposed ordinance. She pointed out the ordinance gives the City Manager the enforcement authority.

Mr. LeDuc pointed out it depends on the issue as to whether enforcement will be by Public Safety, business license, or building inspection. He said if an individual refuses to stop smoking, then Public Safety will be involved. If a business does not want to enforce no smoking, it could be a business license matter.

Councilwoman Clyburn stated she was not doing it because Greenville did it. She pointed out Council always has the right to change an ordinance if it is felt it needs to be changed.

Councilwoman Price stated she was torn. She said she was in favor of banning smoking in restaurants, but she was torn about banning smoking in bars. She said it was her choice if she wanted to go to a bar or not. She said the space issue becomes a challenge as far as the amount of space. She said she likes simplicity so everyone clearly understands the rules. She said the matter of figuring whether 50% is open space seems complicated. She said outdoors is outdoors. She was also concerned about people enforcing the ordinance when they are needed for more serious problems.

Councilwoman Clyburn stated if there are problems with the ordinance they should be clarified so there is no confusion as to what the law really is. She said in growing up she had worked with tobacco and she understands the process and what it looks like. Perhaps that has colored how she feels about the ban. But she pointed out she had first hand experience also with the effects of smoke and the killing of her brother.

Mayor Cavanaugh stated if there are concerns about determining open space he felt that should be clarified. Various areas were discussed as far as whether they were open space.

Councilman Dewar stated if the ordinance passes the owner of an establishment can call the city about whether smoking is allowed, as someone is responsible for implementation and for enforcement.

Councilman Smith stated that modifying the ordinance from the perfect Greenville ordinance was to try to find a fit for Aiken. He stated he thought Jane Page Thompson did a wonderful independent survey of bars. He said there was a concern about second hand smoke in bars and the concern about employees of bars. He pointed out Ms. Thompson had presented a petition from those working in bars that covers those concerns. He said he did not feel that most of Council was prepared to accept the full Greenville ordinance. He said he felt Mr. Johnson was trying to make the point that by modifying the Greenville ordinance, Council would actually be weakening the intent of the Supreme Court as Council would no longer be protecting health to the degree that the Greenville ordinance does. He felt the city would need to go back to the drawing board.

Mayor Cavanaugh stated it could be considered that we are trying to be fair to people so they have a place to smoke. He said this is a restriction and not taking the right totally away. He said in any civilized environment we have to give up some of our rights because other people have rights as well. He said some people would like to not have stop signs, but they are necessary because of accidents. Seat belts is another example of a protection. He said this may be taking away some rights, but other people have rights as well. He pointed out he had had experience with relatives dying from smoking. He said the proposed ordinance does not prohibit smoking, but regulates where one can smoke.

Councilman Smith stated he was concerned with what Jane Thompson developed. He said a lot of establishments do provide income and employment for people. He said people have the right to not go to the restaurant or bar unless they are willing to put up with the smoke.

Councilman Dewar stated people have the right to be able to work there without having to put up with smoke. This is a workplace safety issue.

Councilman Smith stated as a general view he felt Council would be imposing their view on establishments in town that provide income to people. He said this is an invasion. He said perhaps we should close all the bars.

Councilman Dewar pointed out that Council makes all kinds of rules that people must follow.

Councilwoman Vaughters expressed concern about some items in the ordinance. She pointed out the signs required in the ordinance to be conspicuously posted in every public place and place of employment where smoking is prohibited. She said she did not want that on the front door of her office or on the front door of every business downtown. She felt this would be offensive. She felt it would be better to say where smoking is allowed. She was also concerned about banning smoking in private offices. She said just because something is a good idea does not mean you have to have a law. She pointed out the ordinance will affect businesses who have worked hard. She said Aiken is much better than Greenville and in a much smaller town. She said Aiken is a unique place and laws should be unique and fit Aiken. She said Jane Page Thompson had put forth a lot of time and effort in talking to the people to get their feelings on the matter. She did not feel it was Council's job to create this kind of ban. She said the ban had caused hundreds of businesses to close in England, which is a socialist country. She said in Britain they are talking about tax breaks for pub owners. She said the businesses here would get a tax break because they would not have to pay as high a business license since they won't make as much money next year. She said her point is that people are trying to do the right thing. She asked if Council is right in making all these laws and putting no smoking signs everywhere.

