

stated that he had a concern too, because this is a business that has been ongoing for years. He would like to find a way for the establishment to continue doing business because you are innocent until proven guilty. City Manager Brown stated that the establishment has a bona fide license holder who could continue to operate so we would not be closing them down. They could not make the transfer until we have the hearing. For clarification, Alderman Johnson asked the City Manager if the establishment could continue to operate. City Manager Brown answered yes. Alderman Clifton Jones moved to continue this hearing for four weeks for a show cause hearing. The business will be allowed to operate during this period. This was seconded by Alderman Johnson and carried. (CONTINUED TO THE MEETING OF MARCH 16, 2005).

Continued from the meeting of January 19, 2005, hearing was held on the petition of Rashmikanth Patel t/a Shiv Convenience Store. A hearing for to show cause why his application for a beer and wine (package) license at 2014-2016 Skidaway Road, which has a 2005 liquor, beer, and wine (drink) license issued to Aleatha D. Lewis t/a Raymond's Lounge in a separate part of the building with a 37th Street entrance and is located between 36th and 37th Streets in District 3, should not be denied because there have been "Alcohol Sale to Minor" violations at two of his other three businesses inside the city. He will not personally be present as the manager or operator of the store; and the building is in a strip commercial area located between two residential areas and also houses an adult entertainment bar.

City Manager Brown reported that prior to the meeting Attorney Diane McLeod requested a two weeks continuance for this hearing. Upon motion of Alderman Johnson, seconded by Alderman Thomas and carried, this hearing was continued for two weeks. (CONTINUED TO THE MEETING OF MARCH 3, 2005).

ZONING HEARINGS

As advertised, hearing was held on the petition of Harold Yellin, Agent, Sharon Stinogel and Lisa Carr, Owners (Z-040702-37207-2), requesting a text amendment to Amend Section 8-3025(a) to create a New Use 65(e) to permit sit-down restaurants serving wine within the RIP-A-1 (Residential-Institutional-Professional residential urban) zoning district. The Metropolitan Planning Commission (MPC) recommends denial of the text amendment because it would allow a nonconforming restaurant to become conforming in an RIP-A-1 zoning district where it would not be compatible with other permitted uses; and the petitioner's proposed performance standards would not adequately protect nearby residences from potential nuisances. The City Manager recommended approval provided that stringent rules are established for the sale and consumption of wine at the restaurant.

City Manager Brown explained that on October 28, 2004, the petition of the Firefly Cafe at 321 Habersham Street was presented to Council. At that time, Council held a public

hearing and received comments. The Mayor and Aldermen elected to send the petition back to the Metropolitan Planning Commission for rehearing and consideration of what conditions or stipulations would allow wine to be sold at the establishment. The public hearing was held at the MPC with a vote of nine (9) to one (1) to deny the petition. They did not get into an extended discussion about the stipulations that might apply in order to safeguard the neighborhood from obnoxious side affects of alcohol. Mr. Brown believed that the big issue, and it's valid on both sides, is what activities are permissible in an area that is residential or partially residential and would alcohol be a detriment to that neighborhood. The petitioners, through their attorney, Mr. Yellin, presented to Council a set of stipulations and he did not believe they were original as these are conditions that have been placed on a number of other locations around the downtown area such as at East Broad and Broughton, Bull and 36th and so forth. They had to do with limiting the hours of operation and sale of alcohol. No external advertising and not having a bar inside the establishment, meeting the food sales requirements for alcoholic beverage establishments, regulating the hours of deliveries and trash. He believed that with these restrictions, which have worked in other locations, this should be considered. A map of the other alcoholic beverage locations in the downtown area was shown on the monitor. The top of the map showed the Savannah River, the left hand side showed MLK and the right hand side showed locations to East Board Street. Shown in yellow was the northwest quadrant of the City and other portions that permit lounges and package shops. Most of the entire downtown area does allow some type of alcoholic beverage sales and every area that has inns and bed and breakfast are allowed to get a license that is applicable to inns in which they can sell and have alcohol consumed on premises by the patrons of the establishment and their guests. City Manager Brown believed this was an arrangement that began approximately 15 years ago and has worked well. He believed the valid concern in this case is that a restaurant could in practice get turned into a bar because a restaurant does not have limits of hours on its operation. Bars must close at 3:00 a.m. The question can become what happens after 8, 9 or 10 o'clock at night if there is alcoholic consumption on premises and if that alcohol leaves in the form of go cups, the patrons exit and cause noise and the other obnoxious side affects of people leaving bars. This is a valid concern and also a concern that we would be opening the door to other locations to be able to sell. On the first concern, City Manager Brown believed that these stipulations are rigorous and would compel the owners to operate according to the requirement and not just to the zoning compliance, but if they fail to comply with these requirements, we could actually have a show cause hearing and remove the license. This could be done promptly if they have problems at the location. In terms of consistency, we do have other locations in the downtown such as on Drayton and Liberty, which there is a bar near residential areas. This is the only spot in downtown Savannah that is zoned R-I-P-A-1. Therefore, by making a modification to allow wine sales does not in anyway automatically allow any other location because no other location is zoned R-I-P-A-1. City Manager Brown explained that he was recommending that Council take

policy action to authorize wine sales at this location in a format or method that is determined by the City Attorney. Every time we have one of these types of action, we leave this second question by the way side which he was hopeful that not today, but through the Metropolitan Planning Commission, that we establish a new business category called the "Café." If Council looks at the list of businesses that are on his report that allow the sale of alcohol in some form, these include inns, restaurants, bars, lounges, convenience and grocery stores and package stores. He suggested that there is too big a gap between inns, bars, and lounges because someone in a restaurant does not have limits on their hours. As he has stated the fear is that they can turn into a bar. If we had a bona fide café zone, we would have strict rules that allow alcohol sales only to a certain time in the evening, no external advertising and no go cups. With this classification, we could actually apply it to other places in the downtown that do have bars and lounges. He was not saying that we would automatically downzone them, but when we have problems at a bar or lounge and it is adjacent to residential, having a café would be an alternate set of restrictions that we could say if they don't behave themselves, we will reclassify them as a café. The establishment would not be put out of business, but they would not be able to operate a bar, lounge or package shop. Mr. Brown further recommended that the Mayor and Aldermen authorize the necessary work to establish a café zoning either in zoning and/or alcoholic beverage regulations. He believed that we have made some progress. It has been difficult to complete the Tricentennial planning process. To date, that has been principally geographic. We just finished the Mid-City and are now working on West Savannah. We have done Cuyler-Brownville, Ben Van Clark and the island plan. We still have issues with alcohol, automotive services and grocery stores. There are certain kinds of businesses that are adjacent to residential areas and cause problems. He believed that as we proceed through the Tricentennial Plan, make a special effort on alcohol and automotive services, to consider in the planning process to come up with new operating and buffering requirements so as to permit neighborhood oriented businesses as an amenity and, yet, not be obnoxious to neighbors. City Manager Brown believed that the old method was to build all of the commercials and make them miles away from residential and everybody would have to get into their cars to go and get neighborhood services. He did not believe this is good planning, but neither should we have businesses that harm neighborhoods.

City Manager Brown restated his recommendations as follow: Council take action to authorize wine sale at this location. Secondly, that Council authorize the study analysis to establish a café zone and thirdly, specifically incorporate into the Tricentennial Plan a review of alcohol, automotive and other neighborhood commercial activities so as to protect the adjacent residential. City Attorney Blackburn wanted to ask the City Manager a question just to clarify his recommendation. Mr. Blackburn asked City Manager Brown that in the MPC report, under item 4 on page four, the paragraph at the bottom of the page states, "that a proposed text amendment." Mr. Blackburn wanted Council to bear in mind that this is the amendment

that the MPC was considering and rejected, a proposed text amendment that would allow a nonconforming restaurant to become conforming and also to expand the activities to include the sale of wine. He explained that if he understood the City Manager and he could clarify for himself, but it is not the City Manager's recommendation that this become a conforming use. It remains a nonconforming use, but as a nonconforming use he would allow as a normal use of a café to be able to sell wine with a meal under the conditions as set forth in his recommendation. This would not change the zone, but would only allow the use in the nonconforming use. Mr. Blackburn asked the City Manager if this was correct and Mr. Brown answered yes.

Mayor Johnson stated that he wanted to be sure that everyone understood what was just explained. He believed what was recommended by the City Manager is that the property at 321 Habersham Street be allowed to serve wine under certain restrictions; not to rezone its present zoning to a conforming zoning, but to maintain its nonconforming zoning. Mayor Johnson asked the City Attorney if this was correct. City Attorney Blackburn answered that this was his understanding. The reason he brought this to Council's attention is the assumption by the MPC in their report was that the effect of this would be to change the zoning, but as Mr. Blackburn understood, this is not the City Manager's recommendation.

Alderman Clifton Jones stated he believed the key to the entire matter is to be clear on this particular zone. As he understood, they are supposed to be discussing a text amendment. He heard the comment about the sale of wine. They need to separate what they are talking about. Should Council be acting on the recommendation coming from the City Manager that was denied by MPC that asked for a text amendment? City Manager Brown explained the MPC brought a recommendation. The MPC voted in one way and he is recommending something entirely different. Alderman Jones said this all was about a text amendment. City Manager Brown explained that what was before the MPC was a text amendment that would have accomplished the allowance of the sale of wine. Alderman Jones stated that this was denied by MPC. City Manager Brown replied yes. But, the reason he was coming forward with a different recommendation is because he believed it is more responsive, now whether Council affirms, deny or amend it, he believes it is responsive to what Council asked for in their last hearing. City Council asked that stipulations be provided so as to allow wine only sale with a meal at the location and this is what he has tried to do. Alderman Sadler wanted to see if he could clarify this a little further. He asked City Manager Brown that in this paragraph, they are requesting a text amendment. City Manager Brown explained that they were, but he did not want to speak for them. His belief is that they were requesting whatever mechanism that would allow them to legitimately sell wine at the establishment. Alderman Sadler asked what mechanism they shall use if they do not use the text amendment. City Manager Brown answered that he would defer this question to the City Attorney. Alderman Sadler said they could use a text amendment and pass the use change for the R-I-P-A-1 or could use some other alternative if this is what they want to

