

February 27, 2007

COUNCIL PROCEEDINGS

Regular meeting

The eightieth meeting of the City Council of Charleston was held this date convening at 5:06 p.m. in the Reuben Greenberg Building at 180B Lockwood Boulevard.

A notice of this meeting and an agenda were mailed to the news media February 22, 2007 and appeared in The Post and Courier February 25, 2007 and is made available on the City's website.

PRESENT

The Honorable Joseph P. Riley, Jr., Mayor; Councilmembers Fishburne, Morinelli, Lewis, Mitchell, Gallant, Gilliard, Waring, Evans, Tinkler, Shirley, Bleecker --- 12

Councilmember Wilson was attending the South Carolina Municipal Association's Winter Meeting in Columbia.

Mayor Riley explained Michael Oshinsky's, who works in the Department of Information Technology and the first recipient of the Harry Bellavita Award, wife died this morning. He stated they were as close as any married couple has ever been and it was sudden. He explained Michael is absolutely inconsolable and is at the hospital, so as we have the invocation to think about Linda Oshinsky and her dear husband Michael during this difficult time.

The meeting was opened with the invocation by Councilmember Waring.

Councilmember Waring led City Council in the Pledge of Allegiance.

There were several Presentations or Recognitions.

Mayor Riley asked Betty Murray, Bob Siedler, Rick Widman, Lynn Lesesne and members of Ms. Murray's family to join him at the podium. He explained Betty Murray is a long time hospitality worker in the area and she was just named by the South Carolina Hospitality Association as their "2006" Hospitality Employee of the Year." Mayor Riley read, signed and presented the Proclamation (**P2007-02**) to Betty Murray.

Ms. Murray said she will always serve her City and serve everyone.

Mr. Widman stated many people know Ms. Murray and she is one of the most incredible citizens of Charleston. He explained she is the most humble, most sincere, and most interested in serving everybody. He said they could pile up the desk with guest comment cards and people from New York have tried to steal her from Charleston. He thanked Mayor Riley and City Council for honoring Ms. Murray.

Mayor Riley stated next time one of those people from New York tries to steal her, tell them it is against the ordinance of the City of Charleston.

Mayor Riley asked Major John Dunmeyer, Cadet/LTC Arthur Lee and other members of the Burke High School ROTC to join him at the podium. He read and presented Cadet LTC Lee with a Certificate of Recognition to the Burke High School JROTC Bulldog Battalion. Mayor Riley stated he had the pleasure of meeting Cadet LTC Lee the other night and was advised he had been admitted to The Citadel. He explained Cadet LTC Lee is following the footsteps of Clay Middleton, who graduated from Burke High School and The Citadel and work for Congressman Clyburn. He also noted Cadet LTC Lee met Senator Clinton the other night. Cadet LTC Lee thanked the entire JROTC, Principal Benton, and all of the administration and faculty at Burke High School.

Major Dunmeyer said he is proud to be a part of the Burke High School JROTC program and thanked Councilmember Gilliard for his ongoing support of the program. He stated they would not have been successful without the support of the faculty and staff at Burke High School. Mayor Riley explained he was at Burke High School when the External Review, active duty and retired military officers from around the country, put this unit through it. He said this is an extraordinary honor and are proud of them.

The next item on the agenda was public hearing called for by the following advertisement which appeared in The Post and Courier on February 18, 2006 and in The Chronicle on February 19, 2006:

PUBLIC NOTICE

CLOSING AND ABANDONMENT

The public hereby is advised that the City Council of Charleston will hold a public hearing on Tuesday, February 27, 2007, at the Reuben M. Greenberg Municipal Building at 180-B Lockwood Boulevard, on the proposed closing and abandonment as follows: Executive Circle runs generally in a northerly direction for approximately 368' from its intersection with Savannah Highway (US 17) to its terminus.

Interested parties are invited to attend the hearing and express their views. Extended presentations should be submitted in writing.

Vanessa Turner-Maybank
Clerk of Council

First, Council considered the proposed closing and abandonment of Executive Circle generally running in a northerly direction for approximately 368' from its intersection with Savannah Highway (US 17) to its terminus. Tom O'Brien, Deputy Director of the Department of Public Service, explained the development is being revised and the street is currently serving as a driveway into the development. He stated the developer approached the City about abandoning it and letting it become part of the project. He said they notified all the necessary offices and have not received any adverse comments.

On the motion of Councilmember Tinkler, seconded by Councilmember Bleecker, Council approved the request.

The next item on the agenda was public hearings called for by the following advertisement which appeared in The Post and Courier on February 11, 2007 and in The Chronicle on February 12, 2007:

PUBLIC HEARING

The public is hereby advised that the City Council of Charleston will hold a public hearing Tuesday, February 27, 2007, beginning at 5:00 p.m. at Reuben M. Greenberg Municipal Building, 180B Lockwood Drive, on the request that the Zoning Ordinance of the City of Charleston be changed in the following respects:

REZONINGS

1. To rezone 3221 Ashley Town Center Drive (*West Ashley*) (10.95 acres) (TMS# 309-16-00-042) Business Park (BP) classification to General Business (GB) classification and to be included in the Accommodations Overlay (A) classification.
2. To rezone 3133 Ashley Town Center Drive (*West Ashley*) (5.27 acres)(TMS# 309-16-00-047) to be included in the Accommodations Overlay (A) classification.

3. To rezone 418 Meeting Street (*Peninsula*) (0.30 acre) (TMS# 459-09-01-069) from General Business (GB) classification to Mixed Use - Workforce Housing (MU-2/WH)classification.

ZONINGS

To zone the following property annexed November 28, 2006:

1. Vacant parcel on Savage Road (*West Ashley*) (0.20 acre) (TMS #351-07-00-117) Diverse Residential (DR-2F).

To zone the following properties annexed December 12, 2006:

2. 823 Castle Avenue (*School View - West Ashley*) (0.46 acre) (TMS #350-02-00-113) Single-Family Residential (SR-1).
3. 6 Waters Edge Court (*Shadowmoss - West Ashley*) (0.32 acre) (TMS #358-07-00-042) Single-Family Residential (SR-1).
4. 2450 Ashley River Road (*Pierpont – West Ashley*) (0.75 acre) (TMS# 353-02-00-053) General Business (GB).
5. 818 Saint Andrews Boulevard (*Avondale - West Ashley*) (0.6 acre)(TMS #418-11-00-003) General Business (GB).
6. 1962 Sam Rittenburg Boulevard (*West Ashley*) (3.5 acres) (TMS #351-09-00-005) General Business (GB).

ORDINANCE AMENDMENTS

1. To amend Chapter 54 of the Code of the City Of Charleston (Zoning Ordinance) by amending Article 3, Part 1, Table 3.1, Height, Area And Setback Regulations, to change building setback requirements for the HI, CT and DR-3 zoning districts and change building setback requirements and maximum lot occupancy limits for the GO zoning district.
2. To amend Chapter 54 of the Code of the City Of Charleston (Zoning Ordinance) by amending Article 2, Part 3, Table Of Permitted Uses and Section 54-206.
3. To amend Chapter 54 of the Code of the City Of Charleston (Zoning Ordinance) by amending Section 54-233 to permit two alternate members to serve on the Board Of Architectural Review.

VANESSA TURNER-MAYBANK
Clerk of Council

The following is the report of the City Planning Commission regarding the public hearing matters:

TO THE MAYOR AND COUNCIL MEMBERS OF THE
CITY OF CHARLESTON:

The Planning Commission met on **January 17, 2007** and presents the Mayor and City Council with the following recommendations:

Presentation

1. **Presentation on the Johns Island Community Plan** – Christopher Morgan, Planning Division Director of the Department of Planning, Preservation and Economic Innovation.

NO ACTION TAKEN

Rezoning

1. **359 King Street (Peninsula) 457-04-02-071** - 0.46 acre. Request rezoning from General Business (GB) to Urban Commercial (UC).