Mayor Cavanaugh asked if a law is adopted banning smoking in buildings does the building have to have a sign making that indication.

Mr. Richard Pearce stated the reason for the signs on buildings in the Greenville ordinance is that it was part of the public education that the ordinance was in effect. He said he was not aware of any requirement for the posting of the signs by a state or federal regulation.

Councilwoman Clyburn pointed out there are signs at the hospital indicating the smoke free zone. She said it had been stated earlier that this was a good thing to see. She pointed out that in other places entire hotels are becoming smoke free and their business is still good. She did not know what the ban on smoking would do for bars and was concerned about it, but felt there are some good points in the proposed ordinance. She said she would like to see Council go forward with the ordinance. She did not want to stop anyone from smoking, but did feel that it was inconvenient to enough people that something needs to be done.

Councilman Dewar pointed out that the entire states of California and Massachusetts, and the entire country of Ireland have passed smoking bans. He said smoking had been eliminated a long time ago in California. He said it is a tough issue, but smokers are much more accommodating than before and he felt most don't expect to smoke when they go into a building. It has been implemented and it has worked.

Councilman Wells stated that on first reading he had stated that property owners and restaurant owners and retail business people within the city have done a tremendous job in going non-smoking and have been for many years. He said he did not know of a business downtown where people smoke or any restaurants where people smoke. He said he had a very difficult time telling a property owner that he cannot smoke in his individual office when it could be in the very back of a retail establishment. He felt this would be affecting the person's personal property rights. He said he had trouble with that. He said he also has trouble with enforcement of the ordinance just as Councilwoman Vaughters does. He felt it would be take a lot of time checking on complaints. He said he did not see any way of enforcing the ordinance. He said he did not feel that if the ordinance is not passed at this meeting, that by next week everyone is going to have cancer from second hand smoke. He felt Council possibly needed to look

at the ordinance again. He said he was not ready to go forward with the present ordinance.

Councilman Dewar stated the proposed ordinance is the kind of ordinance that if you like it you are going to like it, and if not then you will find something in it to cause you not to. He said there should be a vote one way or the other. He said he did believe we could enforce an ordinance banning smoking in public places. He said it is done in other cities and around the world. He said we can find all kind of technical reasons. The ordinance could be tweaked and possibly Council could come up with something acceptable. He said he did not think they could find one acceptable to the bar owners. He said the perfect ordinance does not exist. He said if we discuss it again he felt those in favor of the ordinance would be back again to speak.

Councilman Smith stated he was really moved by what Jane Page Thompson said. He said he was willing to go along with the weakened ordinance, but between what Johnny Johnson and Jane Page Thompson said he realized we are trying to water something down to make it work, but it makes it even more difficult to administer. It really does almost become an all or nothing proposition. If it comes down to that he felt the sense of Council would be that we should not have the ordinance. We are wasting our time doing it unless we are going to do it to protect everyone everywhere.

Mayor Cavanaugh stated he sees the ordinance as allowing more leeway and allowing people to smoke in certain places, outside. He said if Council has a problem with the ordinance then what are the problems. He said Councilman Wells had stated he did not think the ordinance could be enforced.

