

Aiken City Council Minutes

WORKSESSION

January 28, 2008

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

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Richard Pearce, Ed Evans, Glenn Parker, Pete Frommer, Sara Ridout, April Bailey of the Aiken Standard, Michelle Guffey of the Augusta Chronicle, and about 85 citizens.

Mayor Cavanaugh called the meeting to order at 6:55 P.M. He stated Council had one item to discuss in the worksession – Open Space Plan.

OPEN SPACE PLAN

Mr. LeDuc stated last fall, Bill Reynolds presented to City Council a report from the Open Space Task Force Committee. Based on that discussion, City Council asked that we establish the next steps forward during 2008. A meeting was recently held with Harry Shealy, Bill Reynolds, Mayor Cavanaugh, Sandra Korbelik, Ed Evans, and myself to discuss these steps. We agreed that the best approach was to select a small group consisting of Harry Shealy with the Aiken County Land Trust, Von Snelgrove of the Department of Natural Resources, and Karen Patterson – an environmental consultant with Tetra Tech NUS, Inc. Their task will be to hire a consultant to pull together the various plans to be part of our Comprehensive Plan. This plan would include pathways, open space for passive recreation, water shed protection, and open space within our city limits. It would also recommend a mission statement and structure for a future open space commission. Our goal is to complete this plan sometime in late summer or early fall with a commission established in late 2008. We would also ask ACOLT to assist us in open space acquisition and partner with other agencies like Aiken County. This will all be coordinated through Sandra Korbelik, who would spend 1/3 to 1/2 of her time on open space issues. She has been coordinating all of the plans to date and is a valuable asset to bringing this entire program together. If Council is comfortable with this approach, we will begin moving forward immediately.

He stated the recommendations from the group are that the City hire a consultant to pull together the various plans to be part of our Comprehensive Plan. Secondly, that Sandra Korbelik be dedicated to Open Space up to one-half of her time. Thirdly, that ACOLT would assist the city in open space acquisition and partner with other agencies like Aiken County in trying to get them to work together.

Mayor Cavanaugh thanked Bill Reynolds for a job well done and thanked the others for being willing to serve in giving their expertise to the committee.

The general consensus of Council was to accept the recommendations of the committee. It was agreed to place the item on the regular agenda for action by City Council.

REGULAR MEETING

January 28, 2008

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

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Richard Pearce, Anita Lilly, Pete Frommer, Glenn Parker, Ed Evans, Sara Ridout, April Bailey of the Aiken Standard, Michelle Guffey of the Augusta Chronicle and about 85 citizens.

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Mayor Cavanaugh led in prayer, which was followed by the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilwoman Clyburn moved, seconded by Councilman Wells and unanimously approved, that the agenda be approved with the addition of consideration of the Open Space Plan under New Business.

MINUTES

The minutes of the regular meeting of January 14, 2008, were considered for approval. Councilwoman Price moved that the minutes be approved as submitted. The motion was seconded by Councilman Dewar and unanimously approved.

BOARDS AND COMMISSIONS

Appointments

Planning Commission

Rucker, Isaac

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

Mr. LeDuc stated Council has 10 pending appointments to boards and committees of the city and 2 appointments are presented for Council's consideration.

Mr. LeDuc pointed out, however, there has been a change. He stated Councilman Wells had recommended that Andrew Siders be appointed to the Planning Commission to replace Ed Woltz. After further discussion Mr. Siders has asked that his name be withdrawn at this time for the Planning Commission.

Councilwoman Clyburn has recommended appointment of Isaac Rucker to the Planning Commission to replace James Holland, with the term to expire December 1, 2009.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Isaac Rucker be appointed to the Planning Commission to replace James Holland with the term to expire December 1, 2009.

Councilman Wells stated he would like to recommend the appointment of Liz Stewart to the Planning Commission to replace Ed Woltz who has resigned. The term would expire December 1, 2008.

Councilman Dewar stated he would like to recommend the appointment of Mary Ella Brown to the Community Development Committee to fill the unexpired term of Ed Brohl who has resigned. The term would expire September 2, 2008.