DEFERRED BY APPLICANT

2. **3221 Ashley Town Center Drive (West Ashley) TMS# 309-16-00-042** – 10.95 acres. Request rezoning from Business Park (BP) to General Business (GB) and to be included in the Accommodations Overlay (A).

RECOMMENDATION: APPROVAL

3. **3133 Ashley Town Center Drive (West Ashley) TMS# 309-16-00-047** – 5.27 acres. Request to be included in the Accommodations Overlay (A). Zoned General Business (GB).

RECOMMENDATION: APPROVAL

4. **418 Meeting Street (Peninsula) TMS# 459-09-01-069** – 0.30 acre. Request rezoning from General Business (GB) to Mixed Use - Workforce Housing (MU-2/WH).

RECOMMENDATION: APPROVAL

5. **1, 6, 8 & 10 Oliver Court and 5 Carrere Court (Cannonborough - Peninsula) TMS# 460-15-02-0067, 009, 068, 069 & 070** – 0.31 acre. Request rezoning from Limited Business (LB) to Diverse Residential (DR-2F).

DEFERRED BY APPLICANT

6. **Travis Lane off Clements Ferry Road (Cainho) TMS# 268-00-00-005 & 039** – 11.44 acres. Request rezoning from Single Family Residential (SR-1) to General Business (GB).

DEFERRED BY APPLICANT

Subdivisions

1. **Ashley Gardens Boulevard and Certificate Court (Grande Oaks Townhomes, Grand Oaks – West Ashley) a portion of TMS# 301-00-00-397** – 10.746 acre. Request revised final subdivision approval for 28 lots. Zoned Planned Unit Development (PUD).

ACTION: APPROVED

2. **Bees Ferry Road and Grande Oaks Boulevard (Lot 2) (Grand Oaks – West Ashley) TMS# 301-00-00-049** – 13.040 acres. Request preliminary subdivision approval for 5 lots.

Zoned General Business (GB).

DEFERRED BY OWNER UNTIL THE FEBRUARY PLANNING COMMISSION MEETING

3. **Produce Lane (Johns Island) TMS# 313-00-00-158** – 5.284 acres. Request preliminary subdivision approval for 22 lots. Zoned General Business (GB).

DEFERRED BY OWNER UNTIL THE FEBRUARY PLANNING

COMMISSION MEETING

4. **Humphrey Court, 15 Porters Court and 17 Porters Court (Cannonborough - Peninsula) TMS# 460-08-01-205, 139 & 140** – 0.275 acres. Request preliminary subdivision approval for five (5) lots. Zoned Diverse Residential (DR-2F).

ACTION: APPROVED WITH CONDITIONS

5. **Seven Farms Drive (Daniel Island, Parcel L, Phase 1) a portion of TMS# 275-00-00-181 & 182** – 3.92 acres. Request revised preliminary subdivision approval for four (4) lots. Zoned Daniel Island Business Park (DI-BP).

ACTION: APPROVED WITH CONDITIONS

6. **Island Park Drive (Daniel Island Parcel I, Block N) a portion of TMS#**

275-00-00-110 – 1.91 acres and residual. Request final subdivision approval for four (4) lots and residual. Zoned Daniel Island Residential (DI-R).

ACTION: APPROVED

7. McLeod Mill Road and Moonglow Drive (Limehouse Pointe Phase 2 - West Ashley) a portion of TMS# 285-00-00-134 – 7.917 acres and residual. Request preliminary subdivision approval for 13 lots. Zoned Single-Family Residential (SR-1) and Conservation (C).

ACTION: APPROVED WITH CONDITIONS

Zonings

1. Vacant parcel on Savage Road (West Ashley) TMS #351-07-00-117 – 0.20 acre. Request zoning of DR-2F (Diverse Residential). This property was zoned R-4 (Single-Family Residential Suburban) in Charleston County.

RECOMMENDATION: APPROVAL

2. 823 Castle Avenue (School View - West Ashley) TMS #350-02-00-113 – 0.46 acre. Request zoning of Single-Family Residential (SR-1). This property was zoned Single-Family Residential Suburban (R-4) in Charleston County.

RECOMMENDATION: APPROVAL

3. 6 Waters Edge Court (Shadowmoss - West Ashley) TMS #358-07-00-042 – 0.32 acre. Request zoning of Single-Family Residential (SR-1). This property was zoned Single-Family Residential Suburban (R-4) in Charleston County.

RECOMMENDATION: APPROVAL

4. 2450 Ashley River Road (Pierpont – West Ashley) TMS# 353-02-00-053 – 0.75 acre. Request zoning of General Business (GB). This property was zoned Community Commercial (CC) in Charleston County.

RECOMMENDATION: APPROVAL

5. 818 Saint Andrews Boulevard (Avondale - West Ashley) TMS #418-11-00-003 – 0.6 acre. Request zoning of General Business (GB). This property was zoned Community Commercial (CC) in Charleston County.

RECOMMENDATION: APPROVAL

6. 1962 Sam Rittenburg Boulevard (West Ashley) TMS #351-09-00-005 – 3.5 acres. Request zoning of General Business (GB). This property was zoned Community Commercial (CC) in Charleston County.

RECOMMENDATION: APPROVAL

Ordinance Amendments

1. REQUEST APPROVAL TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON

(ZONING ORDINANCE) BY DELETING PART 1: APPROVAL PROCEDURES, AND PART 2: SUBDIVISION APPLICATION REQUIREMENTS, OF ARTICLE 8, IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE AND STEAD NEW SUBDIVISION APPLICATION REQUIREMENTS AND APPROVAL PROCEDURES.

RECOMMENDATION: APPROVAL

2. REQUEST APPROVAL TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING ARTICLE 3, PART 1,

TABLE 3.1, HEIGHT, AREA AND SETBACK REGULATIONS, TO CHANGE BUILDING SETBACK REQUIREMENTS FOR THE HI, CT AND DR-3 ZONING DISTRICTS AND CHANGE BUILDING SETBACK REQUIREMENTS AND MAXIMUM LOT OCCUPANCY LIMITS FOR THE GO ZONING DISTRICT.

RECOMMENDATION: APPROVAL

3. REQUEST APPROVAL TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) **BY AMENDING ARTICLE 2, PART 3, TABLE OF PERMITTED USES AND SECTION 54-206.**

RECOMMENDATION: APPROVAL

4. REQUEST APPROVAL TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) **BY AMENDING SECTION 54-233 TO PERMIT TWO ALTERNATE MEMBERS TO SERVE ON THE BOARD OF ARCHITECTURAL REVIEW.**

RECOMMENDATION: APPROVAL

Council then considered bills to rezone 3221 Ashley Town Center Drive (*West Ashley*) (10.95 acres) (TMS #309-16-00-042) and 3133 Ashley Town Center Drive (*West Ashley*) (5.27 acres) (TMS #309-16-00-047). Christopher Morgan, Director of the Planning Division, explained the two parcels are adjacent and the request is to rezone 3221 Ashley Town Center Drive from Business Park (BP) classification to General Business and Accommodations Overlay (GB & A) classifications and to rezone 3133 Ashley Town Center Drive to be included in the Accommodations Overlay (A) classification. He stated the owners are looking at a hotel, but a special exception would still have to be granted that would look at issues related to traffic and neighborhood impact. Both staff and the Planning Commission recommended approval of the requests.

The Mayor invited comments from the public on these matters. No member of the public expressed a desire to speak for or against these matters. The Mayor declared these public hearings concluded.

There were no questions or comments of Council.

On the motion of Councilmember Tinkler, seconded by Councilmember Evans, City Council voted to adopt the City Planning Commission's recommendations and to give first reading to the subject bills. _____

First reading was given to bills entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 3221 ASHLEY TOWN CENTER DRIVE (*WEST ASHLEY*) (10.95 ACRES) (TMS #309-16-00-042), BE REZONED FROM BUSINESS PARK (BP) CLASSIFICATION TO GENERAL BUSINESS & ACCOMMODATIONS OVERLAY (GB & A) CLASSIFICATIONS.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 3133 ASHLEY TOWN CENTER DRIVE (*WEST ASHLEY*) (5.27 ACRES) (TMS #309-16-00-047), BE REZONED SO AS TO BE INCLUDED IN THE ACCOMMODATIONS OVERLAY (A) CLASSIFICATION.

