

GREENWOOD CITY COUNCIL

July 19, 2004 - 5:33 p.m.

**PUBLIC HEARING**

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PRESENT

Mayor Floyd Nicholson; Council Members: Niki Hutto, Linda Edwards, Betty Boles, Herbert Vaughn, Johnny Williams, and Barbara Turnburke; City Manager; Assistant City Manager; City Clerk; City Attorney; Paula Brooks, Phil Lindler, Chief Gerald Brooks; Mike Hatfield of WCRS, and Tasha Steimer from the Index-Journal.

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CALL TO ORDER

The meeting in the Council Chambers was called to order by Mayor Nicholson at 5:33 p.m., and he welcomed everyone to the meeting.

City Attorney, John McCravy, gave the invocation.

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STATEMENT AND  
QUORUM

The Mayor Pro Tempore gave the following statement: "In accordance with the Freedom of Information Act, Chapter 4, Title 30, Code of Laws of South Carolina, 1976, an agenda has been posted on the front door of City Hall and notification of this meeting has been given to the news media."

Mayor Nicholson asked the City Clerk, Steffanie Dorn, if a quorum was present. She said, "Yes, Mr. Mayor, we have a quorum present."

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ORDINANCE

Annexing 1.309  
Acres, Owned by  
CVS 7388, LLC,  
a Delaware  
L i m i t e d  
L i a b i l i t y  
C o m p a n y ,  
Located off  
Northside Drive  
and US Highway  
25.

Mayor Nicholson said, "First on the agenda tonight, we have five public hearings. The format we employ in the public hearing is, if there are individuals who would like to speak, we ask that you come to the podium, state your name and address for the record, and try to limit your comments to not more than four or five minutes."

Mayor Nicholson read the first item and asked, "Is there anyone here to speak in favor of this annexation? Is there anyone opposing? Seeing and hearing none, we will close the first public hearing."

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ORDINANCE

Amending City  
of Greenwood  
Code of  
Ordinances,  
Chapter 34,  
Alcoholic  
Beverages,  
Section 3-4,  
Consumption or  
Possession of  
Open Container  
- Streets,  
Parks, Etc.

Mayor Nicholson read the second item and asked, "Is there anyone here to speak in favor of this ordinance?"

PAULA BROOKS

"Good evening, Mayor Nicholson and City Council. I have come here before to ask that you approve this ordinance so that we can move forward. Thank you."

MAYOR NICHOLSON

"Is there anyone else to speak in favor? Is there anyone opposing? Seeing and hearing none, we will close the public hearing."

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ORDINANCE

To Amend the  
Land  
Development  
Regulations for  
the City of  
Greenwood  
Regulating the  
Use of Flag  
Lots in  
Greenwood  
County.

Mayor Nicholson read the third item and asked, "Is there anyone here to speak in favor? Is there anyone opposing? Seeing and hearing none, we will close the public hearing."

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REQUEST

Mayor Nicholson read the fourth item and asked, "Do we have anyone speaking in favor of this request?"

By Thomas Settles to Rezone Property Located at 407 Maxwell Avenue from R-5 (Multi-Family Residential) to I-1 (Light Industrial).

THOMAS SETTLES

"Good afternoon. My name is Thomas Settles and I live at 103 Beechwood Circle. I have a speech impediment so please bear with me. The reason why I want my property rezoned is because the taxes are so high until it's ridiculous. I have a kid in college and I need something for money. I don't have any interest in opening a club, but to sell used clothes."

JOHNNY WILLIAMS

"Mr. Settles, you know I can't support you on the I-1 classification. We talked about this at length. I asked if you talked with Phil. Did you?"

PHIL LINDLER

"Yes sir, he did."

JOHNNY WILLIAMS

"Did y'all reach an agreement to what's going to be in there, such as a department store?"

PHIL LINDLER

"I talked with Mr. Settles about what would be allowed in that zone district, and also what he could do to modify his current restrictions so that he can put that prohibition against the night clubs."

JOHNNY WILLIAMS

"Did you do that?"

THOMAS SETTLES

"Yes."

JOHNNY WILLIAMS

"You did. It's in there?"

THOMAS SETTLES

"I didn't sign anything yet, but I'm willing to sign saying that when I expire nobody can open a club there because I got it willed to my nephews and they already know."

JOHNNY WILLIAMS "Well, if you have something in the deed stopping it, and all they can do is run a retail clothing store, but as it stands right now, what all will it carry, Phil?"

PHIL LINDLER "In the land industrial zone district? It will allow basically any type of commercial use because it allows everything in the general commercial district. But it also allow warehousing to light industry and manufacturing."

JOHNNY WILLIAMS "Beer joints, etc., etc., etc...."