accomplish. City Attorney Blackburn answered that Alderman Sadler is correct and it would be his observation and he would seek to put into proper language whatever is Council's will. But assuming that Council wants to accept the City Manager's recommendation, working with him, he would come up with a text amendment to amend the zoning ordinance, not the zoning map, to carry this into effect. This would be a text amendment. Alderman Sadler asked doesn't this do exactly what the City Attorney just said. City Attorney Blackburn answered no and stated that he pointed out the inconsistencies. Alderman Sadler stated that this is not a change to the zoning map, but a change to the text amendment. City Attorney Blackburn answered that this is the assumption of the staff and what MPC followed. But, it is his observation that the City Manager is not recommending that this use become conforming and allow this. For example, if you serve fish and steak and wanted to add something else in the food line, that would not be an extension of the nonconforming use. Basically, what they would be saying is that the serving of wine would not be extended to the nonconforming use. They would try to craft the ordinance to this effect. Mayor Johnson said they will frame this where ordinary people would be able to understand what they are about to do. Alderman Osborne said it was her understanding that they are not supporting a text amendment nor are they changing the nonconforming variance that exists now. However, they are stating that they wish to allow wine to be served with meals with all the other stringent rules and regulations that have been set forth. This is simply all they are doing at this point. She asked if this was correct. City Attorney Blackburn answered that this would have to be implemented by an ordinance and if this is the charge to do it, an ordinance certainly can be crafted. Alderman Osborne said the City Attorney said this has to be done by an ordinance. She said this matter has been dragging on for some time. She believed there is a bigger picture with regards to this whole issue. For the lack of a better term, a cafe ordinance comes to her mind, but she wanted this matter to be concluded today. Mayor Johnson stated that it is at Council's discretion to make this decision. Alderman Johnson said he wanted to be clear on this, but understood that it is Council's decision. The MPC has made a recommendation. He asked if MPC was considering the same things that City Council is asking for. There seems to be a disconnect somewhere. Mayor Johnson stated that he would try to frame this as he saw it. We have the issue of 321 Habersham Street. The question is shall Council allow them to serve wine with a meal. Council has to decide this question. If they say yes, then the City Attorney and City Manager have to come up with a way to do this. If Council says no, it is over for 321 Habersham Street. There is a second issue of looking at the big picture of this entire area and discussing whether or not we need a new business classification called "Café" for this geography. This is an entirely different issue. The decision today is shall Council permit wine to be sold at 321 Habersham Street with a meal. Mayor Johnson said this was the only decision point Council needs to make today. If they agree, then they need to instruct the City Manager, the City Attorney and the Metropolitan Planning Commission to look at the idea of a cafe zone that would hopefully end this kind of acrimonious debate that they have been going

through. Alderman Clifton Jones stated that this reminds him of what his elders use to tell him, which was putting the cart before the horse. In his opinion if they are looking at a cafe zone that they feel, according to the City Manager, is needed in this particular area, and if they were to act favorably on this petition, it would mean to him that they would be putting this before whatever is being proposed in this cafe area. What bothers him about this more than anything else is that they are trying to make this work and they know the majority of the residents in this area oppose this. Mayor Johnson disagreed as to how the majority of the residents felt as no poll was taken. Alderman Jones said based on what he heard, the majority of the homeowners and property owners in this area are opposed. Alderman Felser said this is not true, they have heard from both sides. Alderman Jones said he was only saying as far as what he has heard, the majority opposes this. In addition to this, the petitioners are not the owners of this building. They are merely there as business owners. City Manager Brown stated that many business establishments in this city have separate property owners from business owners. This is not unusual for a business owner. The property owner does have to concur with any action concerning their property, but this is not relevant. This is a bona fide business with the owner's understanding to make this request. This is very common. Alderman Jones asked who should make the request. City Manager Brown answered that the request could come from a lawyer, as agent, property owner or from the business operator, but ultimately the property owner is certifying that they are making the application. Alderman Jackson recommended that Council hear from MPC. She was aware that they all have received calls from throughout the community and she told the many people that she spoke with that in order to be heard, they need to come to Council's meeting and voice their opinions. They could debate this issue for the rest of the day, but she believed they need to hear from MPC as well as from the residents and those that are interested in the community. Alderman Felser agreed with Alderman Jackson and added that they have heard equally from the residents, but he had a procedural question. He wanted to know if the R-I-P-A-1 would continue to exist in the Tricentennial Plan. City Manager Brown answered yes. Any action Council takes regarding this would not be eliminating the R-I-P-A-1 class or the R-I-P-A. This does not set any precedence for any of these. Anybody coming forward for a change would have to go through the same process. Alderman Sadler said he is a little confused and is somewhat a novice with this zoning. He asked City Manager Brown if he was not recommending that Council rezone this property. City Manager answered that he was not recommending that the property be rezoned; Council would be adding an allowable use at this location. Alderman Sadler asked, for clarification, if they would be establishing the use status in this zone and not a zoning change. City Manager Brown answered yes. Mayor Johnson asked Ms. Moore if she had anything to add. Ms. Moore said from what she was hearing, she believed there was some confusion about what is being requested. The request is for a text amendment to create a new use - sit down restaurant that serve wine. This new use would be created in the R-I-P-A-1 district. It is not a rezoning of property. This was the previous request which was to

rezone the property from R-I-P-A-1 to R-I-P-D, but this rezoning amendment was withdrawn and then the text amendment was submitted. Alderman Sadler said, therefore, they are having a public hearing on the text amendment and then an ordinance will be crafted. City Manager Brown said he wanted Council to be clear. In his report to Council, he said do one of three things. Allow wine sales with a meal with restrictions, disallow it or make some other modifications to that policy. He recommends Council do this today. In terms of do we need to pass an ordinance on first and second reading today, not necessarily, but he believed that Council needs to make the policy statement that will define the crafting of the ordinance. Alderman Osborne stated that Mayor Johnson has clearly and distinctly separated the two issues. There is only one issue on the floor that they are to vote on, which is; will they allow wine to be sold at this establishment? Alderman Felser wanted to know if Council could briefly hear from Ms. Moore why the MPC and MPC staff did not agree with the City Manager. Mayor Johnson stated that Ms. Moore is staff and she can not get into why MPC voted as they did. Mr. Tom Thomson, Executive Director of MPC, came forward stating that he did not know if he could answer Alderman Felser's question directly, but what he can report is there was not a lot of discussion on the MPC board about why they voted the way they did. He believed the evidence the board heard was split among the neighbors just as has been mentioned here. There was a vote 9 to 1. It was not that they disagreed with Mr. Brown per se, but made a decision based on what they heard and this is the way it fell. Mayor Johnson entertained comments from Attorney Yellin.

Attorney Harold Yellin came forward and stated that he was present today on behalf of Sharon Stinogel and Lisa Carr who are the owners of the Firefly Cafe. He told Alderman Jones that the owner of the property was also present. Many of them know this location and know that this has been a business corner for more than 50 years. Prior to being the Firefly, it was the Voodoo Cafe, 321 Cafe, Troupe Square Cafe, Joanna's Restaurant, and when he lived on Troupe Square in the early 1980's, it was Triple T Meat and before that it was a local Italian grocery store. The text amendment which is the only thing before Council, is interesting in a lot of respects. But the most interesting aspect of the petition is that the petitioners want to serve wine only with a meal and only under certain conditions. They are not interested in liquor nor beer, just wine only which is why they had to come up with a text amendment because everything else that is offered by the City would allow them to serve more and they don't want to serve more, but less. This text amendment underscores that the petitioners want a neighborhood cafe and no other use. With these restrictions, they cannot become a bar or a tavern, just a neighborhood cafe. He was not aware of any other petition that has come before City Council quite like this that contains the number of restrictions that are before them today. Attorney Yellin wanted to quickly put the text amendment before Council. He said he had it formatted slight differently from the City Manager. He passed out his proposed text amendment to City Council and asked them to look at page 2. He has formatted it where the ordinances are side-by-side so they can see the

difference. They will see that use 65(a) is next to use 65(d) and 65(e) is what they are proposing. Use 65(a) permits beer, wine and alcohol, 65(d) permits beer and wine. What they are proposing is 65(e) which is wine only. As they go left to right, they will see how it becomes more restrictive. Attorney Yellin stated that he would try to go through this as quickly as possible because he knew that Council has a memo from the City Manager on basically this same text. He explained that beginning with subparagraph A, they need to front on a street classified as arterial or collector and they comply; paragraph B talks about wine being served and consumed only as a part of a full service meal. This means that nobody can walk into this restaurant and ask for a glass of wine and sit down. This is not a bar! It has to be served with a meal. Although it may be redundant, he has put in here that alcoholic beverages and malt beers are prohibited. At one of the MPC meetings, someone stood up and said I know what you are trying to do. I was told that since there is only a beer and wine license, they are sneaking in and are going to serve beer and wine, although they are only asking for wine. Attorney Yellin reported that prior to this meeting, he contacted the Revenue Director, Buddy Clay, who confirmed that there is a beer license which is separate from a wine license and separate from a liquor license. The only license they are applying for is a wine license. They are separate and distinct. Subparagraph C has Sunday sales, which are just like the other code sections. He wanted to mention one thing about Subparagraph D. They merely copied what is in the other text that says the sale of wine shall be restricted to the hours between 12 noon and 10:00 p.m. He wanted to tell Council that he received the same letter from Ms. Mason that they received and believed that she asked a good question. She asked if they could serve until 10:00 p.m. Doesn't this mean that one could continue drinking past 10:00 o'clock? Attorney Yellin stated that he did not have a problem saying that the consumption of wine shall be restricted between 12:00 and 10:00 p.m. He believed this would take this issue off the table and believed probably that Ms. Mason was right. They will stop consuming at 10:00 p.m and the second part of that subparagraph, they will not allow wine for take out consumption. This is true, even though the City of Savannah permits to go cups. They are saying they will be more restrictive than what the ordinance would otherwise let them do. Paragraph E has no display of advertisements for the sale of wine visible from the exterior of the structure. Council is probably familiar with other bars in town that advertise brands of beer and neon signs right in the window. The only signs they will have will say open and close. Paragraph F deals with deliveries and paragraphs G, H, I and J all give Council the comfort level that they will not be a bar nor a tavern and that this applies only to small neighborhood cafes. The things that Council see in Paragraph G are the things that they would ordinarily see in a bar or tavern. He said he highlighted a section in Paragraph G because this was added as a result of a neighborhood meeting where they were asked about music and loud speakers. This was a good suggestion and they immediately added it. Paragraph H involves trash generated. They will use household receptacles, not dumpsters. Therefore, their waste removal will be such as residential in downtown Savannah. Paragraph I - Council

knows that there are restaurants. Churchill's and Tony Roma's have a dedicated bar area where one can sit on a stool at the bar. They have said that they will not do this because it looks and feels like a bar. Therefore, once again, they are adding layer upon layer of protection so that we all know that they cannot become a bar. This applies basically to this restaurant and they are limiting it to 2,500 square feet and no more than 50 chairs. They are not talking about a Cracker Barrel, which can be 10,000 square feet and hundreds of chairs, but a small neighborhood café. If Council believes that a restaurant that serves wine only is a good thing, then he believed that this text amendment is what Council should vote for. If they believe that it is a bad thing, this is the thing to deny. However, he wanted to bring up a point that he made eight (8) weeks ago. Attorney Yellin asked Council to consider in their deliberations that there is no reaction from communities or a neighborhood when a downtown church or temple serves beer, wine or alcohol at one of its functions, nor is there a reaction when downtown school buildings host functions for parties where beer, wine or alcohol is served. Downtown museums are used for parties and galas and beer, wine and alcohol are served. We have carved out an exception for downtown inns and they serve beer, wine and alcohol to their guests anytime day or night. There are no restrictions on the time of service. This makes him wonder if we have different standards for out-of-town guests than what is applied for folks who live in Savannah. We also have our to-go cups ordinance where a person can go from one district to another with a cup in hand as long as it is not more than 16 ounces, is not a can, bottle or glass. Just as he said eight (8) weeks ago, he can go to Pinkie Masters and walk out with a beer and sit and drink it in the middle of Troupe Square. He can go to Pinkie Masters and have a to-go cup and get a take out from the Firefly, sit in Troupe Square and drink and eat his meal. He just cannot do both at Firefly and this does not make sense to him. Attorney Yellin stated that he wanted to believe that no matter what happens today, there is always going to be a restaurant here, but he wonders whether it will survive or will it go the same route as Voodoo Café, 321 Café, Troupe Square Café and Joanna's Café, which did not survive. He questioned if they did not survive because of a food only menu. Make no mistake about it, the owners can tell Council today customers walk in and customers walk out when they are told that they have a choice of water, coffee, tea or soda. Interestingly, there are a number of people who actually oppose the Firefly request, but support this restaurant. The question that he poses, is it realistic for this café to survive without limited and restrictive sales of wine? Just as our ordinance protects certain downtown inns, he believed that this ordinance would protect the neighborhood café. Any time a restaurant comes before Council for permission involving beer, wine and alcohol, people just react. But, he was convinced that there is a way to encourage downtown cafes to achieve their potential and at the same time protect neighborhoods. There are examples given by the City Manager in his memo that are good examples of how restaurants, cafes and neighborhoods can coexist. He believed that Elizabeth on 37th Street, Suzabell's and Good-Eats have not been bad things for their neighborhoods, but good for the neighborhood. At every meeting people have