Councilmember Fishburne abstained from the vote.

Next, Council considered a bill to rezone 418 Meeting Street (*Peninsula*) (0.30 acre) (TMS #459-09-01-069). Mr. Morgan explained this property is currently undeveloped and the request is to rezone the property from General Business (GB) classification to Mixed-Use Workforce Housing (MU-2/WH) classification. He stated any development on the site would be subjected to review by the Board of Architectural Review. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. Councilmember Lewis asked what type of housing would be located on this property. Mr. Morgan replied there would be some market rate condominiums and some workforce housing units within the same structure.

Councilmember Lewis remarked it felt like all of a sudden they started using this term workforce housing.

There were no further questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Mitchell, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 418 MEETING STREET (*PENINSULA*) (0.30 ACRE) (TMS #459-09-01-069), BE REZONED FROM GENERAL BUSINESS (GB) CLASSIFICATION TO MIXED USE - WORKFORCE HOUSING (MU-2/WH) CLASSIFICATION.

Councilmember Fishburne abstained from the vote.

Council then considered a bill to zone a vacant parcel on Savage Road (*West Ashley*) (0.20 acre) (TMS #351-07-00-117). Mr. Morgan explained the request to zone the property Diverse Residential (DR-2F) classification and the applicants are interested in a couple of affordable units on this site. Both staff and the Planning Commission recommended approval of the request.

Mayor Pro Tempore Fishburne invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. Mayor Pro Tempore Fishburne declared this public hearing concluded.

There were no questions or comments of Council.

On the motion of Councilmember Tinkler, seconded by Councilmember Gallant, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT A VACANT PARCEL ON SAVAGE ROAD (*WEST ASHLEY*) (0.20 ACRE) (TMS #351-07-00-117), ANNEXED INTO THE CITY OF CHARLESTON NOVEMBER 28, 2006 (#2006-551), BE ZONED DIVERSE RESIDENTIAL (DR-2F) CLASSIFICATION.

Councilmember Waring abstained from the vote.

Next, Council considered a bill to zone 823 Castle Avenue (*School View - West Ashley*) (0.46 acre) (TMS #350-02-00-113). Mr. Morgan explained this property is a recent annexation with comparable zoning to the County and the request is to zone the property Single-Family Residential (SR-1) classification. Both staff and the Planning Commission recommended approval of the request.

Mayor Pro Tempore Fishburne invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. Mayor Pro Tempore Fishburne declared this public hearing concluded.

There were no questions or comments of Council.

On the motion of Councilmember Tinkler, seconded by Councilmember Bleecker, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 823 CASTLE AVENUE (*SCHOOL VIEW - WEST ASHLEY*) (0.46 ACRE) (TMS #350-02-00-113), ANNEXED INTO THE CITY OF CHARLESTON DECEMBER 19, 2006 (#2006-602), BE ZONED SINGLE-FAMILY RESIDENTIAL (SR-1) CLASSIFICATION.

Council then considered a bill to zone 6 Waters Edge Court (*Shadowmoss - West Ashley*) (0.32 acre) (TMS #358-07-00-042). Mr. Morgan explained this property is a recent annexation with comparable zoning to the County and the request is to zone the property Single-Family Residential (SR-1) classification. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. There were no questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Bleecker, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 6 WATERS EDGE COURT (*SHADOWMOSS - WEST ASHLEY*) (0.32 ACRE) (TMS #358-07-00-042), ANNEXED INTO THE CITY OF CHARLESTON DECEMBER 19, 2006 (#2006-605), BE ZONED SINGLE-FAMILY RESIDENTIAL (SR-1) CLASSIFICATION.

Next, Council considered a bill to zone 2450 Ashley River Road (*Pierpont - West Ashley*) (0.75 acre) (TMS #353-02-00-053). Mr. Morgan explained the surrounding property is commercial and the request is to zone the property General Business (GB) classification, because it was zoned commercially in Charleston County. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded.

Councilmember Shirley asked what was close to this property. Mr. Morgan expressed his belief that there were a couple of churches near by and a storage facility is across the street.

There were no further questions or comments of Council.

On the motion of Councilmember Waring, seconded by Councilmember Evans, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 2450 ASHLEY RIVER ROAD (*PIERPONT - WEST ASHLEY*) (0.75 ACRE) (TMS #353-02-00-053), ANNEXED INTO THE CITY OF CHARLESTON DECEMBER 19, 2006 (#2006-601), BE ZONED GENERAL BUSINESS (GB) CLASSIFICATION.

Council then considered a bill to zone 818 Saint Andrews Boulevard (*Avondale - West Ashley*) (0.6 acre) (TMS #418-11-00-003). Mr. Morgan explained this property is in a commercial area and the request is to zone the property General Business (GB) classification because the property was zoned commercially in Charleston County. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. There were no questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Tinkler, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 818 SAINT ANDREWS BOULEVARD (*AVONDALE - WEST ASHLEY*) (0.6 ACRE) (TMS #418-11-00-003), ANNEXED INTO THE CITY OF CHARLESTON DECEMBER 19, 2006 (#2006-603), BE ZONED GENERAL BUSINESS (GB) CLASSIFICATION.

Next, Council considered a bill to zone 1962 Sam Rittenberg Boulevard (*West Ashley*) (3.5 acres) (TMS #351-09-00-005). Mr. Morgan explained this is the newer location of a bank and the request is to zone the property General Business (GB) classification because the property was zoned commercially in Charleston County. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. Councilmember Tinkler asked what bank was located on the property. Mr. Morgan stated it is a BB&T.

There were no further questions or comments of Council.

On the motion of Councilmember Tinkler, seconded by Councilmember Bleecker, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO

THAT 1962 SAM RITTENBERG BOULEVARD (*WEST ASHLEY*) (3.5 ACRES) (TMS #351-09-00-005), ANNEXED INTO THE CITY OF CHARLESTON DECEMBER 19, 2006 (#2006-604), BE ZONED GENERAL BUSINESS (GB) CLASSIFICATION.

Council then considered a bill to amend the City of Charleston Zoning Ordinance by amending Article 3, Part 1, Table 3.1, Height, Area and Setback Regulations, to change building setback requirements for the HI, CT and DR-3 zoning districts and change building setback requirements and maximum lot occupancy limits for the GO zoning district. Yvonne Fortenberry, Deputy Director of the Department of Planning, Preservation and Economic Innovation, explained this item is part of their quick fix for cleaning up the ordinance. She stated there are some inconsistencies with the height chart with some of the uses. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. Councilmember Fishburne asked if Ms. Fortenberry could give Council an idea of how broad these changes are and how many properties this will effect. Ms. Fortenberry explained this deals with Heavy Industrial (HI) classifications, which there are not that many in the City, and thereby making it consistent with Light Industrial (LI) classification, and commercial districts. She explained the setbacks for Commercial Transitional (CT) classification will be made consistent with the other Limited Business (LB) classification and other commercial areas and there are not that many properties zoned Commercial Transitional (CT) classification. She stated they are eliminated additional setbacks for additional dwellings for DR-3 classifications, which is a correction because DR-3 does not allow additional dwellings.

Councilmember Lewis asked what was happening between Spring Street, Rutledge Avenue and Cannon Street, because there are now several houses being crammed into those small lots. Ms. Fortenberry stated those are allowed uses and they had gone before the design review bodies. Councilmember Lewis commented it takes away from the scenery and the rest of the neighborhood.

