

at the next meeting. Mayor Johnson asked the applicant to state his name and relationship to this application. Mr. Rashmikant Patel came forward and identified himself and said his wife will be the manager at the location. Mayor Johnson asked Mr. Patel if he understood that Council will recommend a continuance of this public hearing so the concerns could be addressed. Mr. Patel said he saw what was recommended on the agenda. Upon motion of Alderman Sadler, seconded by Alderman Thomas and carried, this hearing was continued for two weeks. **(CONTINUED TO THE MEETING OF NOVEMBER 10, 2004.**

ZONING HEARINGS

As advertised hearing was held on the petition of **Harold Yellin, Agent for Petitioners Sharon Stinogel and Lisa Carr and Owner Frank Finocchiaro (Z-040903-39011-2)**, requesting to rezone 321 Habersham Street from R-I-P-A-1 (Residential Urban) to RIP-D (Medium Density Residential). The Metropolitan Planning Commission (MPC) recommends denial because the proposed zoning is not consistent with the City's Future Land Use Plan and would establish a zoning district that is incompatible with the surrounding residential neighborhood. Recommend denial.

Ms. Charlotte Moore came forward and reported that this is a request to rezone property at the northwest corner of Habersham Street and East Harris Street from R-I-P-A-1 (Residential Urban) to RIP-D (Medium Density Residential). The zoning map was shown on the monitor. The property is currently developed multi-family residential and the garden level is a restaurant. The restaurant owners want to rezone the property so the restaurant would become conforming. Currently, in the RIP-A-1 district, it is nonconforming. The owners also want to sell wine and the rezoning to RIP-D would enable them to apply for a license to sell wine. Ms. Moore explained that the area bordered by Lincoln Street, East Liberty Street, Price and East Jones Streets was rezoned from R-U (Residential-Urban) in 1984 to RIP-A-1. This is the only area in the City zoned RIP-A-1 and was specifically created for this area. In 1964, there were land use controls through an urban renewal plan and because the restrictions expired in 1984, the residents were concerned about protecting the residential character of their neighborhood. The RIP-A-1 classification was created. This is a district that is somewhat similar to the RIP-A district. The development standards are identical, except that the lot width within this district is 18 feet and the RIP-D district is 20 feet. The other differences would be with regards to land uses. The RIP-D district is more extensive with the number of commercial uses that would be allowed. Among the uses that would be allowed that are currently not allowed in the RIP-A-1 district include rooming houses, childcare centers, banks, pharmacies, antique stores, personal service shops, restaurants that serve beer and wine, and catering services. The only nonresidential uses she noticed when she was in this area were a restaurant, a church, a private school gymnasium, and an art gallery. MPC expressed concern with the rezoning. They felt that there would be too many uses that would be allowed within this predominantly

residential area. They are also concerned with the nuisances that might occur as a result of the rezoning. At the MPC meeting, two other conditions to allow a restaurant with this use were noticed. One condition is that the restaurant would have to be located on an arterial roadway. Habersham Street is a collector street and East Harris Street is a minor street. If the property was rezoned, a text amendment would be needed to allow the restaurant to become conforming at this location. Ms. Moore reported that MPC recommended denial of the request. They believe that the RIP-A-1 district that currently exists is appropriate. Alderman Jackson wanted to know what is presently in this location. Ms. Moore explained that this is a multi-family residence and also a restaurant. She showed a picture of this location. The ground floor is a restaurant and above it are a couple of residences. Alderman Clifton Jones stated that he believed Attorney Yellin would be withdrawing his petition and would be asking for a text amendment in order for wine to be served. Ms. Moore stated that a text amendment has been filed with MPC, but it has not been heard by MPC. The text amendment was filed first, but the petitioners decided that they wanted to pursue the rezoning. The rezoning, therefore, has been heard by MPC and is today before City Council. The text amendment will not be heard today.