Councilman Wells stated he did feel the city was going to find enforcement difficult. He said there will be some elderly business people who have smoked in their business for 50 years, and we will probably have to haul them to jail and take their business license away to keep them from smoking in their business. He said he felt we would run into some problems with that. He also said how would the city know people are smoking in a business unless someone complains. He said he has a customer who walks into his store smoking and his store has been non-smoking for 7 years. He said he would hate to think his business license was in jeopardy because a customer comes in smoking. He said he could force the issue, but why should he have to do it as well as other business owners if the same issue takes place. He was concerned about how the enforcement would work. He said he sees the ordinance as another piece of legislation that we are going to have a difficult time enforcing or tie up more Public Safety Officers in dealing with this issue when they could be doing something else. He said the business owners had responded to public outcries as far as non-smoking restaurants and retail establishments. Some of the bars may want to go non-smoking or there may be some now that are non-smoking. He said that would give people an option whether or not they want to go in the business or bar if smoking is allowed. He said the employee issue had been discussed, and it had been said that is what this is about—protecting the employees. He said he had never had an employee contact him and say they were trapped in a smoking environment and they would like to get out of it. He said he had been on both sides of the issue and had been back and forth as to whether he would support it or not. He felt the ordinance hammers away at the individual business owners' rights. They should be able to choose. He said he would have the opportunity not to do business with a business if they chose to allow smoking if he was offended by smoking.

Councilwoman Clyburn stated if she wanted to she could stand on the street and get thousands of signatures from people who want the smoking ban to go forward. She pointed out people who are in favor of the smoking ban were present at a previous meeting, but were not present at this meeting. She said she felt the right thing to do was to pass the proposed ordinance for a smoking ban.

Councilman Dewar asked if Council was hung up on not allowing smoking in the bars. He pointed out the ordinance is not just about banning smoking in restaurants, but also in the workplace. He asked if something could be passed that covers 90% and deal with the other later.

Councilman Wells stated he agreed with Councilman Smith that if things are struck out of the ordinance and only require restaurants not to allow smoking, he was afraid that if the ordinance were challenged that it would not meet the Supreme Court of South Carolina's requirements. He said presently he does not know of a restaurant where one could smoke.

Ms. Jane Page Thompson stated she probably spent about 60 hours researching all of the documents, the California Clean Air Act, etc. She said there are some vocabulary issues. In the State of South Carolina any place that serves alcohol has to be a restaurant. The head of the local DHEC Office explained this to her. This is in order for the state at the SLED level to regulate alcohol. She said there are restaurants which have a contained bar. An example is Outback. The bar is in the middle and food service goes on around the bar. Everyone she spoke to feels that contained bars should be smoke free. There are others called attached bars and an example is the bar at The Bowery. There is one central foyer with a non-smoking area with a separate door and entrance. There is a smoking area with separate ventilation and separate entrance and signage. There is an attached bar in a restaurant with food. There are self contained bar-restaurants, and examples of those are the Safari Lounge, Tropicana Lounge, and the Cork & Bull. There are about 6 to 12 self-contained bars-restaurants and probably 6 to 12 attached bars in Aiken that DHEC is aware of. She pointed out Council had been talking about a smoking ban, but the proposed ordinance would be creating a smoking regulation. A smoking ban is a uniform absolutely no smoking anywhere. The definition of an outdoor area is defined as an area where the patron would be affected by the elements-wind, rain, bugs- regardless of whether it had a lean to ceiling or a protective barrier from the street.

Mr. LeDuc stated he had talked to Aiken County which has had a smoking ban in existence for the past year. They did have a few calls from restaurants about people who had come to their restaurants for many years and smoked and refused to stop smoking. In talking to Greenville it was stated there had not been much of a problem. As far as enforcement the city will not be going around town knocking on doors to see if people are smoking in their offices. Enforcement would be done by complaints. Then the city would have to do something such as take away the business license or take them to court. If an ordinance is passed staff will have to enforce the ordinance. The way the ordinance reads now smoking would not be allowed in any business or office except private clubs. He said it seems from the discussion that one question is does Council want to have regulations that there will be no smoking in any public buildings. The other issue is do you allow smoking in bars. Those considered bars would have to be designated so staff would know if smoking would be allowed in that building. He said a public building is any building that has customers or employees.

Council then just generally discussed the proposed ordinance and whether the ordinance should be postponed for further study and a third reading.