There were no further questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Bleecker, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE CITY OF CHARLESTON ZONING ORDINANCE BY AMENDING ARTICLE 3, PART 1, TABLE 3.1, HEIGHT, AREA AND SETBACK REGULATIONS, TO CHANGE BUILDING SETBACK REQUIREMENTS FOR THE HI, CT AND DR-3 ZONING DISTRICTS AND CHANGE BUILDING SETBACK REQUIREMENTS AND MAXIMUM LOT OCCUPANCY LIMITS FOR THE GO ZONING DISTRICT.

Next, Council considered a bill to amend City of Charleston Zoning Ordinance by amending Article 2, Part 3, Table of Permitted Uses and Section 54-206. Ms. Fortenberry explained this is another quick fix change where there are inconsistencies in the sections relating to allowances uses between the wording and the charts. She stated in most cases it is making corrections not changes, and the only real change is they are allowing museums in the STR district and allowed for individual and family services as a permitted use in a General Office district. She also noted they have allowed beauty shops and barbershops to be a permitted use in the General Office

district, Residential Office district and Commercial Transitional zone because many have had to go the Board of Zoning Appeals and for use variances. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. There were no questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Waring, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND CITY OF CHARLESTON ZONING ORDINANCE BY AMENDING ARTICLE 2, PART 3, TABLE OF PERMITTED USES AND SECTION 54-206.

Next, Council considered a bill to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by amending Section 54-233 to permit two alternate members to serve on the Board of Architectural Review. Ms. Fortenberry explained this ordinance is a result of many occasions when the Board hears large projects there is a problem of making a quorum because some of the professional members must recuse themselves. She stated the recommendation from the Board is that there would be two alternate members who would be brought in just for some of these cases because they normally know ahead of time who will have to recuse themselves. Both staff and the Planning Commission recommended approval of the request.

The Mayor invited comments from the public on this matter. No member of the public expressed a desire to speak for or against this matter. The Mayor declared this public hearing concluded. Mayor Riley stated this is very important and to have to call a meeting is a disservice to the public.

Councilmember Fishburne commented he would like to speak on this because the BAR and how it functions or how it has not functioned has been discussed a lot in the peninsula. He stated it has done a great job over the years and has a real impact on the City, but he thinks they need to do more than what is suggested here. He noted Charles Chase's group is looking at the entire ordinance, but he has not heard anything yet.

Councilmember Fishburne handed out three articles. He explained the first article is by Edward Gilbreth in November 2005, where he states "...the BAR has deliberately flown in the face of public opinion and, if I'm not wrong, violated its originally intended mission. The entire organization needs to be evaluated and, if need be, restructured..." He explained the second article is a letter to the editor from Jefferson Leath, who states "To many Charlestonians, the BAR and its decisions fit the description of arbitrary and capricious, which is the very opposite of what an objective governmental entity should strive to be...Thus, the BAR needs to begin to regain the trust of residents of Charleston. A start would be to carefully follow the law, make an appropriate record and to make decisions objectively."

Continuing, he explained the third article he had written in connection to the proposed Clemson building and stated "Perhaps more troubling than the BAR's disregard for public input and its own ordinance was the fact that the meeting was structured and conducted in a manner that discouraged and inhibited public participation...One member, who is an architect, stated, in so many words, that only architects were qualified to judge projects like this and that the public did

not understand the issues. This kind of condescension and disrespect is unfortunate and has no place on a public board like the BAR.”

Councilmember Fishburne said he would like to defer this and have a broader discussion about BAR because he has heard from a number of people who feel the BAR does not follow the wording of the ordinance. He stated BAR tends to give approval to large projects without as much scrutiny as they sometimes give to individual homeowners who come in. He expressed his belief that BAR and the staff need to follow the ordinance and the makeup of the BAR should be changed. He commented the changes they have seen in the ethic laws, they should consider either reducing or not having architects on those boards and have more ordinary citizens. He remarked he did not think the issues are that complex they need to have that. Further, Councilmember Fishburne explained recently on an issue that out of seven members three were either absent or had conflicts and the decision was made by only four members. He said he thinks the process has served the City well, but they need to really look at it and how they interact with the staff and the Board and have objective standards versus subjective standards. He said he is asking that City Council have more time and more input into this process and hopefully that will result in something that is more user-friendly for the City and the citizens.

Mayor Riley said he hopes City Council will approve this tonight. He stated he thinks it cannot be objective; it has to be subjective because beauty is in the eye of the beholder. He explained it is essential and the code requires architects to be on the BAR, because they provide key professional input to the other members. He urged Council to approve this and urged Councilmember Fishburne to meet with the panel that is studying the City’s preservation organizations with his concerns. He noted the BAR meets for hours at a time and the staff works hard.

Councilmember Bleecker stated the amendment they have before them to allow two alternate members makes absolute sense. She said she hopes they can go forward with this, which seems so critical.

Councilmember Evans remarked she shares some of the concerns Councilmember Fishburne has brought up because she has heard them from some of her constituents. She expressed her belief that the way BAR is structured they are subjective and when the residents go to a Board of Zoning meeting, which the Board is very structured and follow the law, it can be hard for them to understand. She stated her concern is how the BAR and Board of Zoning interact with one another and look at projects. She said it is her understanding this is being looked at. She said she feels adding these two alternate members is a good idea because it is frustrating when something cannot be heard.

Councilmember Shirley stated everyone has a difference of opinion. He asked what the changes would be in this ordinance. Ms. Fortenberry stated they would just be adding two alternate members. She explained they looked at other cities that have alternate members on their Boards. She noted they are working on the preservation plan and it will take several months.

Councilmember Shirley asked if there were architects on the BAR. Ms. Fortenberry replied there were two on the Board. Ms. Fortenberry stated they might have an architect as an alternate. Councilmember Shirley asked Councilmember Fishburne to explain what area he sees as a problem. Councilmember Fishburne stated he felt since the panel is looking at this, BAR needs to be restructured and he wanted to express his frustration and others with the way the BAR is

functioning. He stated he doesn't particularly like the alternate idea because if they are going to make this change why not restructure the ordinance to have consistency.

Mayor Riley stated the panel will welcome any comments from anyone and have already welcomed public input.

Councilmember Lewis explained at the next Community Development meeting on March 22nd is meeting with the panel because they have concerns too. He stated he understands staff's positions, but he will address his concerns on March 22nd.

Councilmember Tinkler expressed his belief that everyone on Council shares some concerns expressed by Councilmember Fishburne and they have an open mind about how the ordinance needs to be tweaked. He suggested they move forward with this, but Councilmember Fishburne come up with a list of suggestions on how the ordinance can be amended for Council to consider at a later time.

There were no further questions or comments of Council.

On the motion of Councilmember Evans, seconded by Councilmember Waring, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill. _____

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING SECTION 54-233 TO PERMIT TWO ALTERNATE MEMBERS TO SERVE ON THE BOARD OF ARCHITECTURAL REVIEW.

The vote was not unanimous. Councilmember Fishburne voted nay.

Next, Council considered the approval of the minutes from January 23, 2007 and February 13, 2007 Council meetings. The Mayor noted the minutes of January 23, 2007 would be deferred. On the motion of Councilmember Mitchell, seconded by Councilmember Morinelli, Council voted to approve the minutes of the February 13, 2007 Council meeting as published. The Citizen Participation Period followed. The following persons addressed City Council:

1. Dr. Jonathan Leader, South Carolina State Archaeologist, stated City Council was in receipt of a letter from Rebekah Dobarsko from the State Historic Preservation Office, and explained some of the points mentioned in the letter are an error. He read a response letter into the record:

Dear Council Members,

I am in copy receipt of a letter recently sent to you by Ms Rebekah Dobrasko, Review and Compliance Coordinator of the State Historic Preservation Office (SHPO). The letter clarifies the consultations between the Mr. Evans and that office concerning Ft Pemberton. It was also intended to assist you in understanding the role of the State Archaeologist. Unfortunately in that regard it does not adequately clarify the legal basis for the involvement of the State Archaeologist in the present process.

The State Archaeologist predates the State Historic Preservation Office. The SHPO's responsibilities primarily devolve from federal acts making it a state-federal hybrid in terms of funding and focus. In contrast the Office of the State Archaeologist is a State office without federal involvement and focuses specifically on State issues. Our enabling act, SC Code Ann.