Attorney Harold Yellin came forward. Mayor Johnson asked Attorney Yellin if he would be speaking on the text amendment or the rezoning request. Attorney Yellin stated that he would be speaking on the rezoning request and perhaps a direction for City Council to take, which may also include the text amendment. Mayor Johnson explained that if MPC had not discussed a subject, perhaps it would not be appropriate to discuss it until after MPC discusses it and recommends something to City Council. Attorney Yellin replied that he understood what Mayor Johnson was saying, but if he would give him a moment to unwind this, he believed it would all become clear. He was present on behalf of Ms. Sharon Stinogel and Lisa Carr, the owners of Firefly Café. The request that he would make is that this matter be sent back to the MPC in part because there is a flaw in the petition that is before Council. However, he believed that it was important that they have an understanding of what is before City Council. MPC is looking for some direction from Council as to which way to go. Council knows this location and the picture shows what is here. This has been a unique business corner for many years. Prior to the Firefly Café, this was the Voodoo Café, the 3-2-1 Café, Troupe Square Café and Joanna's. There seems to be a need for a restaurant, but all of these restaurants have simply come and gone because they could not sustain this location. When he lived on Troupe Square, this was TTT Meats. Before TTT Meats, it was an Italian grocery store. Attorney Yellin stated that the rezoning petition before Council is interesting in a lot of respects, but he believed the most interesting aspect is that the petitioners want wine only. Not beer and wine, but just wine only with a meal. He believed this is significant because it underscores the idea that the petitioners want to have a neighborhood café; not a bar, not a tavern, but a neighborhood café. He was personally not aware of any other petition that has been before Council that is for wine only. The dilemma appears on page

three of what he presented to Council. The City zoning ordinance currently has 65(a) and 65(b) which provides for beer, wine and alcohol. However there is no ordinance for just wine. This is the reason he drafted a text amendment when he originally went before MPC. The text amendment draft was in the handout he gave City Council and is highlighted in "yellow." The first two columns show the existing ordinance. Attorney Yellin said he tried to create a proposed wine only ordinance and would not go through the entire ordinance because it is not before Council today, but it is important that Council see this as there is an evolution to his being here. This ordinance talks about wine only, no alcohol or beer. It talks about a restriction of hours and only between certain hours, no display of advertisements, no pool tables, no amusement games, no karaoke and no dedicated bar area. The big restaurants such as Johnny Harris has a dedicated bar area, but none of this would be here. They did everything they could to try to limit the scope of what a restaurant could be, but when they met with the staff, they were concerned that by doing a text amendment, changing the ordinances versus a rezoning, it might cause a city-wide study. This would not be bad, but there is concern that tackling this issue would be tackling a bigger issue. Therefore, they went out and looked at the restaurants that Council has approved in the past. Good Eats on Abercorn was rezoned. Juarez formerly LeTocque and Suzabelles on East Broad Street were rezoned. Therefore, they believed this was the path of least resistant and decided to go this way. Suzabelles was rezoned with Section 8-3030 in the ordinance called site plan specific. He brought this up because Alderman Osborne asked in the Pre-Council meeting if there was a way to allow something, but tie the hands and make it so that nothing else could be done and if this restaurant leaves, something else could not come in. This is what Council did with Suzabelles. They used Section 8-3030, which he believed under the new ordinance would be 8-3031. The day before they went to the MPC meeting, they were informed that their rezoning had flaws in it because originally they thought Habersham Street was an arterial street, but it is a collector street. There was a discussion about the townhomes across the street whether they were five (5) one unit dwellings or one five unit dwelling and this makes a difference. He said that Mr. Tom Todaro, Zoning Administrator, made a ruling and he disagreed with him, but respects his opinion. Because of those rulings, these are the flaws and if Council approved their rezoning, they could not accomplish what they want to do and would be back at the beginning. If Council believes as he does and as the many neighbors who came to speak in favor of this petition at MPC, including many people who live directly across the street and the church next door believes that a wine only ordinance makes sense, this matter needs to be sent back to MPC. Many people spoke against the rezoning, but many people spoke in favor of it. He believes that MPC did not want to initiate a study, but were looking for guidance from City Council. There is another reason for a study, which would be to resolve some of the inconsistencies that are downtown. It always amazes him that when a downtown church or synagogue has a function where they serve beer, wine and alcohol no one complains no matter where they are located. When a downtown school building has a private party and beer, wine or alcohol is