Mr. Gary Smith, City Attorney, stated he was hearing some discussion about perhaps wanting to amend the ordinance to allow smoking in bars as opposed to other places and put some restrictions on that. He said he could justify an exception that would allow smoking outdoors from a legal standpoint. However, if there is an exception to allow smoking in a bar or restaurant when they are all indoors, he felt this would start losing the public health aspect as the reason for passing the ordinance. He said if Council is thinking about looking at allowing smoking in bars indoors but not allowing smoking in restaurants indoors, he felt this would be whittling away the legal justifiable reason for passing the ordinance. He said he would discourage Council from allowing smoking in bars indoors but not allowing smoking in restaurants indoors.

Councilman Wells stated he would like for Council to consider voting on the proposed ordinance at this meeting to see where the issue stands.

Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council approve the ordinance as presented which does not allow smoking indoors in public buildings, but allows smoking outdoors, but deleting the requirement that "no smoking" signs be required on each building, Section 22-71. Further that staff will give warnings for

violations of the ordinance for the next six months as opposed to tickets to give people a chance to get use to the ordinance.

Councilwoman Vaughters asked if the whole ordinance would be looked at again or just look at tickets, and listen to bar owners to see if they have been damaged by the ordinance or not. She said she felt the city should have asked bar owners what the implications financially were going to be before passing an ordinance not after passing an ordinance. She pointed out that in previous meetings 4 people opposed the ordinance, 5 local people were for the ordinance and 2 out of town people for the ordinance. Tonight there were 7 citizens opposing the ordinance, 1 citizen for the ordinance and 2 people from out of town.

Councilwoman Clyburn pointed out that there was only one bar owner present.

Councilwoman Price stated she felt the city needed comment from businesses to know how this may be impacting them.

Mayor Cavanaugh stated if Council based their decisions on surveys and on people who speak at meetings, he could fill the room to support either side of any issue that he may want to support. He also said he was not just looking at the money aspect. He felt the businesses would continue to prosper. He said the important thing to him is the health of the people and workplace safety. He was also concerned about petitions and why and how people sign the petitions.

Mr. Don Swindler, 608 Douglas Drive, stated one of the reasons those for the smoking ban were not present was because they thought Council was going to pass the proposed ordinance. He said he had listened to the comments and there were good and bad points on each side. He said he agreed that one gives up freedoms to have freedoms some times. He said there are people dying now giving up their freedom so the rest of us can have freedom. He said he looks at the proposed ordinance as a health issue. He said if there was an outbreak of measles, mumps, etc. those people would be quarantined. He said smoking is the same thing. He pointed out Charleston has a no smoking regulation. He talked to several restaurants and bars and their revenue has increased.

Mr. Sam Erb stated he wanted to make a clarification between Aiken and Charleston. He pointed out that in Charleston 85% of their daily business is new faces while 85% of his daily business is the same faces. He said the two cities could not be compared.

Ms. Diane Wilson stated Charleston is her home town. She said there are a lot of tours in downtown Charleston. She said away from the downtown area there are community based bars and restaurants that don't draw tourists and they are doing very well. She said there has been an increase in business across the board. She said regarding implementation of the ordinance in Charleston a letter went out informing all the businesses about the ordinance and they did include a small no smoking sign. Some businesses opted to put the sign up, but others did not. She pointed out in no smoking areas many times people in the business will ask someone to put out a cigarette. Sometimes it is self enforced. She said her organization keeps a record of complaints and those who have been fined. To date since the ordinance has been in effect for a year, only two complaints have been received.

Mayor Cavanaugh stated he support the proposed ordinance as he feels it is a health issue. He said he had had experience with family members dying from second hand smoke. He said he did not feel that any business was going to lose money because of the ordinance. He said for those working in places where there is smoking, he felt employment is a concern and it is not always easy to get another job. He felt some were working in conditions that they would prefer not to work. He said he would support the ordinance.

Councilwoman Clyburn stated she liked the idea of sending a letter to the businesses about the ordinance and ask them to let the city know how they are doing for the next six months, and that warnings would be given for violations for six months before giving tickets to those not following the ordinance.