60-13-210 et seq., is very clear as to our responsibilities to the State. We are to conduct archaeological and anthropological research on behalf of the State. We create and maintain the South Carolina Statewide Archaeological Site inventory and the collections of the State. We act as an advisor to the State Historic Preservation Office, a separate entity, to ensure the adequacy of archaeological research and resulting reports. And last but not least, the State Archaeologist conducts or causes to be conducted archaeological field or laboratory investigations or both at his discretion on behalf of and in the best interests of the State, which investigations may be at prehistoric or historic sites.

The job duties of the State Archaeologist specifically detail public outreach, consultation and assistance to the taxpayers of South Carolina. It also mandates providing expert advice and consultation to the legislature, local government and state and federal agencies acting on behalf of the public good. As this project was brought to the attention of the Office of the State Archaeologist by the public, legislature, and nonprofit conservation groups, the Office of the State Archaeologist has agreed to render assistance.

Neither the Office of the State Archaeologist nor the SHPO are permitting agencies. We provide consultation and advice. The worth of the advice is directly tied to the accuracy and the completeness of the information provided. It is my understanding that the preference given to the “existing road” at the Ft Pemberton site is based on the inadvertently inaccurate portrayal of the fort’s moat and rampart as being an historic road structure. This inaccuracy lead to the preferential treatment being given to a road that does not actually exist. This is clearly demonstrated in this historic maps surveyed and drawn by the federal government after the war and is a formal part of the National Register Nomination package.

It has also been suggested that the area may have been used as a road at a later time and therefore it may still be used as a road. Even if this were true, which is a point of strong contention. The inappropriate use of an important structural feature of the fort does not in anyway support a continued inappropriate use.

The siting of the road has also been suggested as being in concert with protection of a View Corridor listed as part of the NRHP nomination. The reason that the View Corridor is of interest is because it is attached to the historic fort. Damaging the fort in preference to a “View Corridor” turns the preservation law back upon itself. The fort is the primary focus. I strongly urge City Council to preserve the fort as the primary area of concern and resite the road.

Sincerely,

/s/ Jonathan Leader, Ph.D.

SC State Archaeologist

2. Samuel Howell, 3 Water Street, thanked Mayor Riley and City Council for taking the additional time to look at this very serious issue. He stated this is a very important site and it wouldn’t be on the National Registry if it was not important. He said they have done a great job of preserving Charleston. He explained the only public view of the View Corridor is from the river and they probably would not see any road crossing it. He stated using the emergency access will not damage the Fort and if the property owner does not want to see the cars drive across the property then he does not have to develop the property. He remarked Council’s job is not to protect the property owner from doing things to his own property, but Council represents the public and the public’s view will not be infringed by putting the access road on the emergency access.

3. Dick Mappus, 229 Yates Avenue, thanked Mayor Riley and City Council for taking the time over the last two weeks to look at this. He stated the facts matter and he hopes Council will use the facts to make their decision. He explained his property is negatively impacted by the proposed access road. He said Mr. Evans has offered to purchase his property for appraisal plus fifteen or twenty percent, however he does not want to relocate his family under these circumstances. He stated the proposed access road is not an existing road and is not on the existing plat.

Continuing, Mr. Mappus stated there is an alternate access for emergency vehicles that will be able to handle two-way traffic. He commented safety is a tremendous issue. He stated Mr. Evans said it would not bother him one bit to use the alternate access as a total access if the City of Charleston and State Archives would permit it.

4. Mrs. Mappus, 229 Yates Avenue, thanked Council for reconsidering this issue. She stated at the end of the last Council meeting Councilmember Bleecker said she did not care about the facts, because she wanted to push this through. She asked Council to care about the facts because they are important. She said the proposed access is not safe.
5. Butler Mappus, 229 Yates Avenue, said she does not think it is safe to use the road behind her house and the View Corridor will not be damaged. She stated they could use the alternate access off of Stono Drive. Mrs. Mappus stated this is important enough for her family to come out on Butler's birthday and the postponed her birthday dinner to come here.
6. David Stickel, Yates Avenue resident and Certified Arborist for the International Society of Horticulture, explained his issue with this project is the trees. He stated Riverland Terrace is a neighborhood renowned for the trees and abundance of grand oaks and mature trees. He said of the three potential access points, as a professional opinion, building a road off of Yates Avenue would result in the greatest amount of damage of the trees.
7. Norman Moreland asked Council to be careful and consider everything before making their decision.
8. Andres MacKenzie, 226 Yates Avenue, stated he strongly opposes the proposed access because of the safety issue. He said he would like to see the access cross the View Corridor.

He asked Council to focus on the facts.

9. Alice Tellis stated at one of the BAR meetings they were in such a hurry to get something done she heard one of the members say they couldn't wait three more years to get the project right. She expressed her belief that because they are in a hurry they have to do something one night because they have nothing else on the agenda. She said Council is working for the people, but most of them are not. She noted the people need to be looked at first, not the developers, not doctors or lawyers.
10. Jonathan Yates, representing Mr. Peter Evans owner of 221 Yates Avenue, explained Monica Beck, Senior Archaeologist, who has been working on this project for some time here tonight. He stated the Fort has won the lottery in terms of Mr. Evans, because he is not a developer, just a young man who used to play on the Fort. He explained every aspect of Mr. Evans' plan is to protect the Fort. He stated Monica Beck will explain the

archaeological side and Mr. Evans was not under any obligation to hire Ms. Beck, but he did because he wanted to know everything about the site.

11. Jane Thornhill stated Mr. Evans has a sterling character and she watched him grow up. She said anything Mr. Evans will do will turn out well and she can vouch for things from the past and in the future. She commented she did not know why Council is taking so long to make the decision.

12. Monica Beck, Senior Archaeologist, explained her company was contracted by Mr. Evans to investigate the site. She stated Fort Pemberton was nominated for the National Registry in 1978 and because of the significance Mr. Evans began consulting with SHPO and other historic preservation entities two years ago to figure out what the right thing to do would be. She said the pivotal issue is regarding the access road and whether or not it is a road. She explained Council was given a 1868 map of the Fort, which is the best representation of its current condition and its intent.

Further, Ms. Beck explained Fort Pemberton was built on the Stono River to protect access and was designed for water and land defense. She stated there was an additional embankment built as another source of protection. She stated there are egresses that have been built and protected by the embankments. Ms. Beck explained her research shows the embankments were built up to allow access and movement between the embankments from the rear of the Fort allowing access out to the front.

Ms. Beck said SHPO's advice, brought in two years ago, is that the View Corridor is important to maintain the integrity of the historic setting of the Fort, and the reality of this is that it has been compromised on all other sides. She stated a portion of the emergency access is not owned by Mr. Evans. She said she would answer any questions.

Councilmember Tinkler asked if it was possible for it to be both a moat and an access. Ms. Beck replied the trench in front of the Fort is visible and has been preserved and based on the 1868 map the embankments on each side were placed to protect the egress and movement in and out of the Fort.

13. Rodney Porter, representing Mr. Evans, explained they are not proposing the removal of any trees during this process. He stated they only surfacing would be gravel and per City ordinance they are staying within the bounds of tree protection.

14. Peter Evans, applicant and owner of 221 Yates Avenue, and Vera Ferrell, proposed owner of one of the proposed houses on the property spoke. Ms. Ferrell thanked everyone and God for this opportunity to own her own home. Mr. Evans explained Mr. Mappus' made the comment that he did not mind the access across the property, but that was taken out of context. He stated he does not own all of the property going to his property, so any access across that is not allowed because it is not his property. He commented he is not a developer, but someone who wants to live there and take care of the property. He said he is missing his son's birthday tonight to be here.