served, you don't hear a word. When a museum hosts an event and beer, wine or alcohol is served, you don't hear a thing. Attorney Yellin explained that in downtown Savannah under the Alcohol Beverage ordinance, you can go into a restaurant or bar that serves beer, wine and alcohol take a to-go cup, walk out the door into the residential neighborhood next door and drink in the residential neighborhood. You can go to Pinkie Masters, which is two blocks away from Firefly, take a to-go cup, come to Firefly and get a to-go meal and sit in Troupe Square. But, you cannot go into the Firefly and do the same thing. There are too many inconsistencies that he feels need to be addressed. Perhaps, there is no place where it is even more apparent than in the downtown inns. He said that the previous City Councils, not this Council, made a determination that beer, wine and alcohol can be served to guests of an inn, no matter where the inn is located. Therefore, the standard we have is that if you are an out-of-town guest, you can come in and have anything you want with or without a meal. You can have a gin and tonic for breakfast if you desire at a downtown inn, but folks who live in Savannah and want to go to a restaurant cannot have something with a meal. These inconsistencies need to be addressed. They are not terrible inconsistencies and he believed these are things that can be cleaned up quickly. He was aware that this Council has gone to great lengths to protect neighborhoods and he, too, believed in this. However, this is neither a package store, nor a bar or tavern and this is the reason why wine only was selected to ensure that it was not intrusive into the neighborhood. They are convinced that there is a way for a restaurant to reach its potential and protect the neighborhood as well. Just as Elizabeth on 37th Street is good for its neighborhood, Suzabelles is good for its neighborhood and Good Eats was good for its neighborhood. Attorney Yellin was pleased to report that they have a petition, which was submitted to MPC with more than 330 signatures. Of those signatures, 150 live in downtown Savannah and are in favor of this petition. Their closest neighborhoods are in favor of this petition. He was sorrowful that Mr. Cohen could not be present today. But, Mr. Cohen has stated that they loved having the Firefly Café across the street because it makes their neighborhood safer and he wants the people across the street to feel as safe as he when he walks out of his front door. A woman from the Unitarian church next door said they support this wine only petition and there is a letter in Council's package from the Monsignor of the Cathedral of St. John the Baptist church supporting the wine only. Attorney Yellin asked City Council to send this matter back to MPC offering their guidance and instructions. He believed this can work for the Firefly Café and the neighborhood. Attorney Yellin entertained questions from City Council. Alderman Clifton Jones stated that Attorney Yellin was asking Council to send the petition back to MPC, but MPC has recommended denial of the rezoning request. However, based on Attorney Yellin's summation, he wanted to know that in sending this rezoning request back to MPC, would it be permitting Attorney Yellin to change this to be able to serve wine only at this establishment. Attorney Yellin answered that in order for them to do what they have set out to do, they know they need a text amendment. This text amendment would be something that creates a use for wine only. We already