spoken for and against. They know that there is not a right or wrong answer. They are pleased to report that they have enormous support from the neighborhood. There are folks who are against this request, but they have people who live directly across the street who feel safer because the restaurant is here. This is why he included with the materials he gave Council a petition signed by 330 people who supports the request of which 150 live in the downtown area and he has highlighted those people. They also have letters in support from the Cathedral of St. John the Baptist. Ms. Alexander was present at the last hearing and spoke in favor. She is from the Unitarian Church. There are also letters of support from the Ballastone Inn, Foley House and Gastonian Inn. He believed that they have submitted an extraordinary text for Council to consider. It balances the interest of downtown residents and neighbors. Alderman Johnson asked Attorney Yellin if he was saying that the continued survival of this business is based on the granting of this exception. Attorney Yellin explained that what he was saying is that there has been four prior restaurants that have come and gone. He believed it is obvious that they are here to both protect the neighborhoods and the businesses. He believed further that this business is benefited by having this wine ordinance. He could not answer the question and tell Council what was on the minds of the people at MPC. Does he think it will go out of existence? He does not know. All he knows is what history tells him, which is that four restaurants have come and are now gone. Alderman Johnson asked Attorney Yellin if this clients did not know this when they opened their business in this area. Attorney Yellin replied the clients knew. Alderman Johnson said, therefore, the clients realized this when they opened their business here. Attorney Yellin answered that he supposes the day when they opened their business they had a different perspective and now they have been here two or three years later. Alderman Felser stated he had a question which should not be interpreted pro or con, but for a point of clarification. He asked Attorney Yellin if he was stating that the consumption of the wine would end at 10:00 o'clock on such days as New Year's Eve. Attorney Yellin answered yes, in fact his client even mentioned taking the additional step of actually printing the ordinance on the menu. At 10:00 o'clock everything comes off the table. Alderman Felser asked if there would be happy hour, early bird specials, wine and cheese parties or wine with an appetizer. Attorney Yellin replied that he would have to let the restaurant owners answer this question, but he would answer all the questions with no. Alderman Osborne asked Attorney Yellin if her understanding of the hours of operations would be Monday - Thursday up at 8:30; Friday and Saturdays up at 9:30. She believed that New Year's Eve starts at 11:30 p.m. going into the New Year. Therefore, this is not included in the Firefly hours of operation. She understood from the owners that they have no plans to change their hours of operation. Attorney Yellin stated that the restaurant currently closes prior to the hours that are shown here.

Mayor Johnson asked if the opposition had a central spokesperson. Then he would open up the hearing to the general public because this is a public hearing. After they hear from everyone who wants to speak on this issue,

Council will make a decision on this issue today. The people who are here for the pros have heard Attorney Yellin's argument. If they have nothing to add, please do not speak. He asked the spokesperson for the opposition to layout their case. If they don't have anything to add, then they do not need to speak, but if they felt compelled to speak because this is a public hearing, then they would be allowed to speak, but for the sake of time and orderliness, we do not need to hear the same thing ten different times.

Attorney Walter Hartridge came forward and stated that he was representing Ms. Nita Williams. There is a lot of history behind this issue. He wanted to be sure that the records contain Ms. Patricia Mason's letter she directed to the Mayor and Aldermen and the City, also the letter of Ms. Adams and Sister Helen Marie Buttimer. Attorney Hartridge was assured that these letters would be recorded and made a part of this hearing. Attorney Hartridge pointed out that as a member of City Council has stated when the present proprietors of the café took it over, they well knew what the zoning was and they were also quoted in today's newspaper. Attorney Yellin spoke that it was difficult, but we are not in a court to say what the record is, but the quotation that appeared in the paper states that the Firefly Café owners, Sharon Stinogel and Lisa Carr, said business is fine without it. But, the article goes on to state that they have lost many sales to people who walk out after they find out they cannot get wine. Mr. Yellin seemed to imply that there would be some devastating economic impact upon the Firefly Café, which is a good place, if this was not granted. He received the hand out information that was given during the Pre-Council meeting by the City Manager which has to do with some long range plans about café ordinances. He has never seen this before and as he understood what is before Council today is simply whether or not Council will approve the text amendment for this particular place. If this is the case, then what Council is going to do and he would respectfully submit, if they do this, would open the door for anybody in the R-I-P-A zoning district and the map zoning is attached to the City Manager's memorandum. Since R-I-P-A-1 is the most restrictive zone in downtown Savannah, they could not possibly turn down any applications from anybody else willing to submit to this in R-I-P-A. He predicted that Council would get these applications before any café ordinance much less a Tricentennial Plan or anything and Mr. Yellin will probably represent these petitioners. We will see this in the next few months. Therefore, Council has before them not just the Firefly Café, but the entire fabric of the original national historic district. This zoning was setup to encourage residential rehabilitation. He knew that Mayor Johnson remembered this as he was on board when these things were going on and he served on City Council. This is something that took place over a long period of time when the downtown was decaying. The whole idea was to set up zoning that would encourage residential use and investment. People were encouraged to come in and rehabilitate properties. When he was president of Historic Savannah, MacDonald Row and Cohen Row were just shells. They purchased them from Ms. Ann Waring Lane and sold them. Bob Thomas came to town with a hammer in hand and rehabilitated them in Troupe Ward. All of this was setup to encourage this. Now, what he perceives is that somehow

the City Manager with the vote 9 against him at MPC wants now to articulate a policy, which is really a tectonic shift in the City's policy which in an effect would turn the national historic district into something sort of the French Quarters. This goes far beyond the Firefly Café. Attorney Hartridge asked Council to carefully consider the policy behind what they are doing. The Firefly Café is a wonderful place and Mr. Yellin laid out a compelling case, but they must look at the overall planning policy. City Manager Brown well knows this and he believes that he would almost have to concede that there is something very unusual. We have a Metropolitan Planning Commission and the City Attorney has said here today that we need an ordinance to accomplish this. He believed that Council ought to consider carefully what they are about to do, the doors that they are about to open and the change in the texture of the National Historic District that they are about to affect. He asked that Ms. Mason reiterate what she has already put in writing to Council.

Ms. Patricia Mason came forward and stated that she is a resident of the Historic District and lives at 119 East Jones Street and is also a downtown business owner. She is an attorney who specializes in land use planning and zoning for more than 17 years, has served more than two years on the technical advisory committee that has been working with MPC on the update of the Comprehensive Plan and Zoning Ordinance for the City of Savannah and Chatham-County. It is her understanding that the issues they are dealing with today, i.e., mixed use, business use, and the performance standards that should apply to business use where it is adjacent to residential use are central to that update process. She asked Council to consider that we should not rush to come up with a text or come up with something to address one user to the potential detriment of the residential property owners and the commercial property owners in the Historic District. Let the planning process proceed. If we are unhappy with the Tricentennial Plan being the length that it has gone, at least allow the MPC study that was authorized at the February 8, 2005 meeting of the MPC on this particular issue to proceed. When we come up with a text that represents such a significant departure from what we have put in place as a city to protect the historic residential character of our downtown for more than 40 years, we ought to do it after some careful consideration. Looking back at the Troupe Square urban renewal project that commenced in 1964, she thinks that we can see this was the crossroad. She believed that we could admire the people that took the steps that brought back an important and significant neighborhood and make it vital again. They brought back residents to actually live in that neighborhood. The buildings were brought back to life. We are at another crossroad because she believed everybody here has to admit that if they are living next door to a use that is noisy, smelly and otherwise noxious they are going to flee. No one wants to live next door to a St. Patrick's everyday. If the residents flee from an area, this is the first step to historic degradation. Mayor Johnson asked Ms. Mason if she was saying that this is what is happening at the Firefly. Ms. Mason answered that they do not have any history of an actual alcoholic beverage use at the Firefly; therefore, they do not know what will happen with the Firefly if this amendment is made

and do not know if the Firefly will continue if this amendment is made. They could depart the day after the text amendment and sell their business to someone else who would then continue on and then we would have another situation similar to that at Liberty and Bull Streets. The City Manager has commented that this is a success story, but she would submit that the people who live near this restaurant don't feel that it is a success story. There was an approval based on one sort of restaurant and then it changed hands and there was a significant change in the character of what was represented. Alderman Thomas stated that he believed Ms. Mason's remarks were a little outlandish suggesting that the Firefly would become a St. Patrick's Day everyday of the week if this is passed. Ms. Mason commented that she did not make the suggestion that the Firefly would do so. She has no idea what would happen once this text amendment is adopted and neither does Alderman Thomas. Alderman Thomas stated that this is what he got from Ms. Mason's comment. Mayor Johnson stated he believed Ms. Mason was inferring this, but we want to be level-headed and want to deal as respectfully with the owners as we want the owners to deal respectfully with Ms. Mason. Alderman Osborne concurred that the remarks were somewhat inflammatory, but she wanted to remind all parties that a license is a privilege and can be withdrawn anytime the owners are not in compliance. She wanted everyone to be mindful of this as they walk through this process. Alderman Felser stated that it would be helpful if the extremist language was removed that tends to arouse passions to a degree that is not necessary on both sides. Mayor Johnson stated that whatever is decided by Council, the neighborhood will have to live with each other when this is over. We need to be careful of our language. Ms. Mason stated that she believed that Council was mischaracterizing her intent. Mayor Johnson stated that he was not one to hesitate to apologize, but he believed that the reflections of the other comments said that they were interpreting the same thing as he of Ms. Mason's remarks. Ms. Mason apologized and stated that she did not mean to imply that she knew what would happen the next day. What she was saying is that when they make a change that allows fundamentally a different use than what is allowed in a zoning district at present, you take a chance. If an area becomes something noxious to the residents, they depart the area. Mayor Johnson stated just as Alderman Osborne said defeats this case because when Council has an issue at a location, they have a show cause hearing why that license should not be revoked. This is what would happen in this case should Council agree to grant the license. They don't have to live with it and tolerate it if they have good legitimate reasons to ask for a show cause hearing. Ms. Mason said if they study the manner of how to handle this kind of use in the downtown area as a whole and do it as a comprehensive matter and just not focus on one user, she would submit that they could look at what other communities have experienced in drafting and applying ordinances. We could look at what our own community has experienced in applying our ordinances to determine the pros and cons. Look at where it has been a success, where it has not been a success and where we might draft conditions that we don't presently apply to users that might provide additional protection to residential users. Her point is she would like to urge a study of the issue. There is no need to rush