Councilmember Gilliard asked how many acres is the property. Mr. Evans replied approximately eight acres. Councilmember Gilliard asked how long the access road would be. Mr. Porter replied the section in question is about ninety feet from Yates Avenue to where it meets with the current drive. Mr. Evans stated this proposed access has been a trail, road or path for years and many people have driven down it. He also noted there is gravel on it. In response to a question from Councilmember Gilliard, Mr. Evans confirmed that when he was

young he used to play on the property and crawl all over the Fort. He stated he would like to see people to continue to come onto the property and play on the Fort.

Mr. Mappus explained the property Mr. Evans does not own is owned by his parents. He said he has the map from the previous owner, which does not show the access road as a road.

15. Jimmy Killingsworth asked how many people would hold back the greed and only build six units instead of thirty-five. He said not many people would hold back the greed and then spend the money on the research that Mr. Evans has had done.

16. John Evans, the applicant's father, explained they did buy the piece of property that Mr. Mappus was speaking about because they wanted to protect that piece for Peter and use it as part of the property. He stated they do not have an ulterior motive. He noted if Peter had the money he would prefer not to do anything with the property.

Dr. Leader explained the work of the Historic Preservation Office has been done informally because no permit exists. He stated it should not be misconstrued anything more than just a discussion.

No one else expressed a desire to address Council. The Mayor declared the Citizen Participation period concluded.

Next, Council received the following report of the Committee on Public Works and Utilities: The Committee on Public Works and Utilities reports: 2-27-07

TO THE MAYOR AND COUNCILMEMBERS,

The Committee on Public Works and Utilities recommends that City Council:

1) Approve the Acceptance and Dedication of streets and adopt the Resolutions to do so.

A Carolina Bay Phases IA and IB – Carolina Bay 60' R/W), Saintsbury Cove (50' R/W), Amberhill Way (50' R/W), Buckeley Circle (50' R/W), Waterborok Driver (50'R/W), Candela Grove (50'R/W) and Pepperwood Court (50'R/W).

B. Carolina Bay Phases IC and ID – Candela Grove (50' R/W), Cristalino Circle (50' R/W), Indaba Way (50' R/W) and Wagram Drive (50' R/W)

C. Shadow Pointe Drive (60' R/W)

D. Gardens at Whitney Lakes – Primula Lane (55' R/W), Sedum Alley (20' R/W), Waterleaf Lane (40' R/W), Strawberry Lane (50' R/W), Lobelia Alley (20' R/W), Zinnia Alley (20' R/W), Fetterbush Lane (50' R/W), Sweetleaf Lane (60' R/W), Bee Balm Road (40' R/W) and Malope Alley (20" R/W). Councilmember Paul Tinkler Chair

Councilmember Larry Shirley

Councilmember Jimmy Gallant

Councilmember Tinkler moved the adoption of the report of the Committee on Public Works and Utilities including five resolutions. Councilmember Evans seconded the motion. The motion carried.

The following Resolutions were adopted:

RESOLUTION (RS2007-02)

DEDICATION AND ACCEPTANCE OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, shown and designated as portions of Xavier Street (50' R/W), Weeping Willow Way

(R/W varies) and Larissa Drive (R/W varies), on a plat entitled "THE SUBDIVISION OF TMS NO 301-00-00-333 CONTAINING 67 LOTS, PHASE III OF THE COMMONS AT GRAND OAKS, LLC OWNED BY PORTRAIT HOMES, COMMONS AT GRAND OAKS LLC, LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" DATED November 28, 2005, prepared by David L. Gray PLS NO. 12839 with GPA Professional Land Surveyors. Recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ conveyed by deed dated July 13, 2006 recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ be and the same is hereby dedicated and accepted as public right-of way.

RESOLUTION (RS2007-03)

DEDICATION AND ACCEPTANCE OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, shown and designated as Shadow Pointe Drive (60' R/W), on a plat entitled "PLAT TO TRANSFER SHADOW POINTE DRIVE A 60' RIGHT OF WAY TO THE CITY OF CHARLESTON, CHARLESTON COUNTY, SC" DATED November 28, 2006, prepared by Absolute Surveying. Recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ conveyed by deed dated November 28, 2006 recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ be and the same is hereby dedicated and accepted as public right-of way.

RESOLUTION (RS2007-04)

DEDICATION AND ACCEPTANCE OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, shown and designated Primula Lane (55'R/W), Sedum Alley (20' R/W), Waterleaf Lane (40'R/W), Strawberry Lane (50'R/W), Lobelia Alley (20' R/W), Zinnia Alley (20' R/W), Fetterbush Lane (50' R/W) Sweetleaf Lane (60' R/W), Bee Balm Road (40' R/W), Malope Alley (20'R/W) on a plat entitled "FINAL SUBDIVISION PLAT OF PHASE 1-B THE GARDENS AT WHITNEY LAKE, PREPARED FOR THE LISI COMPANY" DATED November 27, 2005, prepared by Thomas & Hutton Engineering Company. Recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ conveyed by deed dated December 12, 2006 recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ be and the same is hereby dedicated and accepted as public right-of way.

RESOLUTION (RS2007-05)

DEDICATION AND ACCEPTANCE OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, shown and designated as Candela Grove (50'R/W), Cristalino Circle (50'R/W), Indaba Way (50'R/W), and Wagram Drive (50'R/W) on a plat entitled "FINAL SUBDIVISION PLAT SHOWING PHASE 1C & 1D (Tidewater) of CAROLINA BAY(18,504 AC.) A PORTION OF AREA 5, PROPERTY OF CENTEX HOMES, A NEVADA GENERAL

PARTNERSHIP, LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SC; DATED September 11, 2006, prepared by Trico Engineering Consultant, Inc. Recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ conveyed by deed dated October 19, 2006 recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ be and the same is hereby dedicated and accepted as public right-of way.

RESOLUTION (RS2007-06)

DEDICATION AND ACCEPTANCE OF STREETS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CHARLESTON THAT ALL those certain streets, roads, drives and cul-de-sacs, situate, lying and being in the City of Charleston, shown and designated as Carolina Bay Drive (60'R/W), Saintsbury Cove (50'R/W), Amberhill Way (50'R/W), Buckeley Circle (50'R/W), Waterbrook Drive (50'R/W), Candela Grove (50'R/W) and Pepperwood Court (50'R/W), on a plat entitled "FINAL SUBDIVISION 1A & 1B (Cypress) OF CAROLINA BAY (45.964 AC), A PORTION OF AREA 5, PROPERTY OF CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" DATED June 28, 2006, prepared by Trico Engineering Consultants, Inc. Recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ conveyed by deed dated October 17, 2006 recorded in the RMC Office for Charleston County in Plat Book_____ at Page_____ be and the same is hereby dedicated and accepted as public right-of way.

Next, City Council received the following report of the Committee on Ways and Means:

The Committee on Ways and Means Reports: 02/27/07

TO THE MAYOR AND COUNCILMEMBERS, THE CITY COUNCIL OF CHARLESTON:

The Committee on Ways and Means recommends that City Council act on each of the following matters as stated below:

1.) **STONEY FIELD: RENOVATION (CP-0511D1), INDEFINITE DELIVERY CONTRACT #0602-003 - \$46,482 - WOOLPERT, INC. - ACCOUNT #051150-52238** The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, Indefinite Delivery Contract #0602-003 in a lump sum amount of 46,482 with Woolpert, Inc. for programming documents and master plan for the Stoney Field renovation.

Reimbursable expenses are included in the lump sum amount. Funds will come from account #051150-52238.

2.) **COOPER RIVER BRIDGE NEIGHBORHOOD REDEVELOPMENT PROJECT: FINANCIAL FEASIBILITY STUDY - \$165,400 - STRATEGY 5 - ACCOUNT #051147-52206:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract in the amount of \$165,400 with Strategy 5 to provide a feasibility study for the redevelopment of the Cooper River Bridge neighborhood. Funds will come from account #051147-52206.