ANNEXATION – ORDINANCE 01282008

Whiskey Road 2141

Owens Street

TRC Aiken, LLC

TPN 122-13-09-001

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex 0.66 acres at 2141 Whiskey Road to be zoned General Business (GB).

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 0.66 ACRES OF LAND, MORE OR LESS, OWNED BY TRC AIKEN, LLC AND LOCATED AT 2141 WHISKEY ROAD AND TO ZONE THE SAME GENERAL BUSINESS (GB).

Mr. Leduc stated last May City Council approved a request for water at Owens and Whiskey for a small shopping center. TRC Aiken LLC owns the property at 2141 Whiskey Road, which is adjacent to unincorporated land zoned UD by the County of Aiken. The proposed zoning for the annexed property will be General Business (GB). This zoning is compatible with the Aiken County UD zoning. Water service was granted with the condition that they would be willing to annex when annexation became possible. Staff asked them to consider annexation, and they have been through the process for annexation of the property.

The Planning Commission considered the request for annexation and unanimously approved the annexation of this property at their December 11, 2007, meeting.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Wells and unanimously approved, that Council pass on second and final reading an ordinance to annex 0.66 acres located at 2141 Whiskey Road to be zoned General Business (GB).

ZONING ORDINANCE – ORDINANCE 01282008A

Amendment

Demolition

Landmark

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Zoning Ordinance concerning the definition of “demolition” of a landmark, as well as changes in the Design Review Manual regarding demolition.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE AND THE DESIGN REVIEW MANUAL REGARDING THE DEFINITION OF “DEMOLITION.”

Mr. LeDuc pointed out the definition of “demolition” is in Chapter 10 “Definitions” of the Zoning Ordinance rather than Chapter 5 as stated at the last meeting. He read the present definition of “demolition.” Demolition is an act or process that destroys a structure or site in part or in whole. He said at the last meeting Council after much discussion considered changing the wording to “the complete or substantial removal of more than 40% of the footprint of the building’s exterior wall.” He said as staff started looking at the 40% of the exterior wall and how to measure this, it became apparent that this would be difficult to interpret and there could be varying opinions on the percentage of demolition. It was also pointed out that when the architects and engineers looked at a site they may find that the demolition was 40.5% and that would be a problem with the ordinance at a set percentage of 40%. He said he felt the intent of Council was to allow a reasonable amount of demolition that would not totally destroy or hinder a project to go forward, such as the St. Mary’s Church project.

Mr. LeDuc stated he would like to recommend that for the definition of “demolition” that the wording be “Any act or process that destroys a structure in whole.” This would delete the words “or site in part or.” He felt this would allow St. Mary’s project to go before the Design Review Board. He said this wording would put trust in the Design Review Board to make a decision about demolition for historical structures. This would give them a broad range of area to make a decision.

Mr. LeDuc stated for Council’s consideration this is second reading and public hearing of an ordinance to amend Chapter 10 of the Zoning Ordinance to modify the definition of “demolition” and changes in Section 7.1.7.k.6(a) replacing “landmark” with “Historic Sites” plus the associated changes in the Design Review Manual, modifying the last paragraph of page 20 of the Design Review Manual to state “Plans for demolition on a site shall only be considered in conjunction with a Certificate of Appropriateness application for new construction.”

The public hearing was held.

Mr. Bill Tucker, Attorney for St. Mary's Church, stated the church approves the proposed modifications to the ordinance and asks for Council's favorable approval.

Mr. Martin Buckley, Two Notch Road, stated defining demolition is very difficult. He said the intent is to try to maintain the fabric of historic structures and to keep the important parts. He said there are some historic structures that there are only one or two pieces that are worth keeping. However, there are others that all of the structure is historic and should be kept. He said there should be some kind of rating to decide what could or should be done. He did not think one size fits all. He said he did not feel that a percentage of a wall or footprint would fit. He did not feel that not allowing anything to be done is right either. He felt each one should be judged on its own. He felt there was no easy way in this matter.

Ms. Margaret Marion, 412 Windsor Place, suggested that rather than change the definition of demolition in Chapter 10 that the last sentence in Section 5.2.3.J(3) "No application for demolition of a landmark shall be approved." be removed from the ordinance.