Councilwoman Vaughters expressed concern about passing the ordinance and then asking them to let us know how they are doing and if they are losing business. She pointed out they are taxpaying citizens who pay taxes.

Ms. Jane Page Thompson stated everyone can get numbers pro and con. Everyone can pull out the sob stories. She said this is not about smoking, but about freedom of choice and personal liberty. She said they must give smokers a freedom of choice. The non-smokers are being given freedom of choice. She pointed out the ordinance protects businesses in retail tobacco stores and the city's outdoor functions which let people smoke. She said the ordinance would not give smokers a choice of a place to go other than home to smoke. She said Council needed to allow smokers a choice. If Council is really concerned about health, then do something about the 65 million Americans who are infected with herpes that could drink a glass of water and then she could get herpes as it can be transferred from saliva from a glass. She said let those people stay home if we are really worried about health. She said Council needed to look at giving smokers a choice and letting them have a bar-restaurant. They are giving non-smokers hundreds of choices, but not giving smokers any choices except to go home and smoke. She said she talked to the people on the petition but did not coerce them. She said people who signed the petition did so after a lot of one-on-one talk. She felt there is a way to allow smokers a place to go to smoke.

Councilman Smith stated he cannot vote for the ordinance as it is written. He said he felt Jane Page Thompson's comments are very well made. He said he did not like to pass ordinances which he felt will not be enforced. He felt there will be a problem with enforcement at some of the businesses.

Councilman Dewar stated if he did not think the city could enforce the ordinance he would not vote for it nor would he vote for it if he felt we would damage people's business. He said everything he has read indicates that in most cases business has improved. He said he understands that regulating smoking is a very difficult emotional issue. He said Council can always take another look at the issue. He felt the matter may turn out better than people may think.

Mayor Cavanaugh called for a vote on the motion.

Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council approve the ordinance as presented which does not allow smoking indoors in public buildings, but allows smoking outdoors, but deleting the requirement that "no smoking" signs be required on each building, Section 22-71. Further that staff will give warnings for violations of the ordinance for the next six months as opposed to tickets to give people a chance to get use to the ordinance. The motion was approved by a vote of 4 in favor and 3 opposed. Those opposing the motion were Councilmembers Smith, Vaughters and Wells.

#### ZONING ORDINANCE – ORDINANCE

##### Amendment

##### Underground Wiring

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Zoning Ordinance and the City Code regarding underground wiring.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE ZONING ORDINANCE AND CITY CODE REGARDING UNDERGROUND WIRING.

Mr. LeDuc stated in January, 2008, City Council discussed an ordinance concerning underground wiring as recommended by the Planning Commission. At that meeting all the affected utilities wanted to discuss this item in more detail due to the changes this ordinance would bring about.

The original recommendations from the Planning Commission required undergrounding whenever there would be an upgrade or maintenance on existing lines. Therefore, lines that were down after any major storm could potentially be required to be underground. Also, if they were changing a service due to age or upgrades, even if mutually agreeable with the city, the line would be underground.

This all came about because a few years ago Aiken Regional developed some new property and the power lines along this roadway were installed above ground, which was not the intent of Council as per the Land Development Regulations. The power company stated the above ground installation was an economic decision. To avoid this from happening in the future, Council asked the Planning Commission to review several sections and to amend them as necessary regarding underground wiring.

The city recently met with SCE&G, Aiken Electric Cooperative, Atlantic Broadband, and AT&T to discuss these changes. Based on this discussion we are now recommending the proposed ordinance. This will require all electric services to new residential or non-residential areas to be underground, which was the original intent of the requested ordinance. It also allows the City Manager to resolve any conflict between the ordinance and the existing franchise agreement and to determine which one supersedes the other. In addition, if there is a circumstance where undergrounding is not feasible, upon written permission from the City Manager these areas could be considered for overhead wiring. Mr. LeDuc stated he had received a letter from Keller Kissam, of SCE&G, who is concerned about who will pay for the underground servicing to new areas. Will it be forced on SCE&G or Aiken Cooperative or will it be up to the private property owner? He said the city had already had undergrounding for new developments and new subdivisions for some time, but the source of payment had never been discussed. He said the intent of the ordinance is that service lines for new developments should be underground, and the proposed ordinance better defines how this will take place for new areas, residential or commercial.