have beer and alcohol and beer and wine. But, something is needed to create wine only and they know at the very least that there is a text amendment. The MPC might recommend a rezoning or they might not, but once this goes back and the MPC and staff considers what the options are, this needs to be done as an organized study. There are a lot of inconsistencies in the downtown area with the way we do things. What he was trying to tell Council is that the petition before them is not ready. The rezoning of this property to a different zoning classification would not help them. If it is Council's instructions that they don't want this, is their discretion. If it is Council's instruction as to how this can be done, then it needs to go back to MPC to find out if this would involve a text amendment and a map amendment or possibly just a text amendment. He did not know which direction the MPC and its staff would go. Mayor Johnson said that Attorney Yellin identified a number of inconsistencies in the downtown area, which he certainly recognized once Mr. Yellin started pointing them out. He asked Ms. Moore if the Tricentennial plan was going to address these inconsistencies and come up with a more uniform and an equitable manner in the way we deal with alcohol in the downtown area. Ms. Moore answered that this would be a part of the plan. Alderman Sadler asked Ms. Moore if there would be something in the plan that would specifically address wine only. Ms. Moore answered no. Alderman Sadler stated, therefore, there is no use in the text now nor does the Tricentennial plan envision any single use for wine only. Ms. Moore answered that to her knowledge, it does not. Presently, the current ordinance separates restaurants that serve alcohol and the ones that do not serve alcohol. City Attorney Blackburn stated that since beer and wine are under state law and characterized as one of the same, it has never been addressed, but there is no reason that it cannot be addressed. He pointed out that one of the difficulties under the present zoning ordinance and the enabling legislation is that if this petition is denied, the property owner is precluded for one year to come back with anything. If Council desires to study this, the proper thing would be to refer the entire matter back to MPC. Mayor Johnson asked Attorney Yellin why he was decoupling beer and wine. He asked if beer was supposed to cause a different kind of behavior than wine. Attorney Yellin stated that this was a good question. Firstly, the particular clientele, just the economics of their people coming in and asking for wine. Secondly, our ordinance, as City Attorney Blackburn pointed out, couples beer and wine. But there appears to be a concern that people associate beer with something that you gulp as a person could come in and drink a lot of beers. But, it has been the experiences of the restaurant owners that people do not come in and drink a lot of wine. They may drink a glass of wine. He believed this has to do with behavior, he was not sure that he was articulating this well, but they thought that for downtown it made sense. This was why he mentioned Suzabelles as one of the options. There is an existing beer and wine Code section. Under the 8-3030, they can eliminate beer, even though they have the right to serve beer. Alderman Thomas told Attorney Yellin that he raised the issue about 8-3030. He asked Attorney Yellin that uncoupling the beer and wine, what was his idea about raising 8-3030 in this particular situation. Attorney

Yellin answered that he believed it would be similar to what Council did with Suzabelles. By limiting the restaurant's operating hours and limiting the hours of pouring of a particular beverage, they could limit the beverage itself to wine and not to wine, beer or anything else. They could limit the activities that go on in the restaurant such as he showed Council earlier. There would be no karaoke as this is clearly a bar activity, no pool tables, no videos, and no amusement games. Take out all the things they associate as being a bar and 8-3030 would do all these things and more. This is just a few of the things that he would recommend. City Council might have others, but through 8-3030, they can severely restrict not only what is served, but when and how it is served. Alderman Osborne stated that she has visited the Firefly Café many times. One only has to go into this restaurant to see that they don't have the capacity or the desire to become the kind of entity that becomes a bar. This is a small facility. She believed the capacity was approximately 44 patrons. The food is very good, but more importantly this is something that is consistent with some of the City's priorities. We have women and minority businesses trying to make it and they are doing a good job. She has heard from many residents in this area and to her the most common underlying point she has heard is they don't disapprove so much with Firefly Café having the wine, but they want assurances that this would not be passed onto the next person because they might not carry on in the same venue. If Section 8-3030 could assure this, she feels this would create a win-win situation for the owners and the neighborhood. Alderman Felser stated that Attorney Yellin spoke about consistency. On a number of occasions they have referred participants to talk with the neighborhood associations. He believed Council received a letter from Diane Brownfield, president of the Downtown Neighborhood association that they reached a consensus in opposition. Alderman Felser asked Attorney Yellin if the owners and he met with the Neighborhood association about their new idea or their way to customize this proposal. Attorney Yellin answered that they met some months ago with Ms. Brownfield and the Neighborhood association at his office. There was a concern about Pandora's Box - what happens if you let this one in? Will there be others? He could not tell Council that they specifically spoke about 8-3030, which is now 8-3031, but they talked about the possibility of drafting an ordinance so tight that it would apply maybe to this restaurant and not others. He believed that what he has drafted as the text amendment was not acceptable. But, he wanted to inform Council that at the MPC meeting, a gentleman stood up and said he was a member of the Downtown Neighborhood association and disagreed with their position. Mr. Yellin said he wanted to be fair, there are folks who are against this. Alderman Felser stated that he, too, wanted to be fair as Ms. Brownfield clearly stated that this was not a unanimous decision among the Downtown Neighborhood association, but a consensus. Attorney Yellin said anytime they talk about alcohol in downtown Savannah, they will always get reactions about what should be done and what should not be done. In the past, this City Council has turned folks down. Juicy Lucy was turned down about five years ago. However, Council passed the request for the 606 building on Abercorn Street. He knew that neighborhoods do come out and do what they do best, which