Ms. Lucy Knowles, 1141 Two Notch Road, stated she was confused about the issues. She stated if the next item regarding removal of St. Mary's as a landmark is approved, she felt changes to the Zoning Ordinance would not be necessary. She felt there was a conflict in the ordinance between the demolition section and the Certificate of Appropriateness section.

Mr. Gary Smith, City Attorney, stated in his opinion the way the Design Review Manual is now set up the Design Review Board is not allowed to consider the demolition of a structure at all. With the definition of "demolition" as it is presently, no one can even remove one brick from the structure as that, by the ordinance, would be considered demolition. He said this would be for any building on the Historic Register or in the Design Review District.

Councilwoman Vaughters stated Council was making an effort to resolve this issue at this meeting. She stated St. Mary's had been trying to get a hearing before the Design Review Board for a long time. She pointed out Ms. Marion's suggestion that the last sentence in Section 5.2.3.J(3) be eliminated might have been the best solution. However, to do that now would be first reading of an ordinance and that would be a delay of another two weeks or longer. She stated her feeling is that if Council makes the proposed definition of "demolition" in Chapter 10 then St. Mary's plans can go to the Design Review Board without even the main church being deleted from the listing as an Historic landmark. Council would only have to delete the rectory and the colonnade from historic landmarks. Then the Design Review Board could consider the plans of St. Mary's. However, if a percentage is used in defining demolition it will be difficult to interpret. She said she did not feel the proposal is ideal, and there is much more work to be done on the ordinances to modify other areas. She felt it was Council's responsibility to clean up the ordinance. She felt that being designated as a landmark is an honor and should not be a burden. She said she did not like the idea of de-listing historic landmarks when they obviously are historic. She was concerned about others asking to be de-listed from landmark status. She pointed out that wording added in 1999 has added confusion to the matter. She said it seems that if demolition is allowed with the approval of the Design Review Board the matter can move forward.

Mayor Cavanaugh stated the matter was now before Council for consideration.

Mr. Gary Smith suggested that if Council wishes they could adopt the proposed ordinance on second reading with the modification to the ordinance that the word "demolition" be defined to read as "Any act or process that destroys a structure in whole."

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that the proposed ordinance be approved on second reading with the modification that the word "demolition" be defined to read as "Any act or process that destroys a structure in whole."

LANDMARK – ORDINANCE 01282008B

St. Mary Help of Christians Church

York Street

Park Avenue

Historic Site

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to modify the landmark designation at St. Mary Help of Christians Church at the corner of York and Park Avenue to remove all structures except St. Claire's Chapel from the Aiken Historic Register.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE MODIFYING THE LANDMARK DESIGNATION OF ST. MARY HELP OF CHRISTIANS CHURCH LOCATED AT THE SOUTHWEST CORNER OF PARK AVENUE AND YORK STREET.

Mr. LeDuc stated St. Mary Help of Christians Church has requested that the entire church property at the southwest corner of York and Park be removed from the Aiken Historic Register.

At its December 11, 2007, meeting, the Aiken Planning Commission voted unanimously to remove all structures on the St. Mary Help of Christians' Church property from the Aiken Historic Register except for the sanctuary and St. Claire's Chapel. This request had also been presented to the Design Review Board, which voted on November 6, 2007, and recommend that the church property **not** be removed from the Aiken Historic Register. Since the property is in the Downtown Overlay District any exterior changes or demolition would still require approval by the Design Review Board.

At the January 14th City Council meeting, on a 4 – 3 vote, Council decided to remove three buildings--the colonnade, the rectory and the church-- from the Landmark status, removing the land and all buildings except for St. Claire's Chapel from landmark status.

Mr. LeDuc stated there had been a lot of discussion on this matter and staff had been discussing the issues as late as this afternoon. Some of the issues were if the church is modified can it stay on as a landmark or not. How can this be reviewed by the Design Review Board. Nothing like this has been before the Design Review Board before. He said it seems that Council agrees that for St. Mary's to move forward to the Design Review Board the rectory and the colonnade need to be removed from landmark status. He said the question is whether the church should be removed or remain as a landmark. He said the new definition of demolition would allow St. Mary's to remove whatever is needed and alterations and additions to be made. The question is whether the new addition or alterations would fit under the current guidelines or whether the entire church needs to be removed from the landmark status.