to a solution on behalf of one user. She wanted to point out that at Council's meeting of October 28, 2004 on this issue Mr. Yellin agreed with her that a study was appropriate. He said that there was another reason for a study which would be to resolve inconsistencies in the ordinance. In talking about sending it back to MPC, Mr. Yellin said that MPC might recommend rezoning and they might not, but when it goes back to MPC and staff considers what the options are, it needs to be done as an organized study. She wanted to submit to Council that the MPC has voted to have this kind of study. Ms. Mason believed there was some confusion when this went back to MPC because it was referenced to finding a way for this use at this location. The conditions that Council has before them are just feel good conditions. She said they are not adequate to protect the residential property users at this location should Firefly, who has been a good neighbor, departs the area. She pointed out that there is some concern with the process as she understood it. There has been a lot of shifting around as to what is before City Council and what are the possibilities. She had a concern that Council's decision today is going to basically be on a text that they don't have before them to look at or comment upon because Council is commenting that the only think before them is whether to allow wine sales at this location only and not set a precedent. She was not sure how this was going to be accomplished since any text amendment would set a precedent for other similar uses. She did not believe Council should comfort themselves in believing that somehow a text would be created that is not going to apply to the next user of the Firefly location or users throughout the Historic District. She said that Mr. Yellin commented about this being consistent with the Historic District saying that there was no objection when temples, churches and schools serve alcoholic beverages and because of the to go cup rules. She wanted to submit that this is completely incorrect. These are intermittent uses that are not anchored to a particular neighborhood and have very different use characteristics. They have different traffic characteristics, trash generation, parking needs and so forth. There is no comparison between these kinds of uses and a permanent settled restaurant and the use characteristics that are intended to it. As far as inns are concerned, when patrons are being served, they are going to be within the property and are not expected to come and go from the property as a restaurant user would do. Ms. Mason stated that she was not saying that this use should be demonized and never allowed anywhere in the Historic District, but certainly there are many places in the Historic District that this kind of use is already allowed as a permitted use. It is not allowed in an R-I-P-A or R-I-P-A-1, but there are other zoning districts where restaurants are allowed. We are not depriving our citizenry of a use by denying this request. The proper procedure would call for a denial of this text; allow the MPC study to proceed. It does not need to take a long time, but it does need to be comprehensive and look at what other communities have experienced such as New Orleans, Charleston, Galveston and many others that have a historic component that could be examined. We could learn from their pain or their successes. We could learn from our own. There is no need to rush to reach a result.

Ms. Gloria Horstman stated that the Firefly Café is located on the northwest corner of Troupe Square and she lives on the southeast corner. When they bought their house more than ten years ago, they knew that the café was next door to a church and a school. She said being totally ignorant of the fact that Savannah has different laws than the Georgia Code, they thought this would preclude alcohol of any kind being sold. The Georgia Code has a certain distance from a church or school. They also thought that since the café did not sell alcohol because it was in an R-I-P-A-l zone, that it could never sell alcohol. She wanted to submit to Council just as Ms. Mason has that Mr. Yellin examples are irrelevant because none of the restaurants that have alcohol sales that he mentioned are located in an R-I-P-A-l zone. The information about churches and synagogues is interesting. They don't serve alcohol at her church and she did not believe that they do so at the Council members' churches either. Two weeks ago at the City Council meeting she was present for the revisions which were finally adopted. There were a number of alcoholic licenses on that agenda. One was continued to this meeting and she believed it was continued today for another two weeks, but the Mayor said that we have to balance the rights of the business owner with the rights of the community. She stated, however, in this instance, the business owners do not have a right. The community thought it had rights as they believed they were zoned so that alcohol could not be sold in their district. Someone mentioned the French Quarter; her husband was born in New Orleans and they have been visiting the French Quarter for the 50 years that they have been married. She has seen in the 50 years that Savannah has improved its Historic District. Historic Savannah had its 50th year celebration this year. During those same 50 years, she has seen the French Quarter in New Orleans decline drastically because of increased commercial businesses, restaurants, bars, and cafes that sell alcohol. Thousands of the French Quarter residents in New Orleans have left. There are very few full-time residents. This has changed the whole ambiance of that section, one which she has always loved and will continue to love. It is St. Patrick's Day there almost every day. She asked Council if any of them live across the street from an establishment that sells alcohol. Is their neighborhood zoned residential and do they assume that it will remain so? Do they assume that alcohol will not be sold in their neighborhood?

Ms. Robin Allen came forward and stated that she is a resident of 126 West Harris Street. She is a relative newcomer to the community and currently serves on the Architectural Review committee of Historic Savannah. She was not present today in that capacity, but said this because she believed it's an illustration of her commitment to the community, specifically to the Historic District. Ms. Allen stated that she had a number of concerns and one is the preservation of the residential character of the Historic District; quality of life and reserving property value. She asked Council why we are making an exception for a nonconforming entity. She did not believe that this is in the spirit of the intention of the original zoning plan. The original zoning plan was developed to preserve the residential character of the Historic District.

Ms. Allen believed that in the long term and in the best interest of the Historic District that this property should be returned to strictly residential use. Currently, it is the single blight on the square. She knew that because she stood there yesterday and really studied that fact. For the record, she and her husband looked at buying the adjacent property. But they would not even consider it because of the existing cafe next door. Mayor Johnson asked her that since this is blight, have they considered getting together and buying it and turning it into what they want so that it would not be blight. Ms. Allen responded the current property value is too expensive. It is very expensive to renovate these properties. She believed it was wonderful in concept, but is unlikely in reality. The twin house was on the market for \$700,000 and it's a wreck. These properties are selling for well over \$500,000. Mayor Johnson said this is success when we think about what it sold for 50 years ago. The properties could not be given away 50 years ago. Ms. Allen said this property did not sell. Mayor Johnson stated that Ms. Allen said this was the only blight in the area. Ms. Allen replied that it is on that square. Alderman Felser said a comment was made earlier about extremist comments. He wanted to ask again after seeing the majority of the city, east, west, north and south and was not giving an opinion pro or con yet on this issue, he wanted to know how Ms. Allen could say that it is the single blight on the square. Ms. Allen answered that she believed it is and the twin house when she stands in that square and look around. Alderman Thomas stated that he believed that one of the difficulties that Council has when terms such as "blight" is referred to at a viable business such as on the square. He believed in Ms. Allen's opinion it is blight, but he could show her some real blight. He said that Ms. Allen just stated the house was on the market for \$700,000 and this is not blight. She might have an issue, but when she reference blight, she might want to go to some of the areas on the west side that we just did the clean sweep in and go to some of the areas on the south side that he represents and she would see some real issues of blight. He believed that Ms. Allen does have an issue and there are some things that possibly are not like the characteristics of the rest of the square, but he would not define a viable business that basically provides a wonderful meal in a nice atmosphere as blight. Ms. Allen stated that this comment was not made towards the Firefly Cafe. She was making a point about a property, not about the business. She has nothing against the Firefly Cafe. Alderman Sadler wondered if someone could give some history on the issue. Looking at the map, he knew that they have a text amendment in front of them. He asked City Manager to briefly tell him how and why Troupe Square is R-I-P-A-1 and Monterey Square which is residential is R-I-P-A or any of the other wonderful squares that people live in. He keeps hearing most restrictive. City Manager Brown explained that the history is Troupe Square, as most of the squares and wards in downtown Savannah, historically had some residential and commercial properties in them. In Troupe Square going back some 50 or 60 years, he understood that there was a bakery here. This was not uncommon. When zoning came in, they had to be realistic that they were residences, but there were often institutions and there were often professional businesses in those areas and various other types

of businesses and then came the R-I-P zone. He will avoid the long versions as restrictions or allowances were placed using A, B, C and D. This is because as we came through the years, we said this was not allowed in an R-I-P or it is allowed and should not and those A, B, C, and D came in to make certain allowances and to provide certain restrictions. This is why there have been grocery stores, bakeries, and liquor stores in the neighborhoods for a long time. Therefore, this is precedent. He believed that R-I-P-A-1 was some other further refinement; he did not remember when this came in, but this is the only R-I-P-A-1 in the downtown. Mayor Johnson explained that this is a great example of why we need the Tricentennial Plan. The current zoning is obsolete given the development of this community over the last 50 years and it is very important that we erase what causes inconsistencies. This is why he keeps pushing the Metropolitan Planning Commission to get a land use and zoning plan and present them to City Council and the County Commission that puts some rationale and reasoning behind this matter. Alderman Sadler wanted to know if this particular text amendment does not and will not specifically allow any other restaurant to have wine without theoretically an additional text amendment. He asked if there were any more R-I-P-A-1. City Manager answered that there are no more R-I-P-A-1. Alderman Sadler wanted to know if what has been referred to as opening up, means that we would be opening up additional text amendments. City Attorney Blackburn stated that we would not need another text amendment if certain things are allowed. In this instance it is nonconforming in the sense that it pre-existed the zone. Alderman Sadler stated that some persons have a concern and he understood their concern. If Council was to approve the text amendment, it would not specifically allow any other restaurant that we know of to serve wine and if there was one that wanted to open up, this would have to come back to Council as a text amendment. City Attorney Blackburn answered not if the person met the requirements. Alderman Sadler stated, but there is nobody else. City Attorney Blackburn stated that there might not be, but he could not answer that question. Alderman Osborne said the establishment would also have to meet the other stringent regulations, which are no more than 50 seats, no bar and would have to meet all the other things that are listed. She asked the City Manager if this was correct. City Manager Brown answered yes.

Ms. Nancy Wilkinson came forward and said her plea to Council is a personal one. She lives directly across the street from the Firefly Café and her master bedroom over looks the café. It has not been mentioned that this is an outside restaurant and they go to the restaurant a lot. On a clear day they can hear the conversations. They pay a premium to live downtown and invested money to upgrade their property assuming that the laws and regulations would stay. If Council passes this change, she personally feels that it would be a betrayal to them and perhaps to all the citizens in the Historic District. Mayor Johnson asked Ms. Wilkinson that if Council passes this, materially what would change. Ms. Wilkinson stated she believed the noise factor and the traffic as the parking situation is non-existing. The hours would be longer than they are now as wine is alcohol and people would linger. There would be more people here. She believed that it would affect their

quality of life, particularly as they are right there overlooking the café. Alderman Jackson said she understood and Ms. Wilkinson just said that there are tables on the outside, but in the recommendation, she wanted to know if she read that the wine is to be sold only on the inside. City Manager Brown stated that we would ensure that the establishment complied with our tables and chairs ordinance. People maybe at a restaurant with tables and chairs and consume outside. If there is any problem whatsoever, we can, as it is absolutely not a right, discontinue this at anytime that there is noise or problems. We have a sidewalk, table, and chair policy and they would have to conform to it. Alderman Thomas asked the City Manager what is the total capacity of the Firefly Café. City Manager Brown stated that he did not know the capacity, but probably Mr. Yellin could answer this question. It was stated that there are 44 seats. Alderman Thomas asked Attorney Yellin if this was 44 seats inside and outside. Alderman Fesler stated that the answer to this question is in the letter that Council received from the Firefly Café. City Manager Brown stated that if there is trouble, we can restrict this. We determine how many tables are allowed to be sure that there is sufficient passageway on the sidewalks. They cannot have advertising on the umbrellas.