is to protect the neighborhoods. However, he believed that they will find, at least the persons he spoke with, that the churches closest to the neighborhood seemingly think that wine only is not an issue. They met with the Neighborhood association a long time ago and will be delighted to meet with the neighborhood anytime, but he was not sure if there is anything they can say or do that would give them unanimous approval of this organization. Alderman Johnson stated that he has heard that the Firefly Café has been good neighbors and he did not believe that the problem has been that they will not continue to be good neighbors. He believed consistency is the problem and City Council is trying to be consistent. This appears to be a spot zoning situation. The problem is as Attorney Yellin named all the restaurants that were here before regarding the perpetual use beyond the Firefly Café. Attorney Yellin is bringing the 8-3030 and 8-3031 proposal to Council, however, he has not gone back to the neighborhood and talk with them about this to see if this is something they can live with. Alderman Johnson said that Ms. Brownsfield was present along with some of the other neighborhood association members as well. But he wanted them all to be able communicate if this is something that they can live with. Likewise, if they are saying that they are going to go under a Tricentennial plan and establish some land use that is consistent, the problem is once they do it for Attorney Yellin others could come forth and say that they want wine only and then there will be a situation that might be out of control. Mayor Johnson said this was why he consistently raised the issue about the Tricentennial plan. The zoning ordinance enacted in 1960 no longer fits and whatever they adopt in the Tricenntennial plan should fit the reality of the present and look into the future of how we will use these various neighborhoods. He is serious about this and will consistently say this until they see what the Tricenntennial plan comes up with. Attorney Yellin said he just asked Ms. Moore the status of the plan. Mayor Johnson said the information Council is getting today should go back to whoever is working on the plan and should be a factor in what is brought forward. It is clear that we have inequities in the way we deal with this. In one place downtown, they say no and in the same downtown area, they say yes. This needs to be consistent so that people will know what they can do when they get ready to start a business. They need to be consistent that if it is not in conformance with the zoning ordinance, it will not happen. Mayor Johnson entertained comments from the public.

Mr. Ron Berry came forward and stated that he lives at 22 Habersham Street, two squares north of the Firefly Café. He was representing a group called, the Residents for the Production of Downtown Neighborhoods. This is a grassroots organization. He summarized this organization's mission statement by saying that the residents in downtown Savannah are constantly feeling the commercial pressure that wants to intrude into the areas that are zoned for residential. They want to have a unified front that opposes all intrusions of alcohol sales in the residential areas. They have more than 165 residents that are members of the organization. They all speak with one voice. Mr. Berry said this rezoning request began as a text amendment. Attorney Yellin met with the MPC staff and they told him that they would not accept a text amendment and there were

good reasons why the MPC staff said this. He believed there were more reasons than what Attorney Yellin shared with City Council. The zoning cannot be worked out on a napkin. They cannot handout a petition at a restaurant and have the circumstances be whoever walks into the restaurant who might want to have a glass of wine sign a petition and let that dictate our zoning laws in the City of Savannah. He said that Attorney Yellin changed and said that he would not do the text amendment, but would try the spot zoning for RIP-D classification. As Mr. Yellin has already told Council, RIP-D has a problem as it is limited to arterial streets. There is a reason for placing the arterial limitation on the current RIP-D zoning. This keeps the bars and restaurants that want to serve alcohol out of the residential neighborhoods. If they look at the text amendment proposal, it eliminates this restriction. He has taken an isolated situation where some nice folks operate a restaurant, want to serve a glass of wine and has now created a text amendment that would create a new zoning district which would allow alcohol sales everywhere. If they look at the map, about half of the downtown area is already available for alcohol sales and about half of the city is not. This seems to him to be a fairly good mix. This allows plenty of opportunities for both sides. He agreed with Mayor Johnson that a comprehensive overview analysis is needed for the entire city. **Ms. Diane Brownfield** came forward and stated that there are many people, including her, who love the Firefly Café and drink wine with their meals. She is an inn owner and recommends this restaurant to everyone who comes into her inn. Their concern for the most part, this is not every member of the Downtown Neighborhood association, is about the fragile part of the Historic District and how it is defined. They are concerned that in 45% of this city, you can have alcohol. They want to know what is next. Will Clary's be able to come before City Council and say they want beer only and don't want to close at 10:00 o'clock, but want to close at 11:00? Could Wall's Bar-B-Que do the same? How could Council deny these establishments? They realize that this group is asking City Council to disregard their own ordinances regarding no alcoholic beverages be sold within 100 yards of a school. We have rules and regulations and they are made for a reason. She believed the rules and regulations were made to protect the neighborhoods. The older people have told her that they chose to buy their homes in this area because it is a restricted area. These restaurant owners, who own a good neighborhood restaurant, want to do their own thing. Yet, they knew what the rules and regulations were when they came into this area. Ms. Brownsfield said she realized that they all could pour a glass of wine, walk to the Firefly Café and sit there probably with their wine and this would probably be alright. There are some inconsistencies, but she was asking Council to be considerate of the neighborhood and listen to what the majority of the members on the Downtown Neighborhood board feel is the right thing to do.