Mr. LeDuc stated the proposed ordinance would remove the rectory, the colonnade, the land, and the church from landmark status.

Mr. Ed Evans, Planning Director, stated there are three parts of the Design Guidelines for the historic overlay that he could quote to Council which he felt the Board would refer to in reviewing St. Mary's application. He pointed out a sentence in the Design Review Manual (blue book Historic Overlay Guidelines) which apply to any addition in the Historic Overlay District whether or not the building is a historic site or landmark, "Noticeable changes to landmarks should usually be avoided." Also, in the Design Review Manual (blue book Historic Overlay District Guidelines) in the additions section "Elimination of old features and materials can sometimes be minimized by limiting the number of openings between the old and new and by incorporating an existing opening

into the design. Material loss can also be reduced by keeping the point of contact of the addition with the old building as small as possible.” “To avoid negative effects on buildings that contribute to the character of a historic district or site, the Commission will not normally approve plans for an addition unless all of the following three criteria are met: 1) features and materials important to the character of the structure and its setting would be preserved, 2) the design of the addition would be compatible with the existing structure and its context. He read the paragraph regarding size, scale and proportion. 3) The new addition would be distinguishable from the old and would not create a false impression about the original or historic appearance of the structure.” He said those are three items he felt are relevant to the issue. He said there are probably other things in the guidelines that the Board might refer to. He pointed out that the three items that he had read were applicable to any addition in the Historic Overlay District.

Mr. Evans pointed out there are two guidelines, the Design Review Manual (blue book Historic District Overlay Guidelines) and the Downtown Architectural Design Guidelines (Overlay Guidelines). He pointed out Council had created two overlay districts. One is the Historic Overlay District, which has been in existence since 1990. The other is the Downtown Overlay District, which was created in 2005. He pointed out there are two sets of guidelines. He said St. Mary's is on the Historic Register, so this means the church is covered by the Design Review Manual (blue book Historic District Overlay Guidelines). St. Mary's is not in an historic district, but is covered by the Historic District Overlay Guidelines because of its landmark or historic site designation. In response to a question regarding the Downtown Design Guidelines, Mr. Evans stated the Downtown Design Overlay Guidelines are less restrictive. Mr. Evans then continued to read from the Downtown Architectural Design Guidelines regarding demolition. If St. Mary's is removed from the landmark or Aiken Historic Register status, the Downtown Overlay Guidelines would apply. It was pointed out that the stricter regulations (Historic District Overlay Guidelines) apply if a structure is designated as a landmark.

Councilwoman Vaughters stated she was very hesitant to remove St. Mary's from the Aiken Historic Register, as she felt the church is a landmark, but she did want them to be able to go to the Design Review Board. She pointed out the words used are “usually,” and other adverbs that would not be there if there were no option for a different opinion. She said in her opinion the guidelines did not say you have to have a hallway between the old and the new addition. She said it says “usually.”

Councilman Dewar asked the responsibility of the Design Review Board in evaluating parking under the Design Review Manual. Mr. Evans responded the Board would decide whether paving in a certain area which is proposed for the parking lot is appropriate. The Board considers the matter as a design issue, not parking issues created. There is no required parking in the Downtown Business Zone.

The public hearing was held.

Mr. Bill Tucker, Attorney for St. Mary's Church, thanked Council for their effort and time in trying to be fair to St. Mary's and treat them as other churches in the downtown. He did point out that the request is that the land be included in the removal from landmark status as well as the rectory and colonnade. He pointed out he knew Council had discussed the issues about St. Mary's at the Horizons meeting as well before this meeting. He pointed out that the church members know they have a very special building. He pointed out, however, that St. Thaddeus is some 50 to 60 years older than St. Mary's and is not on the Historic Register, and therefore they would come under the Downtown Architectural Design Guidelines. He pointed out St. Mary's is not in an Historic Overlay District, but is in the Downtown Overlay District. However, St. Mary's is an Historic Site and has the landmark designation. He said their concern is that if the church is left on the Historic Register, there will be something else that would present another roadblock to having a fair hearing before the Design Review Board. He pointed out the excerpts read by Mr. Evans from the manuals are guidelines, but they are used by the Design Review Board in reviewing requests. He pointed out if the landmark status is removed from the church building, there are still stringent requirements to meet in the Downtown Architectural Design Guidelines. He said one item he has a problem with in the material Mr. Evans read is in the break between the old and new buildings be with a