3.) **MEMORANDUM OF UNDERSTANDING WITH CHARLESTON HOUSING AUTHORITY FOR DEPARTMENT OF RECREATION PROGRAMS:** The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council approve, and authorize the Mayor to sign, a Memorandum of Agreement with the Charleston

Housing Authority for Department of Recreation programs at Marian Strobel Community Center. The agreement with the Charleston Housing Authority would allow the City's Department of Recreation to provide after school and recreation programs at the Marian Strobel Community Center. There is no cost to the City or the Housing Authority, but the City will provide staff for the programs.

4.) **NON-EXCLUSIVE DRAINAGE EASEMENT WITH CANTERBURY WOOD COMMUNITY ASSOCIATION FOR THE CONSTRUCTION OF CERTAIN DRAINAGE IMPROVEMENTS IN THE CANTERBURY WOODS SUBDIVISION - \$50,000 - CAPITAL IMPROVEMENT FUND:**

The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council approve, and authorize the Mayor to sign, a Non-Exclusive Drainage Easement with Canterbury Woods Community Association for the construction of drainage improvements in the Canterbury Woods Subdivision as part of the Church Creek Drainage Improvements and the expenditure of \$50,000 for improvements to the subdivision. Funds will come from the Capital Improvement Fund. The agreement with Canterbury Woods Community Association is for a 30-foot wide drainage easement needed for the construction of drainage improvements as part of the Church Creek Drainage Improvement project. The City has accepted four (4) acres from The Whitfield Company and will make \$50,000 worth of improvements to the subdivision. The improvements would consist of a crab dock, practice ball field and exercise trail. If OCRM will not permit the dock, the City will provide other improvements in the subdivision.

LOUIS L. WARING, JR., Chair HENRY B. FISHBURNE, JR.
DEBORAH MORINELLI JAMES LEWIS, JR.
ROBERT M. MITCHELL JIMMY S. GALLANT, III
WENDELL G. GILLIARD YVONNE D. EVANS
PAUL E. TINKLER LARRY D. SHIRLEY
ANNE FRANCES BLEECKER JOSEPH P. RILEY, JR., Mayor

Councilmember Gallant moved the adoption of the report of the Committee on Ways and Means. Councilmember Evans seconded the motion. The motion carried.

The next matter before Council was eight (8) bills up for second reading. The Clerk noted that second reading of four (4) bills (Items J-1 through I-4 on the agenda) would be *deferred*.

The following bills were *deferred*:

1. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the zone map, which is a part thereof, so that 1089 Fort Johnson Road (*James Island*) (4.5 acres) (TMS #428-06-00-022), annexed into the City of Charleston July 15, 2005 (#2005-276), be zoned Single-Family Residential (SR-1) classification. (*Deferred*)

2. An ordinance authorizing the Mayor to execute the necessary documents to enter into that certain Third Amendment to the Memorandum of Understanding between the City of Charleston and Smith-Morris Company, LLC, assignee of Civitas, LLC, to allow Smith-Morris Company, LLC a time extension in which to complete Phase I of the Morris Square Project, said Third Amendment to the Memorandum of Understanding being marked as Exhibit I, attached hereto and incorporated by reference herein. (*Deferred*)

3. An ordinance to provide for the annexation of property known as 2008 Woodcliff Street (.30 acres) (TMS #355-15-00-067), St. Andrews Parish, Charleston County, to the City of

Charleston and includes all marshes, public waterways, and public rights-of-way, shown within the area annexed upon a map attached hereto and make it part of District 2. (*Deferred*) 4. An ordinance authorizing the Mayor to execute on behalf of the City the necessary documents to close and abandon a portion of C Street approximately 100 feet in length running generally in a northwesterly direction from the edge of TMS No. 463-16-04-051 to its terminus, said portion of C Street being located in the City and County of Charleston, State of South Carolina. (*Deferred*)

On the motion of Councilmember Evans, three (3) bills (Items J-6 through J-8 on the agenda) received second reading. They passed second reading on motion of Councilmember Bleecker and third reading on motion of Councilmember Gallant. On further motion of Councilmember Mitchell, the rules were suspended and the bills were immediately ratified as:

RATIFICATION NUMBER

2007-44

AN ORDINANCE TO AUTHORIZE THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS TO ENTER INTO THAT CERTAIN AGREEMENT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF CHARLESTON AND LATASHA YVETTE TUCKER FOR THE SALE OF 274 ASHLEY AVENUE LOCATED IN THE CITY AND COUNTY OF CHARLESTON, STATE OF SOUTH CAROLINA, BEARING TMS #460-07-04-132, FOR THE SUM OF \$123,874.80, SAID AGREEMENT TO BUY AND SELL REAL ESTATE BEING MARKED AS EXHIBIT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute the necessary documents to enter into that Agreement to Buy and Sell Real Estate between the City of Charleston and Latasha Yvette Tucker for the sale of 274 Ashley Avenue in the City and County of Charleston, State of South Carolina, bearing TMS #460-07-04-132, for the sum of \$123,874.80, said Agreement being marked as Exhibit A, attached hereto and incorporated by reference herein.

Section 2. This Ordinance shall become effective upon ratification.

COPIES OF THIS ORDINANCE, IN ITS ENTIRETY, ARE AVAILABLE THROUGH THE DEPARTMENT OF THE CLERK OF COUNCIL.

RATIFICATION NUMBER

2007-45

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1830 ABLE STREET (0.23 ACRES) (TMS #351-02-00-042), ST. ANDREWS PARISH, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 7.

BE IT ORDAINED BY THE MAYOR AND THE MEMBERS OF CITY COUNCIL, IN CITY COUNCIL ASSEMBLED:

Section 1. Finding of Fact

As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

- A) Section 5-3-150, Code of Laws of South Carolina (1976) as amended, provides a method of annexing property to a city or town upon a Petition by all persons owning real estate in the area requesting annexation.
- B) The City Council of Charleston has received a Petition requesting that a tract of land in CHARLESTON County hereinafter described be annexed to and made a part of the City of Charleston, which Petition is signed by all persons owning real estate in the area requesting annexation.
- C) The area comprising the said property is contiguous to the City of Charleston.

Section 2.

Pursuant to Section 5-3-150, Code of Laws of South Carolina (1976) as amended, the following described property be and hereby is annexed to and made part of the City of Charleston and is annexed to and made part of present District 7 of the City of Charleston, to wit: SAID PROPERTY to be annexed, 1830 Able Street, (.23 acres) is identified by the CHARLESTON County Assessors Office as TMS# 351-02-00-042 (see attached map) and includes all marshes, public waterways and public rights-of-way, shown within the area annexed upon a map attached hereto and made a part hereof.

Section 3.

This ordinance shall become effective upon ratification.

RATIFICATION NUMBER

2007-46

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 301 HICKORY STREET (0.21 ACRES) (TMS #418-13-00-107), ST. ANDREWS PARISH, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 8.

BE IT ORDAINED BY THE MAYOR AND THE MEMBERS OF CITY COUNCIL, IN CITY COUNCIL ASSEMBLED:

Section 1. Finding of Fact

As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

- A) Section 5-3-150, Code of Laws of South Carolina (1976) as amended, provides a method of annexing property to a city or town upon a Petition by all persons owning real estate in the area requesting annexation.
- B) The City Council of Charleston has received a Petition requesting that a tract of land in CHARLESTON County hereinafter described be annexed to and made a part of the City of Charleston, which Petition is signed by all persons owning real estate in the area requesting annexation.
- C) The area comprising the said property is contiguous to the City of Charleston.

Section 2.

Pursuant to Section 5-3-150, Code of Laws of South Carolina (1976) as amended, the following described property be and hereby is annexed to and made part of the City of Charleston and is annexed to and made part of present District 8 of the City of Charleston, to wit: SAID PROPERTY to be annexed, 301 Hickory Street, (.21 acres) is identified by the CHARLESTON County Assessors Office as TMS# 418-13-00-107 (see attached map) and includes all marshes, public waterways and public rights-of-way, shown within the area annexed upon a map attached hereto and made a part hereof.

Section 3.

This ordinance shall become effective upon ratification.