We believe this ordinance satisfies the original intent and adds language to unequivocally require new services areas to be underground. It was an excellent meeting with the utilities, and Lex Kirkland has led this effort in helping to get these changes made.

Mr. LeDuc stated there is not 100% agreement on the proposed ordinance, but it is a compromise and it meets the intent of Council.

For City Council consideration, we are recommending the proposed amendments to the Zoning Ordinance and City Code regarding underground wiring. Upon City Council consideration, a second reading and public hearing will be held.

Mayor Cavanaugh asked who does pay for installations for new businesses or new residential subdivisions.

Mr. LeDuc responded the city does not pay for it.

Mr. David Mottel, of SCE&G, stated each development will be considered. He said sometimes there will be no charge for undergrounding based on density. If there is a cost to serve, it is borne by the developer. He said undergrounding seems to be the mode for aesthetics. He said they try to do undergrounding when it works, but if there is a cost it is borne by the developer. In response to a question regarding the cost difference for undergrounding, he said the cost difference is estimated to be about 80% more to underground and about 80% more for maintenance. He pointed out lighting strikes are evident for overhead wiring, but with underground wiring where a problem may be is more difficult to determine.

Councilmembers pointed out that with undergrounding there is not as much damage when there are ice storms and trees do not have to be trimmed for maintenance as with the overhead lines.

Councilwoman Price asked if the power companies, AT&T and Atlantic Broadband work as a team for underground services.

Mr. Sam McGill, of Atlantic Broadband, responded that they follow power lines if they underground. Generally Atlantic Broadband is supportive of the present ordinance. He said they were in general agreement and appreciated language being added to cover some areas where circumstances arrive that it may not be in the best interest of all parties to underground. He pointed out squirrels and trees are the biggest problems above ground, while lightening is the biggest problem underground. He said there is a lot more damage to underground lines in the summer due to lightening storms than from squirrel damage with overhead lines. He said it is also 75% to 80% higher to install lines underground versus aerial.

Ms. Henri Etta Baskins of AT&T thanked the City Manager's Office for working with the utility companies on the issue of undergrounding. She said they don't normally follow the electric companies. She said in new installations they go underground and are placing fiber. However, the cost ratio is still the same which is 75% to 80% difference in cost. She pointed out the proposed ordinance agrees that in new areas lines will be underground, but when doing maintenance issues, slight upgrades or repairs to something already there, they do not have to tear it out and go underground. This is a great improvement in the ordinance. She did state in response to a question by Mayor Cavanaugh that in some cases the economics might be that rather than spend maintenance dollars it might be better to spend capital dollars and put the lines underground. This would be a case by case situation.

Mr. McGill stated there are circumstances to consider when asking who pays for undergrounding. He stated being a private company they fund all the construction costs that are involved. He stated the customer is required to pay for a line to within 150 feet of a service line.

Mr. David Mottel, of SCE&G, stated there is an effort to remove certain facilities from overhead to underground to improve appearance and this is where the non-standard fund is used. This is funds collected from the franchise fees and is banked for a municipality and can be used with matching funds from the municipality to take care of undergrounding present overhead facilities to improve an area such as in streetscape projects.

Mr. LeDuc pointed out there are several projects like that which are presently being done in the downtown area. He said there is an agreement for this with both SCE&G and Aiken Electric Cooperative in the franchise agreement. He said he sees the ordinance further emphasizing that for all new services whether residential or commercial where there has never been service before, the lines need to be underground.

Council continued to discuss the proposed ordinance with the utility companies present and the reasons for undergrounding and the need for the city and the companies to work together on these matters.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve on first reading an ordinance to amend the Zoning Ordinance and the City Code regarding underground wiring and that second reading and public hearing be set for the next regular meeting of Council.