Ms. Pam Sutton came forward and stated that she lives at 218 East Liberty Street and is a real estate agent with Celia Dunn Realty. Ms. Sutton is concerned about the text amendment because she believes that this could affect property values in the area and in the whole Historic District. Theoretically, if Council overrides the R-I-P-A-1, they could also override an R-6, which is the highest residential zoning. Buyers do not react very well to the idea that their property values might go down instead of going up and end up not buying. The potential buyers who look at properties for sale on West Harris Street behind the Melon Mushroom asked her about noise and how it would affect their property value. There are three properties here and one has been withdrawn and the other two have been on the market for a considerable period of time. Property taxes are driven by property values. Owners are far more likely to improve properties that are going up in value. The amendment will probably affect the whole district and not just the Troupe Square area. Ms. Sutton asked Council to consider carefully how this amendment will affect all of us. Alderman Thomas stated that Ms. Sutton referenced two properties that are on the market behind the Melon Mushroom, which is not what they are talking about. Ms. Sutton stated that the Melon Mushroom was cited in Mr. Brown's article. For a point of clarification, Alderman Thomas asked Ms. Sutton what are the listed prices for these properties. She answered that one is \$1 million, and the other is \$1 million two fifty. Alderman Thomas asked her if she believed that the reason these properties are having a slow time being sold is because it is a hard market for the listed price. Ms. Sutton answered that certainly this has something to do with it, but if someone is going to pay \$1 million, \$500 thousand or \$80 thousand for a piece of property, you have a right to ask questions about the properties. Alderman Thomas stated that he was only asking this for points of clarification. Possibly, these properties are overpriced. Ms. Sutton answered that

this is possible, but maybe one of the reasons for them being overpriced is because of the concerns about what's behind them. Alderman Felser stated that Ms. Sutton brought up the question about taxes. He asked her that as a taxpayer would she rather receive the revenues from an occupied Firefly Café or have a vacant building sitting there to deteriorate blight in the neighborhood with no tax values. She answered that Alderman Felser's question was sort of like asking her when she quit beating her husband. Alderman Felser stated that being the fact that he is on the Safe Shelter board, he did not believe that this was funny. But he can tell her that his father was a real estate broker in this community for many years and he understands the real estate market. He lives downtown and only two blocks from the Firefly Café. He lives on Crawford Square and looks out on a vacant lot and to look out on a thriving business versus what you could be looking on is different. Alderman Felser said he agreed that this would set a precedent and he agreed that this does designate policy changes. However, we need to sit back and see if it is all to the extreme of what each side is advocating or do we need to just wait and see. There is no guarantee when there is no documentation that says if he vote yes for this today that he will vote yes in the future for something else. He could only speak for himself, but he could tell her that there is no guarantee but he considers everything on a case-by-case basis. Ms. Sutton stated that if the property owners as Mr. Horstman expressed, expected that the area would remain residential and it changes from residential to have a wine license for the Firefly, does this not take away some of what they believed as an R-I-P-A-1. This is the question she wanted Council to consider.

Ms. Ardis Wood came forward and stated that she lives on 55th Street. This is where she sleeps but lives in all of Savannah and makes a living downtown. Ms. Wood showed a map that was color coded of the zoning. She also had a map that showed the most restrictive to the least restrictive. She is a member of the Unitarian Church and wanted to state for the records that the letter that came to Council from their president on behalf of the board of the Unitarian Church regarding this petition. She wanted Council to be advised that the church has not taken no official stand on this issue and has no intention of doing so. Members of the church have strong feelings on both sides. She makes her living as a tour guide in the Landmark District. Ms. Woods stated that Mayor Johnson has said that the job of government leaders is to see the big picture and be mindful of the greater good and she agrees. Of course if we can accommodate the interest of individuals without hurting the public welfare, we should do so. But, too often we are persuaded to consider a person more than a situation and its long term impact. We are talking about spot zoning when we talk about helping someone out. She said that Alderman Jones put it very well "this is the cart before the horse." We should be looking in a carefully studied way through MPC as the suggested designation sounds like it would be wise to look at a café district. To think more about the petitioner than the greater good is very dangerous and she believed in this instance, Council cannot do both. The Landmark District is a delicate balance of business and residential use and it must be guarded. Our 6 million annual visitors certainly do not come here and

spend over \$1 billion to eat at a particular restaurant or stay in a particular hotel. They come here primarily to enjoy the ambiance of well-maintained, historic homes, historic museums and our urban forest. These are the things that must be guarded and, yet, it is usually only the businesses that can afford to hire expensive lawyers to acquire variances and zoning changes and spot zonings. If boards make poor decisions, it is virtually impossible to win a reversal. Therefore, residents must depend on their representatives to protect their interest. The owners of the Firefly knew the zoning when they chose to locate their business on Troupe Square, a business which is only allowed as a grandfather use. A restaurant would not be a permitted use today. If they now want to serve wine, they can certainly do so in a multitude of other locations. Our Landmark District is not Disney World or even Williamsburg. It is a living historic museum where people still make their homes. This continually amazes the thousands of visitors that she meets each year and it continually makes Savannah more endearing to them. But if the most restrictive zoning is compromised today, it will be the tipping point to skew the balance of homes and businesses she believes to a point of no return. Ms. Woods asked Council to remember the greater good and deny this request for a wine license which will set a dangerous precedent to the detriment of all the residents in the district.

Mr. Mike DeCook stated that he lives downtown and has an antique shop downtown. He lives on Chippewa Square. Mr. DeCook is a member of the Unitarian Church and opposes this rezoning request. He lived on Whitfield Square for the first five years and it was nice that there was a neighborhood where 17 children were growing up and see a neighborhood where you could raise a family. He chose to move to Chippewa Square because he could legally have a business there. They initially had two bars on their square. In recent years, they are now up to seven bars. They have an art gallery that sells wine and he believed they have now gone even further with serving alcohol. If he gets two hours of sleep each night, he would be lucky. As has been stated, he, too hears all the conversations going up and down the street. Alderman Cook has seen him outside picking up plants and pots that have been shattered and broken through the night. These are the things that he gets to enjoy; his business is doing fine here and therefore he stays here. However, his quality of life is hell. This is the honest true. He would like to think that Savannah is smart enough that there are areas in the Historic District that are protected where you can buy and know that you will continue to be protected, raise a family if you want to or if you are an older person, you can get a decent night's sleep. Mr. DeCook said he did not believe that we want to become a New Orleans. The person doing the art gallery came around to all of them and stated that he had an art gallery that was not doing well and told them that he wanted to start serving wine and asked them not to be upset. The person started serving wine. The art gallery is not open during the day, it is opened at night. Then the owner hung speakers outside so that he could draw people in and this caused all the noise. At 2:00 in the morning he was raised out of bed by the speakers being so loud. He went to the art gallery and was told by the owner that he was just trying to draw people in. Mr. DeCook said

he told the owner that this was not right. Mayor Johnson asked him if he called the police. Mr. DeCook said he called the City's office that handles the noise pollution and the fellow told him that if this is happening Monday through Friday from 8:00 to 5:00, he could do something about it. He said that the person told him that he would try to swing by on Friday on his way home. Mayor Johnson asked City Manager Brown to look into this. This is not acceptable and is against the law. Mayor Johnson asked Mr. DeCook what was his point about the Firefly Café. We cannot solve the problem on Chippewa today as we are dealing with the Firefly on Troupe Square, but the City Manager will look into the situation he stated about on Chippewa Square to help him. Mr. DeCook said he was trying to present that people will and do change their business to go into the direction that would be more prosperous. Mayor Johnson stated that then it is Council's responsibility not to allow this to happen. Mr. DeCook said he talked with an Alderman yesterday on the phone and he asked who would enforce this and was told that the City will not hire somebody to enforce this if it is to be enforced after 5:00. Alderman Osborne wanted to remind all parties again that a license is a privilege and once it is violated, it can be withdrawn.

Mayor Johnson asked the speakers to center their comments on Troupe Square and the petition before us. Mr. DeCook asked after 5:00 p.m. who would inspect and enforce this. Mayor Johnson said this is a City Council that is trying to be accountable and transparent in whatever they do. They are going to be responsible. He said this in the State of the City speech. These are principles that they believe in and when they find out that something is not right, they will respond to it, let the persons know the outcome of the issue and that is the way they hold themselves accountable. Mayor Johnson told Mr. DeCook that he needed to surmise what he was going to say and make it pertinent to the issue at hand. We have been here a long time and have another side to be heard and they need to be heard just as Council is hearing the opposition. Mr. DeCook closed with have a good afternoon.

Mr. Dale Critz stated that he started in Savannah on Martin Luther King, Jr. Boulevard and on Bay Street with his father in the automobile business and has spent a lot of time downtown. He moved his family back downtown in 1960. He was the president of the Historic Savannah Foundation after Mr. Walter Hartridge. It took about three years to get the Historic zoning through City Council. He did not believe that they should change anything over night about zoning. This matter was sent back to MPC by City Council asking them to give their recommendation. This matter came back with nine (9) voting not to approve this and the only person who voted for it was the City Manager. He does not know why the City Manager changed his mind on this issue, but agrees with him that there needs to be some reviewing and some changing, but we do not need to do that today. He likes the petitioners, the restaurant and wine, but it is not right and Council should disapprove this action.

The following persons came forward and spoke in support of Firefly request:

Mr. Joe Steffen said that he was not present as an attorney and did not sign Mr. Yellin's petition. He and his wife, Janet, live at 422 East Liberty Street, Troupe Square is their neighborhood square. Apparently, people chose where they live in neighborhoods for different reasons. When he bought his home in the Troupe Square neighborhood six years ago, it was because this was a vibrant, urban neighborhood. He chose not to live in a gated community, but chose to enjoy the activity, diversity, ability to walk to restaurants, cafes, shops, and entertainment that this area uniquely offers. He and his wife applaud the City Manager's compromise that he has offered on this issue. They think it is a good solution and he suggested to his good friends and neighbors who have spoken on the other side and also to the members of Council that in the two terms he served on the City Council in Virginia he eventually learned the hard way that organized well intentional and passionate voices sometimes can be an inaccurate reflection of the general community. He wanted to tell his good friend Alderman Clifton Jones that the will of the community in their neighborhood is not adamantly opposed to what the Firefly has offered. The crime maps will reveal that burglaries and robberies tend not to be clustered around restaurants or cafes, but on the dark quiet streets and lanes of the Historic District. Our historic property investments have increased not decreased because of the activity that is downtown. He was sure that Ms. Sutton could tell us that if we looked at those rolls, the properties closest to amenities are the ones that are selling at the higher prices throughout the Historic District. Mr. Steffen believed more importantly that a nice quiet dinner without wine is lunch.

Mr. Frank Finocchiaro stated that he is the co-owner of the property. Visitors come to Savannah and they love to eat and drink and he was not talking about hard whiskey. They like beer and wine. As he stated when he was here before, these young ladies operate the restaurant the best they can. They have had six previous owners and they all did not quit because of bad business. The last tenant they had was overworked and decided to go back to school and this was when Sharon bought the business. Mr. Finocchiaro said he has confidence in these young ladies and he knew they are sincere. As he stated before, if they operate the business not to their satisfaction they will not renew their lease in October.