Mr. Dean Horstman came forward and stated that he lives across the square from the Firefly Café. He wanted to point out two points. He believed that the consensus of City Council at the time in creating the RIP-D zone on Liberty Street was that it was across the street from a commercial zone. Therefore, it was not spot zoning and he understood

that state law prohibits spot zoning. This RIP-D, if it is created, would be in the middle of an RIP-A-1 instead of on the edge. The second issue is not the current owners, but future owners. If the current owners have liquor, wine and beer licenses or just a wine license and somebody comes in and buys this business, he did not believe that the next owner could be prohibited of getting the same license unless they had some legal problems. **Ms. Patricia Mason** came forward and stated she owns property at 119 East Jones Street. She agreed with what was said about the excellent quality of the Firefly Café and that they are good neighbors. Procedurally, Council has been asked to send this rezoning request back to MPC. She believed that although Attorney Yellin was asked not to go into the text amendment issue because MPC has not heard the issue yet, essentially he asked Council to go into the text amendment and pronounce that it is a good idea and send it back to MPC with some kind of advice that Council is in favor of a text amendment change to allow this. This would be the only reason to send this back. Mr. Yellin admits that the rezoning is not going to accomplish what this landowner wants. MPC has already stated that this is contrary to the proposed plan, contrary to current zoning and planning principles. Therefore it is inappropriate from the applicant's point of view and from MPC's point of view. This rezoning request should be denied at this meeting and not sent back to MPC. MPC can on its own take a clear look without direction from City Council on the issue of whether a text amendment change should be made and whether this text change or some other text change is the change to make. This recommendation should be brought to City Council and then Council at that point could take a look at the reasons for or against the text change. Sending this back to MPC is saying maybe the zoning isn't good, but look at the text change. This will have the complication of possibly permitting other uses that are undesirable in this area. She urged Council to deny the rezoning and allow MPC to consider a text change and take a comprehensive view of the comprehensive plan to see whether a text change is necessary to accomplish the goals and objectives of the comprehensive plan in this area and all other areas. City Council has spoken on the issue of inconsistency and even if this is limited by 8-3031, the format would be here already as a precedent other property owners could use. She said that Attorney Yellin cited Suzabelles. But, do they want the Firefly Café property to be cited in the future when somebody else is standing before City Council? **Ms. Lorraine Warlick** came forward and stated that she lives a half block away from this restaurant. She is in favor of this rezoning. She remembers the other restaurants being here. The Firefly Café closes at 10:00 p.m. and on Sunday closes at 3:00 p.m. **Mr. Frank Finchiarro, property owner,** came forward and stated that the owner of the Firefly Café is the best tenant they have had. The restaurant owner asked him about this rezoning a few years ago and he told her that there are churches and schools around her, but, she wanted to pursue this. Mr. Finchiarro said he was asked to sign the petition. He and his sister-in-law own the property. He believed that Council needs to consider the individuals, rather than how drunk a person can get on wine and beer. Wine has been on his table since he was a child. Let the petitioner have the license and if she violates the law, he will be the first to help close the