#### ZONING ORDINANCE – AMENDMENT

Accessory Structures

Larlee, Grant

Horse District

HD

RSS Zone

RSH Zone

Mayor Cavanaugh stated a request had been received that the city modify the Zoning Ordinance concerning accessory structures.

Mr. LeDuc stated a letter had been received from Grant Larlee who would like to request City Council consider changes to our current Zoning Ordinance concerning accessory buildings. This ordinance under Section 3.4.2(d) states "the floor area of all accessory structures may not exceed more than 50% of the heated gross square footage area of the principal building."

Mr. Larlee is requesting that the 50% square footage requirement and height requirement not pertain in the Horse District, RSS and RSH zones. In many of these areas small homes are being enlarged so the accessory buildings can fit within that 50% range. The accessory buildings consist of barns and paddock areas to support activities within the Horse District. Many times a barn, carriage garages, feed rooms and tack rooms, can become as large or even larger than the principal building.

At the last BZA meeting a Special Exception was denied on a 3-3 vote to not allow a structure larger than the 50%, and changes to the ordinance would give greater latitude to home owners within the horse areas. If Council is open to this suggestion, we will send it on to the Planning Commission who can add this request to their Action Agenda and can review it at their August meeting and hopefully recommend changes to City Council in September. This would not pertain to the entire city, but the HD, RSS and RSH zones.

Mr. Grant Larlee, 1096 Toolebeck Road, explained to Council the reason for the large accessory buildings in the HD, RSS and RSH zones. He pointed out a barn may have stalls, a feed room, a tack room, and a wash stall. In the particular case which was denied there was room for two carriages as well. The house on the property was only 2,100 square feet. An addition was to be made to the house which would make the house 3,000 square feet, but the accessory buildings would still exceed the ratio. He did not feel that the floor area of all accessory structures should not exceed 50% of the square footage of the house in all zones, especially the HD, RSS and RSH zones where the accessory buildings tend to be very large for horses and horse uses. He pointed out in this case the Design Review Board had approved the barn and house renovations. However, when he went to get permits the issue of accessory buildings not exceeding 50% of the floor area of the main house was raised. The matter was delayed while the request went through the Board of Zoning Appeals advertising and posting. Then the request was denied. He asked that Council consider eliminating the 50% accessory building rules in the Horse District. He suggested that if the Design Review Board approves the structure why would the 50% rule even apply in the Horse District. He hesitated to suggest a percentage as this might cause problems again in the future.

Council then discussed the particular case that was denied and the reasons for the denial. They discussed the location and the size of the particular lot and the variances that had to be obtained because the lot was too small to allow the buildings. They discussed the buildings that were proposed for the lot and the reason for the large buildings that exceeded 50% of the floor space of the house.

Councilwoman Vaughters asked if the Horse District Committee could consider these issues.

Mr. LeDuc stated the city has an Equine Committee, but this is not an issue that they would consider as they usually consider safety issues with horses.

Mayor Cavanaugh stated the issue is whether Council wants the Planning Commission to look at this issue and make a recommendation to City Council.

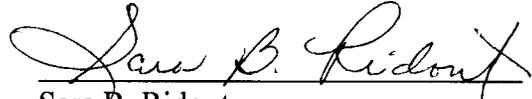
Councilman Dewar moved, seconded by Councilman Smith and unanimously approved, that Council ask the Planning Commission to consider the request of Mr. Larlee that the rule that accessory buildings not exceed 50% of the floor space of the principal house be eliminated from the Horse District, RSS and RSH zones and make a recommendation to Council.

BOARDS AND COMMISSIONS

Council discussed whether to continue the worksession on boards and commissions at this meeting or whether to set the discussion for another date. Councilman Dewar stated he did not feel there was a rush and since another worksession item is planned for the August 11 meeting, perhaps the matter of boards and commissions could be discussed in September.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:29 P.M.

  
Sara B. Ridout  
City Clerk