Ms. Jackie Sirlin stated that she lives at 408 East Jones Street. They moved here five years ago and had no idea that there were all these restrictions, but felt they were moving to a small city that was living and breathing and anything that is not living and breathing needs to change. She knew that change is very scary, but basically what they are hearing from all this opposition is that the worst is going to happen. Suddenly, the area is going to become loud, noisy and traffic. It is a little neighborhood restaurant where she would love to be able to go at 7:00 or 8:00 at night with her husband, sit down have a meal and a glass of wine. She did not believe that the people from the south side or Wilmington Island would suddenly be driving down to the Firefly Cafe just because they are able to serve wine. She believed this would be good for the

neighborhood and people move to cities for different reasons. If she wanted to live in a strictly residential area, she would have moved to a gated community in Wilmington Island or to the Landings, but they chose to live someplace where they could walk. She does not like to walk up to her house as it's a little bit scary when it is still dark out. If she walks her dog at 8:30 at night, she is right in front of her house. She would like to be able to walk and this is one of the reasons they moved here. This is a beautiful city, but changes sometimes need to be made and for the city to continue to be beautiful and draw people, she believed that some of the changes need to be made now.

Ms. Nell Hemby stated that she, too, goes to the Unitarian Church and has been attending since 1997. She is married to a recovering alcoholic and does not feel that the serving of wine would inflame or inflict the community. She believed that Council would be doing something helpful for the City and the people who live within the area. She is in favor of the ordinance to approve this request.

Mr. Luke Dickson is a resident of 307 East Charlton Street and recently relocated back to Savannah. He wanted to represent the younger population. Sitting and listening to the remarks of the generations older than he is very insightful. Mr. Dickson decided to move back to Savannah not because he necessarily needed to or his business needed to, but because Savannah needs it. As a young business owner, these conscientious alternatives and city planning, makes wanting to be based out of Savannah more attractive. This is a beautiful city and he loves it. He recently spent some time in London with a good friend, Adam Dell, and they were talking about how Savannah is awesome. He happened to mention this particular incident and Adam said that it is unfortunate that these road blocks happen. Mr. Dickson stated that he wanted to show his support for young business owners and developers, potentially bringing in employees from other cities internationally. He travels internationally for his business as a designer and project developer and believes that it would be an unfortunate decision to hinder businesses that are exceptional examples of good business and responsible business. He felt that hindering these businesses while there are obviously other businesses that they could put their sights on to monitor as the opponents are doing. He believed that the Firefly Cafe should be allowed to sell wine. Alderman Thomas asked Mr. Dickson if he could get his friend to come to Savannah and start a factory. Alderman Johnson injected that we have the perfect site. Mayor Johnson replied that we have a mega site ready for him.

Mr. John Bishop said that he and his wife have lived in the Troupe Square neighborhood since 1986 at 424 Charlton Street. A year ago, they had the opportunity to buy 320 Habersham, which is directly across the street from the Firefly Cafe. A year later, they believe it is an excellent investment concerning the unsolicited offers they have had to buy the property. Considering the restrictions that will be placed on the sale of wine at the Firefly Cafe and the fact that if they do not live up to their end of

the bargain, they can lose their license, they feel that their investment at 320 Habersham Street is well protected a year from now and even five years from now. Mr. Bishop said they support the application.

Mr. Jerald Cohen stated that he was born in Savannah and spent most of his adult life in Alma, Georgia running a small business. He is for the small businesses. He lives in the center unit and to his left are the Cunninghams who are good friends and on the right are the Wilkinsons equally good friends. Mr. Cohen was hopeful that they will be good friends no matter what happens. This is what makes this country so great. You can be a Democrat or Republican, but, yet, you can go out and have dinner together with a glass of wine. When they first moved here, the house was dilapidated and they bought it and spent more money than he thought they would have to, but now he will not sell it for four times the amount he paid for it. They took a year to restore the house. A cafe opened and then it closed and the corner was dark for several years. When they came home at night, they would get out the car quickly and get into their home because they would see people loitering. Then the Firefly Cafe came along. These young ladies work very hard and are so nice, wanting to do well and be a part of the community. These ladies do not want a bar and the neighborhood does not want a bar. If he thought half of what has been said as negative reasons were true, he would be against this 100 percent. He had dinner at the Firefly the other night and someone asked him if he could get wine and he told them no, but that they could get anything else. These ladies lose business because a lot of people will not go here because they like a glass of wine with their meal. First of all if you get a glass of wine, you will not get the bottle to walk out with it. He did not believe the ladies would let someone do that, but they will serve you a glass of wine with a full meal. The reason he loves this restaurant is because he feels safe. His kitchen is in the front and he looks out and sees tourists, people walking their dogs, and activity and it is dark, but yet it's life. We need to have trust; everybody is so afraid that this is going to make Savannah New Orleans. We have the river for that and we have Pinkie Master's, but we do not have a nice little, quiet cafe that will abide by the rules. If these young ladies give it up, the next person would have to come before Council and they can say no if they are not the people they want. We need to trust people, trust these young ladies, trust the city and law enforcement. We have a great law enforcement system and we need to trust people at least one time anyway and if they mess up, they are out. Mr. Cohen said he believed Savannah is in the 21st Century. People come to this town and he is glad he lives in a town that people want to come to. They love to come here and why they want to come is because of the restaurants, shows, and things to do. He did not know how Charleston got to be the friendliest city. He was talking to some people the other day who said they went to Charleston and the people there are cold, but come to Savannah and get warmth. This is a wonderful town and everybody he knows that has moved from out of state says the same thing. Mr. Cohen was hopeful that his friends and neighbors would not be angry with him for not taking their side. He was hopeful that Council would do the right thing.

Mayor Johnson said he wanted to reemphasize what Mr. Cohen said as he said earlier. After all this is over, they will still have to be neighbors. This is why they are trying to keep this civil because in the end unless they are going to move, they will see each other tonight.

Ms. Elizabeth Patterson stated that she and her husband own the Tinderbox on Bull Street and they are also residents of the downtown area. She was speaking as the president of the Downtown Business Association in support of the Firefly Cafe. They believe that residents enhance their business and they believe that their businesses enhance the quality of life for downtown Savannah. In a time when Savannah faces such considerable challenges and demands, they think a unified approach is necessary to solve them and it is a shame to let a glass of wine come between us unless it is a toast. In a business climate where every day is a challenge just to survive for all of us, the Firefly Cafe has survived. It has also been a good citizen of its neighborhood, but she knew that a little additional profit each and every day can make a big difference to a business and this most likely is what this wine represents for this business. It represents viability and they have been a good citizen and we are dealing with a known entity here. This is not somebody coming in new to us. Ms. Patterson said they believe they should reap the benefits of their persistence and their good citizenship by being granted this one small request. They believe, too, that business and resident should accommodate each other, which involves compromise and they think that the substantial restrictions on this proposal represent a compromise on the part of the Firefly Cafe. Ms. Patterson urged Council to grant the request.

Ms. Lee Alexander stated that her address is 26 East 64th Street and she appeared before Council in the past. Observing the Mayor's injunction, she wanted to add one point to the comments she made in favor of the Firefly Cafe having a wine permit. The Firefly Cafe is a business operation and she trusts that the owners are making a good living from it. But it has become more than that. It is now supplying a definite community need. There is not a food dispensing business to her knowledge of this type such as the Firefly in an area of many blocks in this part of town. The last time she had lunch at the Firefly, she saw professional colleagues who came from four or five blocks south of this establishment. Many people who work in the downtown area come to the Firefly for lunch. This is no longer just a place to drop in for a sandwich, but it is supplying a real need and if the neighborhood did not have it, particularly the professional and business people and possibly the residents who do a lot of eating out, they would be severely inconvenienced. The owners are not only serving a need, but are contributing to the City as good citizens. For these reasons, she believed they are due some support from the agencies of the City and have earned the help. She is also a member of the Unitarian Church. At the first hearing on this matter at the MPC, she had spoken informally with approximately 50 to 75 percent of the people in her church. Everyone was not only willing to have Firefly serve wine, but enthusiastic about it. Apparently, the portions of the congregation that she did

not speak with were of different opinions and she was unaware of this and to the extent that she unwittingly misrepresented their feelings. Ms. Alexander apologized to these persons and to City Council.

City Attorney Blackburn suggested that the public hearing be closed on this issue and then Council could begin its discussion. Mayor Johnson closed the public hearing and stated that we have a recommendation from the Metropolitan planning Commission to deny this request. We have a recommendation from the City Manager to approve the granting of the right to serve wine at 321 Habersham Street. He said he needed the attorney to tell him whether passing this text amendment enables that as they know denying it cancels it out. He wanted to know if there is a third issue that needs to be voted on. City Attorney Blackburn stated that in his opinion before City Council are two recommendations. If Council accepts the Planning Commission recommendation, this concludes the issue. If Council accepts the City Manager's recommendation then an ordinance would have to be prepared to put into effect generally the City Manager's recommendation which was to allow this under certain conditions. The conditions would have to come before Council to be voted upon separately. Council may amend them, treat them as any other ordinance and it will be prepared for the next meeting.

Alderman Cook said they have been here along time listening to both sides of this issues and he wanted to make a few observations and comments. The R-I-P-A-1 district is the only R-I-P-A-1 district in the City. This encompasses the Troupe Square area. This is the most restrictive in the historic area for a good reason. Being in the real estate business, he knows that people who buy homes in this area do so mainly because it is such a restricted area. They don't want the nighttime traffic. They want to be left in peace to do their own thing. The City Council is being asked to override the recommendations of both the MPC staff and the MPC board. They voted nine (9) to one (1) to deny this petition. This petition that Mr. Yellin put before Council with 300 signatures, maybe only 100 live in the historic area and out of those 100, he would say that at least 90 percent are renters and do not own homes in the Historic District. The restaurant owners of the Firefly Café knew the rules when they started their business. They knew that they were not allowed to serve alcohol. They have also stated that they do not need to serve alcohol to survive. If they want to serve alcohol, move. There are plenty of places in the downtown area where they can setup an establishment to do exactly what they are proposing to do, but not in this restricted area. This would also be asking the City Council to disregarding its own ordinance regarding no alcoholic beverages being sold within 100 yards of a school. Alderman Cook stated that he also had a letter from Sister Mary Buttmer of St. Vincent's Academy alluding to this same thing about the selling of alcohol beverages within 100 yards of the school. She stated that parking is already a problem and would likely become worse if more patrons are attracted by the addition of alcoholic beverages with their meals. He believed this is a bad precedent and is only for the benefit of a single establishment. Alderman Cook believed that if this is passed, then a slew of requests will come in from the R-I-

P-A district which is even less restrictive than the R-I-P-A-1. He would guarantee that Clary's would be the first in line to want the alcohol license. He will vote to deny this text amendment.

Alderman Clifton Jones stated that he does not prescribe to this particular text amendment. He knew that they are discussing a sort of mixed amendment and a zoning process. He was weary that in the text before them that they are going to create a new use, serving wine. He wanted to remind Council that when they came aboard, they were very strong about the use of alcohol in our community. This is a highly restrictive area and he has heard a lot of comments from both sides today. He understood that when an investment is made in properties, especially in this area, you are making almost a lifetime investment. These properties mean a lot to those people who live in close proximity. Alderman Jones said he read the petition that Mr. Yellin gave Council. What he found was that they had persons from overseas signed the petition and people who do not live close to this area as far as Wilmington Island. Perhaps they all come here to have a meal, but Council is being asked to create a new text amendment change so this one use can be permitted for this one petitioner. He does not believe that this should happen. This could set a precedent for them for others to come to make the same type of requests. Because of this, he could not in good conscience vote in favor of this.