restaurant. **Ms. Lee Alexander** came forward and stated that she is a member of the Unitarian Universal church that is across the street from the Firefly Café. Many of them visit the Firefly Café as much as they visit the church. They have no objections to the Firefly Café getting a wine license and believe it would be in order for Firefly Café to get the wine permit. They are good friends, good neighbors and conscientious citizens. Ms. Alexander said laws are passed for the benefit of the majority of the people and certainly this is as it should be, but some times the exercise of those laws catches the little people in the cracks. When there is a harmless way that this can be gotten around, isn't it a good idea to do that. Mayor Johnson said he was glad that Ms. Alexander made that exception. There is a book written by Professor Lani Guiner called, "the Tyranny of the Majority." There are times when we have to be sure that we balance the issue of the majority rules as opposed to the rights of minorities. Council has been admonished to look at it in the other way. There is a profound question in a democracy about balancing the rights of the majority against the rights of a minority and vice-versa. Alderman Clifton Jones moved that the petition be sent back to MPC for further study and that they ask for another report on this matter in four weeks. This was seconded by Alderman Sadler. Mayor Johnson called for the discussion on the motion. Alderman Thomas believed MPC needs further directions from City Council. Mayor Johnson asked Alderman Thomas if he had a recommendation. Alderman Thomas said Council has heard a lot of different sides to this issue. He believed they need to see what kind of ordinance would work if it is the wishes of the MPC and City Council to move forward to approve the issuance of a wine license for the Firefly Café. They need to see what kind of ordinance would work that would protect the neighborhood and accomplish the petitioner's request with conditions. Alderman Thomas moved to amend the motion that City Council send this petition back to MPC directing them to look at a way an ordinance could be crafted possibly using something on 8-3031 or some other form that would protect the neighborhood and allow some sort of use in this location. City Attorney Blackburn asked Alderman Thomas not to use the 8-3031 as an example as he was not convinced that 8-3031 is appropriate. He preferred that the instructions be for MPC to examine this subject matter. Another interesting part is this particular business is a nonconforming use and is grandfathered in. There are a number of issues that MPC would have to examine, including what appropriate section this would come under. Alderman Thomas withdrew this motion and moved that this petition be sent back to MPC for their review. Mayor Johnson stated that this motion is the same as made by Alderman Jones. Alderman Osborne said for a point of clarification, the City Manager sits on the MPC representing the City and could express the concerns of Council. She believes what has been expressed by all could be voiced by City Manager Brown on Council's behalf. City Manager Brown stated that he would do so. Mayor Johnson explained that they are seeking a way to protect the neighborhood and at the same time give a good business an opportunity to remain in business. Alderman Johnson added that there needs to be consistency in the rezoning. Mayor Johnson said that this is his concern also as the present ordinance fosters inconsistency. He wanted it to be clear. Either the use

is permitted or it is not. Alderman Felser wanted assurances that when this comes back it will be consistent with the phrase, "the City's Future Land Use Plan." Mayor Johnson said they don't know what is the land use plan. Ms. Moore wanted to know what Council was requesting comeback in four weeks from MPC. Mayor Johnson explained that they want the recommendation to take into account what Mr. Yellin proposed to MPC and that he meet with the neighborhood for a consensus. City Council will vote to either pass something or deny something in four weeks. Ms. Moore said if a text amendment is being proposed, it would need to be advertised 15 days before City Council's meeting and the next MPC meeting will be November 2 and the following meeting would be November 17. City Council's meeting would be November 24. Alderman Jackson said six weeks would probably be better if Alderman Jones accepts this into his motion. Alderman Clifton Jones amended the motion and moved that this petition be sent back to MPC directing the MPC staff to look at a way an ordinance could be crafted that would protect the neighborhood and allow some sort of use in this location and comeback to City Council in six weeks. This was seconded by Alderman Sadler and carried. (CONTINUED TO THE MEETING OF DECEMBER 9, 2004).