Next, Council considered the ordinance to zone 221 Yates Avenue and property located on Aubrey Drive (*Fort Pemberton PUD - James Island*) (7.3545 acres) (TMS #343-05-00-107 and 114).

Josh Martin, Director of the Department of Planning, Preservation and Economic Innovation, explained he handed out a memorandum dealing with some of the outstanding issues from the last Council meeting. He stated the first issue had to deal with access and if it was possible to access the property from the neighboring property, the Roney property. He noted since the last Council meeting staff contacted the property owners and were unsuccessful in gaining permission of an access easement via their property to the proposed development. He said another concern was raised regarding the utilization of the historic access point of Fort Pemberton and staff believes that given the fact that Fort Pemberton currently is not in its historic state, the historic access point access point is not an issue but rather the access issue becomes an appropriateness of land planning issue. He explained the proposed access will also replace an existing access point located along the present driveway of the Evans home which rests across the historic fort.

Continuing, Mr. Martin explained the attached letter states the recommendation of the State Historic Preservation Office as, “our office has tentatively recommended maintaining the viewshed between the fort and the river, since the clear view was critical to the historic function of the fort. We encouraged Mr. Evans to develop a plan that would leave this viewshed open, thus helping to maintain the integrity of the historical setting of the fort, which has already been compromised by housing on either side of the fort and within the fort.” He stated staff continues to support the recommendation of staff and the Planning Commission of the proposed access shown on the proposed plan for the property.

Mr. Martin stated the proposed road would almost be an alley condition, which is a condition that is present throughout the City. He also stated the road is six to eight feet below the Mappus’ property. He said no trees will be removed with the proposed access. Further, Mr. Martin said another concern at the last meeting was the role of the Department of Archives and History and the State Archaeologist. He explained at the last meeting and tonight Dr. Leader, the State Archaeologist, spoke against the proposed development in terms of the access. He stated the attached letter explained the roles of the Department of Archives and History as well as the South Carolina Institute of Archaeology and Anthropology. He said staff feels that the State Department of Archives and History is a direct connection with OCRM permits is important. He states staff also believes the State Department of Archives and History will continue to monitor the proposed development and make the appropriate recommendations

to OCRM as part of the permitting process in the future. He commented this continued involvement in the review process is essential to the City's development review process as well.

Mr. Martin stated at the last meeting there was mention of an additional buffer and he hoped that could be worked between the property owners.

Councilmember Shirley asked how the material for homes would get to the site. Mr. Evans stated they have considered this and any construction vehicles would have to go across the emergency access point.

Councilmember Fishburne said to him this is a fairly simple and straight forward situation. He stated the issue has nothing to do with Mr. Evans and his character, but the development of the property is an issue. He said the buildings that are going to be built are going to be disturbing the View Corridor. He stated what decides how he is going to vote on this is the factual situation. He expressed his belief that the proposed access road was never a road. He said he had to consider if this was a road, was it ever a road, was it intended to be a road and would it be a good road in any other part of the City. He said he believes the answer to all of those questions is no. He commented he is going to vote against this because he does not think the proposed road is the right thing to do.

Councilmember Tinkler stated this is not about the character of Mr. Evans. He said the reason he asked for deferral of this item last time was because he needed clarification of a few facts. He thanked everyone for getting him those answers and said he has a better understanding of what the facts are. He said he appreciates Dr. Leader taking an interest in this and coming from Columbia to give Council the benefit of his opinion. He said he really wanted to know what this proposed access was used for when the Fort was in operation and he believes that has been answered. He said it makes a difference to him what it has been used for since that time and the fact that Mr. Evans offered to buy Mr. Mappus' property for market value plus fifteen or twenty percent. He expressed his belief that Council has all the facts, carefully deliberated and it is time to vote.

Councilmember Bleecker stated she was concerned about Mrs. Mappus' comments that Councilmember Bleecker did not care about the facts. She said she cares deeply about the facts and has spent a lot of time speaking to everyone. She noted she couldn't disagree more with Councilmember Fishburne about how vital and critical the View Corridor is to the Fort as a whole. She said it is one of the most extraordinary pieces of property on James Island. She explained she stated at the last meeting that they have all the facts. She said there has been a lot of character attacking. She urged Council to approve this. She thanked Mayor Riley and Josh Martin for their work. She expressed her belief that she maintains the right decision, because it was approved unanimously at the Planning Commission.

Councilmember Shirley said the View Corridor will stay intact with how the houses are going to be located. He stated the cars that drive across the View Corridor will not impact it that much. He said he would not want cars driving behind his property as they would be from Mr. Mappus' property. He stated as he told Mr. Mappus, he must vote against this, but Mr. Evans has done a great job in trying to preserve it.

Councilmember Gallant said he does not like to see anyone uncomfortable where they living. He stated in his district they are rehashing a historical problem. He said the port access road is coming through Rosemont and there is a group of people forty-one years ago when the Interstate came through the City lost all of their historical land and historical homes. He stated

there was no one to fight for the historical value of this African American community and when the Interstate came through it destroyed the Immaculate Conception Catholic Church on Sheppard Street that had been there since the 1900's. He said the same people who took the brunt of I-26 have been asked to have a wall put up where they live so they can build a port access road.

Continuing, Councilmember Gallant explained he went to Columbia and asked DHEC to reevaluate another way to do the port access road, and he was blamed for not wanting to have a port. He said they want the port, but there has to be another way to build an access road. He stated they are going to run over the same people again and they have no say, because the people in the up-state are worried about how much money the port is going to make them down here. He noted they do not know the people down here and the hardships they have to bare. He said there is always another group of people who have to take the brunt for history to make everyone else comfortable. He commented he gets tired of hearing it, because when it comes down to poor people and no one fights for them. He asked where were the historians when almost four hundred people were displaced to build an Interstate.

Mayor Riley stated the Evans family and Mappus family are wonderful families. He explained the property was zoned R-4 in Charleston County, which would have allowed for four units per acre. He said Mr. Evans is not a developer and does not want to place thirty-five units on the property. He stated the uninterrupted landscape to the Fort should be preserved. He commented it is a very difficult choice. He said he supports the proposal in front of Council.

Councilmember Lewis said they have been dealing with this for about a month now. He said he is not a developer, engineer or architect, but they have great staff to look at the issues. He stated staff has recommended approval and the Planning Commission also recommended this.

Councilmember Mitchell stated he visited the property to see it himself. He commended the owner for what he is doing to the property, because if it were him he would have built the thirty-five units. He said for everyone else it is all about money. He noted he does not see anyone else in Charleston doing this.

On the motion of Councilmember Bleecker, one (1) bill (Items J-5 on the agenda) received second reading. It passed second reading on motion of Councilmember Mitchell and third reading on motion of Councilmember Evans. On further motion of Councilmember Tinkler, the rules were suspended and the bill was immediately ratified as:

RATIFICATION NUMBER

2007-47

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 221 YATES AVENUE AND PROPERTY LOCATED ON AUBREY DRIVE (*FORT PEMBERTON PUD - JAMES ISLAND*) (7.3545 ACRES) (TMS #343-05-00-107 AND 114), ANNEXED INTO THE CITY OF CHARLESTON AUGUST 29, 2005 (#2005-347), BE ZONED SINGLE-FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT (SR-1 PUD) AND LANDMARK OVERLAY (LMK) CLASSIFICATIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so that the below described property shall become a part thereof:

221 Yates Avenue and Aubrey Drive (*Fort Pemberton PUD – James Island*) (7.3545 acres)
(TMS #343-05-00-107 and 114)

Section 2. That the said parcel of land described above shall be zoned Planned Unit Development (PUD) classification and a portion of the property be included in the Landmark Overlay Zone (LMK).

Section 3. This ordinance shall become effective upon ratification.

The vote was not unanimous. Councilmembers Fishburne and Shirley voted nay. There being no other business, the meeting was adjourned at 7:35 p.m.

Vanessa Turner-Maybank
Clerk of Council