Alderman Fesler thanked the citizens both for and against this petition. Council has received a great deal of faxes, phone calls and e-mails and has heard from everybody for a long period of time. In the Olympics this event is called the Balance Beam routine. This is what they have been trying to do today for people who are not trained to walk a balance beam where they hide the degree of difficulty. If Council goes either way, to the right or left, they fall on concrete. We have a City Manager who has a high degree with regards to city planning, is trained and speaking for himself, has voted to entrust the City Manager with the right to manage our city, provided that he believes the City Manager is following the correct policies. Is the City Manager following the correct policy in his opinion? He received no letter from the Historic Savannah Foundation in opposition to this and did not know if any of the other Council members did, but he received none and has been a long standing member of this foundation. The Downtown Neighborhood Association's president wrote a letter that was most ambiguous that said, "If the answer from City officials is that we have their assurance that neighbors of negative impact will not be tolerated, then the DNA stands in favor of such change." Alderman Fesler stated that he could only speak for himself and wanted to say that from this city official, they have his assurance that they will not stand for a negative impact. This Council declared its number one priority to be protecting neighborhoods. If he thought that this was going to bring down this neighborhood, he would not have reached the decision that he has now reached. He came to the meeting today undecided, but has now reached a decision and does not want to think that just anybody can walk in with a letter from Monsieur O'Neill from the Cathedral of St. John the Baptist. Monsieur O'Neill stated that, "He has no

objections to the proposed amendment that would allow the Firefly Café to serve wine, increasing their business revenue and tourist appeal." The Monsieur has stated that "the owners of the café have been good neighbors and have only served to enhance the charm of Historic Savannah." Mr. Finocchairo, the owner of the building, has attested to the way that these owners carry-out their business. Yes, he does agree that there does seem to be a disconnect between what City Council thought it was advising the MPC to do, given the fact that they are an advisory board. Council has the right if they feel that they have not voted on something the way Council thought, then Council can go in a different direction if they so choose. Alderman Felser hoped that the disconnect would be addressed in the future between the MPC and City Council. In his opinion, there seems to be a disconnect between this and other issues. He believed that it is unfortunate and unusual when you have a nine to one decision and then the City Manager is placed in a kind of super authority position being the one who is overriding them. If he felt that the City Manager was leading Council on a policy that was going to destroy neighborhoods or destroy the character of our Historic District, he would vote against it. He does not feel that the entire fabric as of the Historic District is ripped a part by a glass of wine at this café. He believed that there are policy shifts that are existing here, but tectonic he thinks was an extreme. Alderman Felser said he learned today that we all have different definitions for blight. He will vote in favor of the café.

Alderman Johnson stated that he has heartburn and has had it quite a bit about this issue. They have talked about there would be days like this where they will have to make hard decisions. He guessed it would be much easier if some of the facts that were presented were undisputed. The first one is that everybody likes the Firefly Café. But by all accounts this is an outstanding business, within an outstanding atmosphere run by outstanding citizens. This is undisputed as well. He guessed the issue, such as Alderman Felser said, that gives them the heartburn is being able to create that balancing act. Attorney yellin came and talked and where he changed was that this business would not survive if it was not allowed to serve wine. His concern is what happens after the Firefly Café. Obviously, people buy where they believe or they know what they buy when they get what they buy. Alderman Johnson believed that this would pass, but he was in a heartburn mode and wanted to express this and in expressing this, it might make the other Aldermen feel just as bad. Either way, they are hoping that when this is over, they all can be friends and likewise these neighbors have to go back to the same square and be friends as well.

Alderman Osborne stated that reaching back to her former profession, which is nursing, she wished she had something to offer Alderman Johnson, but she does not at this point, except a dose of courage. Either way they go, somebody is going to be displeased with Council. Therefore, this is a balancing act. She said a dose of courage because she knows and believes that what the citizens elected them to do was to make the best decisions based on what is before them. They also empowered them to reverse decisions that

turn out to be bad. With that notion, she is very comfortable with supporting the Firefly Café.

Alderman Jackson stated that she has been very quiet which they know is very unusual for her. She told many of the residents the past couple of days that she wanted to come to the meeting with an open mind and did not want to talk with any of the Council members to make sure she was making what she felt was the best decision that could possibly be made. She also realized that no matter what decision she makes today, there are going to be people that will be upset with the decision which she is used to. She does not always have to necessarily agree with what is being done, but has to look at the total picture and see what is best in this community based on what they are trying to do here in order to make this community a very viable community. She has received calls from inns, bed and breakfasts that are in the neighborhood and they are saying that their patrons go to the Firefly Café to eat, they put up the menu and the patrons can walk there. They get elderly patrons, the place is clean and they are treated nicely. She has never eaten at the Firefly Café, but she has been told that it is nice. The one thing is that the patrons cannot buy a glass of wine. She sat here today and also saw some of the ugliness that comes out of people when they are upset with issues and she knew that could happen because it becomes personal. She sat here today and saw us being compared to New Orleans, but she did not believe that we will ever be the French Quarters. She sees here a residential area where residents and businesses can co-exist and a city where we have mixed neighborhoods. When she heard that there were houses for \$1 million plus, she said where, but we do have them in the downtown area. But, we have a small business that we are encouraging to operate in our neighborhoods. This small business is run by two young ladies that she has not heard one negative thing about who are asking for assistance to allow them to serve a glass of wine to their patrons so they can continue to make their business viable. Alderman Jackson stated that she is not a real drinker, but, yes, she has no problem with one glass of wine being served in a very controlled situation. She does have problems if a person could walk in and say I want a glass of wine and not get a meal. But to sit with your friends or your family and have a glass of wine with your full meal, she had no problems. She was hopeful that as they end this today, that those who are pro or con can still realize that this is Savannah and we are supposed to be one of the friendliest cities. It is not going to hurt to serve one glass of wine. The other thing that is very important is that she is committed to pulling the license from anybody that violates any rules here in our city. As Alderman Osborne has said, it is a privilege in a sense to get a license. She believed that this Council is committed to do whatever is necessary if people in businesses are violating any rules that Council sets forth. She asked the residents of Troupe Square to give these young ladies an opportunity to blossom in their business by allowing them to serve a glass of wine with meals. Alderman Jackson said she will vote in favor of the City Manager's recommendation.

Mayor Johnson stated that he needed a motion to approve the MPC recommendation or a motion to approve the City

Manager's recommendation. Alderman Felser moved for approval of the City Manager's recommendation. This was seconded by Alderman Jackson. Alderman Sadler asked that they cast their votes on the board. The motion passed 6 to 3. Voting in favor of the motion were Mayor Johnson, Aldermen Sadler, Jackson, Thomas, Felser and Osborne. Voting against the motion were: Aldermen Cook, Clifton Jones and Johnson. (ORDINANCE TO COVER WILL BE DRAWN UP FOR PRESENTATION AT THE NEXT MEETING).

Council took a five minute recess

The meeting was called back to order by Mayor Johnson. He said Council still needed to address a final issue around this particular question that they have been laboring on. Do they want to charge the City Manager and the MPC to investigate a zoning classification called a "Café Zone." If Council does not want to do this, this ends it, but if so, they will need a motion to instruct the City Manager to move in this direction. Alderman Johnson moved that given the action that City Council has taken, it would be appropriate to direct the City Manager and City Attorney to look into a Café Ordinance and bring a recommendation back to Council. This was seconded by Alderman Felser. City Attorney Blackburn stated that before they start on something, he suggested that may be they not limit it to zone. He suggested that Council direct the City Manager to investigate and comeback with some regulations for cafes in relation to zoning rather than creating a zone. Alderman Johnson amended his motion to approve the recommendation of the City Attorney. This was seconded by Alderman Felser. Alderman Clifton Jones stated that we have cafes in the City of Savannah already. City Manager Brown explained that we have places that have small restaurants, but we do not have a designation in our Alcoholic Beverage regulations or in zoning. He agreed with Mr. Blackburn that we are not looking necessarily for a land use zone. We are looking for the use to be less intrusive to a small scale restaurant type operation. Alderman Jones wanted to know if they are isolating this to a specific area. City Manager Brown answered no. The reason he made part B to this is if they look at the map, there are places here that would allow lounges and he does not think that's good. Having a café classification, whether it is in an alcoholic beverage or in zoning might mean some additional tools so they would not have such heated differences over these kinds of establishments. It would not be all of none. It would be tightened and regulated. The motion carried to instruct the City Manager to investigate the use of cafes as they pertain to zoning with Aldermen Cook voting against the motion.

ORDINANCES

First Readings

Alderman Cook wanted to know if there was a move to consolidate the City and County zoning so they would be uniform. Aren't we trying to consolidate the zoning of the City and County under the same uniform structure? Mr. Tom

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the owner/operator is going to have an active responsible role in the business. Mayor Johnson entertained comments from the public.

Alderman Cook asked that this petition be continued for two weeks so that the people who live in the area can be notified. He was not aware of the petition and did not know if the citizens were aware of it. City Manager Brown stated that the normal procedure now is to notify the adjacent neighbors, but he did not know for certain if this happened. There have been operators who have had beer and wine at this location, but he was only talking about the management relationship that needs to be demonstrated. He believed that there are grounds to grant the license if there is a proper applicant. City Manager Brown recommended that City Attorney Blackburn give the applicant notice as to why this application should not be denied based on these facts and let them come forward in an answer to this. Alderman Clifton Jones asked City Manager Brown if he was saying that this person is not eligible. City Manager Brown answered that he did not believe there was a question of the applicant's personal background. The application raised doubts about the ownership, operation and actual management of the establishment. He explained that as Brian Gore informed him, we have no discernable connection between the applicant and the business. This needs to be demonstrated in the hearing. Alderman Osborne moved for a show cause hearing in two weeks. This was seconded by Alderman Felser and carried. The neighborhood is to be informed about the hearing. **(Continued to the meeting of March 16, 2005 for a show cause hearing).**

ORDINANCES

First Readings

Sale of Wine by the Drink (Z-040702-37207-2)

City Manager Brown explained that he put this on for first reading today, but this does not mean that Council needs to take a vote today unless there is a will to have it put on first and second reading. Council laid out a policy and he was hopeful that he did not misread it. He believed that it was not Council's intent at the meeting to exactly craft the implementation of that policy, but the intent to allow the sale of wine with a meal under restrictive conditions which were enumerated by the petitioner. Therefore, it is at Council's discretion whether to leave the ordinance on first reading and then put it on for second reading on March 16, 2005. Alderman Osborne stated that on page 20 of the Agenda is an ordinance that lays out all the items that Council expected to be covered. She wanted to know if this was satisfactory or should Council just place the ordinance on first reading. City Manager Brown said he did not want to speak for the Mayor or the City Attorney, but this is a procedural issue as to how Council wants to proceed. Ordinarily, as Council knows, ordinances in the City of Savannah require two readings and this can actually be done at the same time. But this would be with the consent of Council to have an item placed on first and second reading. Alderman Sadler asked if unanimous consent was needed for