PHIL LINDLER "If Mr. Settles or someone else had this piece of property and they came to us with their ABC license and everything, it wouldn't be anything that we can do to deny them a permit."

JOHNNY WILLIAMS "Unless he added it in the deed."

PHIL LINDLER "Yes sir, but we would still issue the permit on that because we don't go by the deeds and restrictions on an individual piece of property, just the zoning."

JOHNNY WILLIAMS "Then there is no way to protect the property is there?"

PHIL LINDLER "If Mr. Settles did change his restrictions about that, it could be something that the neighborhood could hire themselves an attorney to go against that, but there's nothing in our office that can prevent him from doing that."

MAYOR NICHOLSON "It's presently zoned R-5. What can go in there in R-5 regulation?"

PHIL LINDLER "Residential only."

MAYOR NICHOLSON "Only residential?"

PHIL LINDLER "Yes sir. He can have a home occupation, but he would have to live in the structure."

JOHNNY WILLIAMS "And there is no way he can run a flea market. He and I talked at length about this and I don't think it will make a go. But who knows? I still don't think it will make a go because used clothes don't sell. They give them away. I'd hate to rezone the property."

LINDA EDWARDS

"The way I see it, you don't have that much owner occupied property sitting next to this piece of property. This piece of property is surrounded by rental property. Now if the lady next door doesn't object, who owns her home, and the only other owner occupied homes are on that back street, then when you look across the street and you got Self Memorial Hospital, on that same side on the street you got a car wash, and up the street you got Mauldin Lumber Company, and you go back across the street you got Eaton Hydraulics, so in other words they're all in there together. There were once homes on that side of the street. Mr. Williams, I remember that street too. I grew up over there. I know where houses were and when those other business came. You don't get any more businesses until you go down to McCauley's Garage. We've had problems with that, and then you got Robinson's Funeral Home. You can count the houses on that street. All the other houses are behind this building. I feel if the neighbors don't have a problem with it, and he's willing to state that will never become a club again, in which I don't think too many young people, whoever you're leaving it to, is going to be interested in doing a club anyway because you won't have anywhere to park."

JOHNNY WILLIAMS

"You don't think they use that street on the corner where it's at, like on Cambridge Street?"

B A R B A R A  
TURNBURKE

"But they're not beside each other."

JOHNNY WILLIAMS

"I mean you have the same situation here that you have on Cambridge Street. There is supposedly no objection toward it."

B A R B A R A  
TURNBURKE

"It's not the same. There's parking along the ends."

LINDA EDWARDS

"For me, it's the same situation as what I said about Seaboard, but it's there."

JOHNNY WILLIAMS

"It would be about the same. You got residential bumping up against commercial property."

LINDA EDWARDS

"Well you got residential bumping up against commercial on Seaboard when I argued that point, but we went ahead with that, but that's a different story. We're dealing with Mr. Settles and his property right now."

- NIKI HUTTO "Phil, how is the proposed zoning different than the zoning now? What is the proposed zoning?"
- PHIL LINDLER "I don't know the exact zone district but it's residential."
- NIKI HUTTO "Okay. Do you we have a selection where it shows what's commercial and what's not all the way down Maxwell Avenue?"
- PHIL LINDLER "We have the current zoning."
- NIKI HUTTO "Can I see it?"
- PHIL LINDLER "Mr. Settles property is shown in the red. Directly across the street is Self Memorial processing center that's zoned heavy industrial, I-2. That's zoned heavy industrial in the dark grey area. The light grey area on the right is I-1 which is light industrial. That's everything on Gulf Street all the way down to his property which includes that individual home that's on the corner, as well as, the cars that's on the opposite side of that block, plus on the next street over which includes the detailing shop. As you can see in the dark yellow areas are R-5 and comes back down to Maxwell on the southern end is R-4."
- NIKI HUTTO "Okay. And R-5 is so many housing units per duplex?"
- PHIL LINDLER "When Mr. Settles came to us about the request, his options here are I-1 or I-2 and we thought I-1 would be more appropriate. The Planning Commission has talked about the whole block at Gulf Street all the way around beside Mr. Settles property to see if that was an appropriate zoning of I-1 and they felt it would be best to keep the I-1 zoning in that area."
- NIKI HUTTO "So there's maximum industrial across the street, regular light industrial across the other street, and then residential. When this changes and we have new zoning, if and when everything passes the way it should, will Mr. Settles be required to do some buffering between this property and the next?"
- PHIL LINDLER "Yes."
- NIKI HUTTO "Okay, so he will have to buffer between himself and the residential area behind him."

PHIL LINDLER "If you were to zone it to a different category, yes ma'am."

NIKI HUTTO "Okay so there is some protection for the residential area behind him in a manner of speaking."