ORDINANCES

First and Second Readings

Alderman Cook believed there was one property included in this rezoning request that had an issue. He wanted to be sure the issue was resolved before the ordinance is passed. Ms. Moore said the Wallace family property was removed from the study area. City Manager Brown explained that he believed there were two issues. One property was removed that was close to Varnedoe and the Weight Center and there maybe an issue with the property that fronts on Montgomery Cross Road. They thought the agreement was that this property would be rezoned to PUD-TS-B with buffers and site plans, but he was not sure if an agreement is on this. He asked Ms. Moore if she knew of any disagreements on this property. Ms. Moore said she believed there is an agreement to rezone this property to P-I-P. City Manager Brown stated that he was not sure if all the residents concurred with the P-I-P rezoning. Ms. Moore reported that at the MPC meeting, there was no objection. Mr. Brown said there were no objections at the MPC meeting, but there maybe objections to that particular rezoning. Mayor Johnson asked Mr. Herbert Kemp of the Sandly Betterment Association if they had any objections. Mr. Kemp answered that they had no objections.

Ordinance read for the first time in Council, read a second time, placed upon its passage, adopted and approved upon motion of Alderman Thomas, seconded by Alderman Felser and carried.

AN ORDINANCE TO REZONE CERTAIN PROPERTIES FROM THEIR PRESENT P-R-4 ZONING CLASSIFICATION TO A P-RM-25 ZONING CLASSIFICATION; A P-RM-15 ZONING CLASSIFICATION TO A P-RM-25 ZONING CLASSIFICATION; AN I-P ZONING CLASSIFICATION TO A

Alderman Johnson asked if the stipulation of the date certain should be a part of the motion. City Attorney Blackburn explained that Council can address any subject matter in the ordinance when it comes before them. Mayor Johnson said the ordinance will be drafted with what they have agreed to today and at the meeting of January 20, 2005, the ordinance will be before City Council for action. The motion carried with Alderman Sadler abstaining. **(ORDINANCE TO COVER WILL BE DRAWN UP FOR PRESENTATION AT THE MEETING OF JANUARY 20, 2005).**

Continued from the meeting of October 28, 2004, hearing was held on the petition of **Attorney Harold Yellin, Agent for Petitioners Sharon Stinogel and Lisa Carr and Owner Frank Finocchiaro (Z-040903-39011-2)**, requesting to rezone 321 Habersham Street from R-I-P-A (Residential Urban) to RIP-D (Medium Density Residential). The Metropolitan Planning Commission (MPC) recommends denial because the proposed zoning is not consistent with the City's Future Land Use Plan and would establish a zoning district that is incompatible with the surrounding residential neighborhood. **The petitioner has withdrawn the rezoning petition and is seeking a text amendment, which is scheduled to be considered by MPC on January 4, 2005. This schedule will allow additional work by MPC as City Council requested including neighborhood meetings and determination of operational requirements for alcohol sales if the text amendment is granted.**

Upon motion of Alderman Clifton Jones, seconded by Alderman Thomas and carried, approved the City Manager's recommendation.

As advertised, hearing was held on the petition of **Marsha Verdree (Integral Properties, LLC), Petitioner/Agent, Housing Authority of Savannah, Owner (Z-040402-55623-2)**, requesting to rezone 33 lots in the Benjamin Van Clark neighborhood from R 4 (Four Family Residential), R-B-1 (Residential-Business), and P-R-M 25 (Multi Family Residential, up to 25 units per net acre) to R-I-P-B (Residential, Medium Density) in conjunction with General Development Plan approval pursuant to Section 8-3031(d)(1)(a). MPC recommends approval because the existing development standards are not entirely characteristic of development patterns in portions of the neighborhood, and the R-I-P-B district along with General Development Plan approval will allow greater compatibility and be more restrictive. MPC also recommends reducing the required side yard setback for 10 corner lot residential units located less than 15 feet from the right-of-way subject to several conditions. **Recommend approval of the MPC recommendation. The rezoning will provide for residential densities which are consistent with or lower than historical neighborhood densities. The developer has committed to housing unit designs which are elevated on foundations and which include porches which are consistent with residential structures in the area. Concerns about drainage have been address by the major improvements in the North Casey Basin and by plans to improve the sub-basin in**