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the ordinance to be placed on first and second reading. City Manager Brown answered that in order to place it does not have to be a unanimous vote, but would need unanimous consent to hear it on first and second reading. City Attorney Blackburn explained that the procedural way would be a motion to have the first reading be considered the second reading and the ordinance placed upon its passage and passed by unanimous consent. Alderman Osborne moved for approval of first and second reading for the ordinance. This was seconded by Alderman Felser. The motion failed with Mayor Johnson, Aldermen Sadler, Jackson, Felser, Osborne voting in favor. Voting against were: Aldermen Cook, Clifton Jones, and Johnson. Alderman Thomas was not in the Chambers when the vote was cast. Attorney Blackburn explained that the motion was to put this on for first and second reading. Now, any Alderman can object to having this put on for the two readings at once. Mayor Johnson asked if the motion to put it on first and second reading passed five to three. Alderman Clifton Jones wanted clarification. Alderman Osborne stated that she moved for approval of the first and second reading. Alderman Clifton Jones stated that if this was Alderman Osborne's motion, it did not pass. Mayor Johnson wanted to know Council's position on this issue. Alderman Clifton Jones stated that he believe this is a classic example of spot zoning. He knew that the RIP-A1 zone where this cafeteria is operating is in a nonconforming use. He believed also that this would spur other petitions that would increase the alcoholic beverage sales in this area. There are array of other things that he could cite today, but he will not go into it. Alderman Cook stated that this is the most restrictive zoning that is in place in the Historic District. He believed before long they would see an influx of these requests and he did not believe that this is a good thing. Mayor Johnson said they will accept this as the first reading today and the second reading will be held on March 16, 2005.

ORDINANCE PLACED ON FIRST READING ONLY:

AN ORDINANCE TO AMEND ARTICLE F. NONCONFORMING USES. SECTION 8-3134 CHANGES IN NONCONFORMING USES OF THE ZONING ORDINANCE OF THE CITY OF SAVANNAH TO PROVIDE FOR THE SALE OR SERVING OF WINE FROM A SIT DOWN RESTAURANT AS AN INCIDENTAL USE WITHIN THE RIP-A1 DISTRICT UNDER CERTAIN CONDITIONS; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled and pursuant to lawful authority thereof:

SECTION 1: That Article F - Nonconforming Uses - Section 8-3134. Changes in Nonconforming Uses be amended by adding thereto a new section to be designated as subsection (g) as follows:

(g) Nothing in this section shall prevent the addition of an incidental nonconforming use to an existing nonconforming principal use when approved by the Mayor and Aldermen.

(1) The sale or serving of wine from a sit down

restaurant, by the drink, for consumption on the premises, shall be allowed within the RIP-A1 district subject to:

- (i) Such beverage shall only be served as part of a full service meal. Alcoholic beverages and malt beer shall be prohibited.
- (ii) The restaurant shall front onto a street classified as an arterial or collector on the city street classification map.
- (iii) Sunday sales provisions of Section 6-1212 of the City Code shall apply every day including Sunday. Wine shall be served or dispensed from a preparation area or service station not available to patrons.
- (iv) The sale of wine shall be restricted to only the hours between 12:00 noon and 10:00 p.m. Wine shall not be sold for take-out consumption.
- (v) No display or advertisement for the sale of wine shall be visible from the exterior of the structure.
- (vi) Deliveries and pick-ups shall be accomplished in a manner so as not to block access to adjacent residential properties.
- (vii) Pool tables, amusement games and videos, live music and karaoke shall not be permitted. Loudspeakers and music shall not be permitted on any public property adjacent to the restaurant use.
- (viii) Trash and waste generated from the restaurant shall utilize only household trash receptacles. No. dumpsters shall be permitted.
- ix) An area dedicated as a bar area or serving as a bar shall not be permitted.
- (x) This section shall only apply to existing restaurants that are nonconforming due to zoning map amendment or text amendments. The restaurant building shall not be greater than 2500 square feet and shall not have more than 50 chairs.

SECTION 2: That the existing subsection (g) be redesignated as subsection (h), and the existing subsection (h) to subsection (i).

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SECTION 3: That the requirements of Section 8-3182(f)(2) of said Code and the law in such cases made and provided has been satisfied. That an opportunity for a public hearing was afforded anyone having an interest or property right which may have been affected by this zoning amendment, said notice being published in the Savannah Morning News on the 1st day of February, 2005, a copy of said notice being attached hereto and made a part hereof.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Second Readings

City Manager Brown explained that this is an ordinance on the zoning of land to be annexed into the City. It is approximately 250 acres in the Canebrake Road area.

Ordinance read for the first time in Council February 17, 2005, read a second time March 3, 2005, placed upon its passage, adopted and approved March 3, 2005 upon motion of Alderman Thomas, seconded by Alderman Sadler and carried.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO PROVIDE A ZONING DESIGNATION FOR THE PROPERTY PETITIONED TO BE ANNEXED TO THE CITY OF SAVANNAH BY ORDINANCE ADOPTED AND APPROVED FEBRUARY 17, 2005; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, by ordinance adopted and approved February 17, 2005, the property fully described in that ordinance, a copy of which is hereto attached and made a part hereof, was annexed into the City; and

WHEREAS, each of the properties within said areas to be annexed are zoned as designated on the zoning map of Chatham County, Georgia; and

WHEREAS, the County zoning classification for the annexed area is common with and represent similar intent as the following zoning classification provided by the zoning ordinance of the City;

NOW THEREFORE, be it ordained by the Mayor and Aldermen of the City of Savannah that:

SECTION 1: The area annexed to the City described above is hereby added to the zoning map of the City, and the zoning classification designated for the property shall be the City zoning classification which is common with the zoning classification as designated by the County zoning map.

SECTION 2: This ordinance shall be effective upon the effective date of the annexation of said property in the City of Savannah pursuant to O.C.G.A. 36-66-4 (e) and the law in such cases made and provided.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ADOPTED AND APPROVED: MARCH 3, 2005

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City of Savannah pursuant to O.C.G.A. 36-66-4 (e) and the law in such cases made and provided.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO PROVIDE A ZONING DESIGNATION FOR THE PROPERTY PETITIONED TO BE ANNEXED BY STUART ABEL, III CONSTRUCTION, INC. TO THE CITY OF SAVANNAH BY ORDINANCE ADOPTED AND APPROVED MARCH 16, 2005; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, by ordinance adopted and approved March 16, 2005, the property fully described in that ordinance, a copy of which is hereto attached and made a part hereof, was annexed into the City; and

WHEREAS, the annexed property is zoned as designated on the zoning map of Chatham County, Georgia; and

WHEREAS, the City has adopted within its zoning code all County zoning classifications so that the City and has a set of zoning classifications in common with the County zoning classifications;

NOW THEREFORE, be it ordained by the Mayor and Aldermen of the City of Savannah that:

SECTION 1: The area annexed to the City described above is hereby added to the zoning map of the City, and the zoning classification designated for the property shall be the City zoning classification which is common with the zoning classification as designated by the County zoning map.

SECTION 2: This ordinance shall be effective upon the effective date of the annexation of said property in the City of Savannah pursuant to O.C.G.A. 36-66-4 (e) and the law in such cases made and provided.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Second Readings

City Manager Brown explained that this is the proposed second reading for the approval of an ordinance to allow the sale of wine by the drink under certain circumstances when there is a nonconforming use and to allow wine consumption with a sit-down meal at a restaurant in the RIP-A1 district. City Attorney Blackburn stated that this ordinance was before City Council at the last meeting and there was objection to unanimous consent. The ordinance is now on second reading. The public hearing has already been held.

Ordinance read for the first time in Council, March 3, 2005, read a second time, March 16, 2005, placed upon its passage, adopted and approved March 16, 2005 upon motion of

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Alderman Jackson, seconded by Alderman Felser and carried with Mayor Johnson, Aldermen Osborne, Felser, Johnson, Thomas, Jackson, and Sadler voting in favor and Aldermen Cook and Jones opposing.

AN ORDINANCE TO AMEND ARTICLE F. NONCONFORMING USES SECTION 8-3134 CHANGES IN NONCONFORMING USES OF THE ZONING ORDINANCE OF THE CITY OF SAVANNAH TO PROVIDE FOR THE SALE OR SERVING OF WINE FROM A SIT DOWN RESTAURANT AS AN INCIDENTAL USE WITHIN THE RIP-A1 DISTRICT UNDER CERTAIN CONDITIONS; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled and pursuant to lawful authority thereof:

SECTION 1: That Article F - Nonconforming Uses - Section 8-3134. Changes in Nonconforming Uses be amended by adding thereto a new section to be designated as subsection (g) as follows:

- (g) Nothing in this section shall prevent the addition of an incidental nonconforming use to an existing nonconforming principal use when approved by the Mayor and Aldermen.
- (1) The sale or serving of wine from a sit down restaurant, by the drink, for consumption on the premises, shall be allowed within the RIP-A1 district subject to:
 - (i) Such beverage shall only be served as part of a full service meal. Alcoholic beverages and malt beer shall be prohibited.
 - (ii) The restaurant shall front onto a street classified as an arterial or collector on the city street classification map.
 - (iii) Sunday sales provisions of Section 6-1212 of the City Code shall apply every day including Sunday. Wine shall be served or dispensed from a preparation area or service station not available to patrons.
 - (iv) The sale of wine shall be restricted to only the hours between 12:00 noon and 10:00 p.m. Wine shall not be sold for take-out consumption.
 - (v) No display or advertisement for the sale of wine shall be visible from the exterior of the structure.
 - (vi) Deliveries and pick-ups shall be accomplished in a manner so as not to block access to adjacent residential properties.

- viii) Trash and waste generated from the restaurant shall utilize only household trash receptacles. No dumpsters shall be permitted.

SECTION 2: That the existing subsection (g) be redesignated as subsection (h), and the existing subsection (h) to subsection (i).

SECTION 3: That the requirements of Section 8-3182(f)(2) of said Code and the law in such cases made and provided has been satisfied. That an opportunity for a public hearing was afforded anyone having an interest or property right which may have been affected by this zoning amendment, said notice being published in the Savannah Morning News on the 1st day of February, 2005, a copy of said notice being attached hereto and made a part hereof.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ADOPTED AND APPROVED: MARCH 16, 2005

First and Second Readings

Ordinance read for the first time in Council, March 16, 2005, read a second time, March 16, 2004, placed upon its passage, adopted and approved March 16, 2005 upon motion of Alderman Cook, seconded by Alderman Jackson and carried.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF SAVANNAH PROPERTY LYING CONTIGUOUS TO THE EXISTING CORPORATE LIMITS AND BEING THE TERRITORY DESCRIBED IN THE DRAWING ENTITLED "TOPOGRAPHICAL SURVEY OF 4.232 ACRES BEING A PART OF THE RED GALE FARMS, SITUATED IN THE 7TH G.M. DISTRICT CHATHAM COUNTY, GEORGIA" DATED JANUARY 16, 2004 PREPARED BY SOUTHEAST GEORGIA SURVEYING AND MAPPING; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith AND FOR OTHER PURPOSES.

WHEREAS the owner of a certain tract of land contiguous to the corporate limits of the City has submitted a petition requesting annexation to the City; and