PHIL LINDLER "Yes."

NIKI HUTTO "Did you petition the tax assessor when your taxes were increased at all?"

THOMAS SETTLES "Yes."

NIKI HUTTO "And that didn't work? I just wanted to ask."

MAYOR NICHOLSON "Are there any other questions?"

BETTY BOLES "Right now, you just want to use this for a flea market?"

THOMAS SETTLES "Yes."

BETTY BOLES "The inside as well as the outside?"

THOMAS SETTLES "Yes."

MAYOR NICHOLSON "Did the Planning Board recommend this?"

PHIL LINDLER "They recommended to keep everything as R-5. They used that roadway as the dividing line between the zoning districts."

JOHNNY WILLIAMS "They had recommended to rezone it?"

NIKI HUTTO "The approval of the request. He said they approved the request."

MAYOR NICHOLSON "Yes. They approved it, right?"

PHIL LINDLER "It was approved, but it was a pretty close vote."

MAYOR NICHOLSON "Okay. Are there any other questions for Mr. Settles? Thank you, Mr. Settles."

THOMAS SETTLES "Thank you."

MAYOR NICHOLSON "Is there anyone else to speak in favor of this zoning request? Anyone opposing?"

STEVEN BROWN "Mr. Mayor and City Council, I heard the discussion

so far tonight, and I want to give you a little bit of information. The first relates to his taxes. Mr. Settles had a rent- or lease-to-own contract on this property. It was not in his name the entire time he was paying on it. When the properties were reassessed, it's my belief that the reassessment notice went to the actual owner of the property. He did not appeal the assessment, therefore the taxes were increased. In his agreement, he was to pay the taxes so it went from \$300 to \$800 or \$900.

My concern is that whatever action City Council takes tonight, we'll have to enforce the ordinances on the books. We've been doing a lot of work in the Powers and Oak area. We've had some housing rehabilitation projects completed in that area. Recently, I was asked to go down Powers Street and look at a dead tree, and I observed some very nice residential structures in that area. We have torn down some dilapidated structures and made some major improvements in the neighborhood. Not all of that neighborhood is rental property. I would also remind City Council that when your staff provides services to constituents in the City, we do not regard them as property owners or tenants, but as citizens. When we receive complaints about noise, parking problems, or whatever it may be, then we respond to the individual and provide them with the same services we would anyone else.

Fortune Street has always been the dividing line between the industrial and the residential. I would like to see that remain. I think Mr. Settles is a very good citizen in this community. It think he will do what he has told you he would do, but when Mr. Settles either is no longer with us, or he sells that property, there is no one that can ensure Mr. Settles commitments will be honored. We as your staff cannot enforce deed restrictions. What you may be doing is placing a burden on all those property owners around there to expend their hard earned money to hire an attorney to enforce those deed restrictions.

A night club on that corner will be disturbing to that residential neighborhood. I don't care what anybody tells you. It would be disturbing. We have for a long time been concerned about how commercial ventures creep into residential neighborhoods. We have some tragic stories in Greenwood where someone has allowed that to happen. Ms. Edwards has a number of those stories in her district. Please, let's not let that happen on

Maxwell. Please, let's stop the commercial ventures into residential properties. Let's stop it at Fortune Street and say, 'We're not going where other councils have gone and allow it to enter into this residential neighborhood.'

We have allowed Mr. Settles as an owner to do everything allowed by the ordinance. He was a non-conforming use and as long as he maintained that non-conforming use, we allowed him to operate within the restrictions of the ordinance. He discontinued to maintain that non-conforming use. He had no operations there and lost the nonconforming use. He's asking you to come back and to move that line down to one property. I ask City Council to please consider how difficult it is for us to enforce these ordinances when we allow commercial activities to get into the neighborhoods. Once you rezone it, whether it's industrial, general commercial, or whatever and he opens an allowable business on that property, then we have to make it work. A neighbor may be here tonight saying, 'It doesn't bother me.', but that neighbor may move next week and somebody else will move in. I beg of you to carefully consider what's been presented to you tonight. As City Manager, I oppose this rezoning."

MAYOR NICHOLSON

"Okay. Is there anyone else to speak? Seeing and hearing none, we are going to be closing this fourth public hearing."

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ORDINANCE

To Adopt the Official Zoning Map of the City of Greenwood Pursuant to Article 4 of the City of Greenwood Zoning Ordinance 03-010.

Mayor Nicholson read the last item and asked, "Do we have anyone to speak in favor? Anyone opposing? Seeing and hearing none, we will close the last public hearing. We will now move into the business part of our meeting."

There being no further business, the public hearing was adjourned at 6:00 p.m.

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Floyd Nicholson, Mayor

Attest:

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City Clerk and Treasurer