corridor. He said this would not work for what is proposed for the church addition, which is an extension of the sanctuary, which would be a uniform extension back from the existing sanctuary. He was concerned about there being other issues in this matter. He felt the best way to help St. Mary's is for Council to pass the proposed ordinance on second reading which is the removal of everything except St. Claire's Chapel from the landmark status. He pointed out the issue is not all about St. Mary's, but about the broader issue for others as well. He said he felt using a 40% rule for demolition would be a nightmare for staff, Council and the Design Review Board. He said he would suggest that Council, sometime in the future, look again at Chapter 5 Section 5.2.3.J(3) of the Zoning Ordinance and the possibility of removing the last sentence as had been suggested at the last meeting.

Mr. Martin Buckley, Two Notch Road, was concerned about landmark status being optional and being able to remove a structure that has been designated as a landmark from the register. He was concerned that others may want to remove structures from landmark status.

Ms. Martha Whittingham, 175 Branch Water Lane, a member of St. Mary Help of Christians parish, pointed out that St. Mary's Church did not request landmark status. She pointed out most of the landmarks are buildings other than churches, with only two churches being listed as landmarks. She pointed out a church is more than a building, but is a place of worship. She stated the restrictions that the landmark status had placed on St. Mary's almost renders the building unusable for Sunday masses. She asked that Council allow the church to try to continue to use the building as a place of worship, or it may become an empty hollow historic building with no use.

Ms. Rossie Corwon, 126 Mockernut Circle, stated she supports the needs of a living church to grow. She said originally the historic status was conferred as an honor. She said the church, the chapel and the other buildings are historic landmark structures, even if the status were removed from them. She felt the landmark status should be retained and Council should take care of the issues in the wording of the ordinances. She pointed out removal of the sentence in Chapter 5 as suggested by Ms. Marion would only delay the process for two weeks, but she felt it would take care of the issue. She was concerned that if the landmark status were removed and the church comes under the Downtown Overlay District guidelines there are still issues in that manual that may cause problems for the church. She felt the church should be left as a historic site and have that honor, but asked that Council take care of the issues by changing the ordinances.

Mayor Cavanaugh stated Council was trying to take care of the wording in the ordinances, but there seems to be wording in several places in the manuals that may be of concern for the project. Councilmembers discussed their concern about wording in the manuals that may cause problems when St. Mary's appears before the Design Review Board. Councilmembers stated they were trying to make it so St. Mary's could appear before the Design Review Board.

Councilwoman Price expressed concern about Friendship Baptist Church being designated as a landmark and what problems they may encounter in the future if they plan to modify their church in any way. She said she supported St. Mary's being able to expand so they can use the church for worship.

Ms. Del Hickey, 240 Sumter Street SE, stated this had not been an easy process, but she felt everyone had learned a lot about the guidelines and definition of demolition. She pointed out there are some challenges in each of the two sets of guidelines for this project. She felt St. Mary's should be able to have their church and felt the community should support that but at the same time maintain the integrity of Aiken. She said the issue is how best to get St. Mary's to achieve their goals. She felt there would have to be faith in the Design Review Board and the Planning Commission to ensure that St. Mary's can maintain the landmark status and at the same time achieve the goals that they want.

Ms. Margaret Marion pointed out St. Mary's Church complex was listed on the National Register in 1982 and has not undergone significant changes since that time. She expressed concern about removing the landmark status for the complex and felt Council

would be setting a very unfortunate precedent. She said the church is very clearly a significant landmark building in Aiken. She felt the problem arose because of the last sentence in Chapter 5 Section 5.2.3.J(3) of the Zoning Ordinance regarding demolition of a landmark not being allowed as well as some wording in the Design Guidelines. She felt if these were eliminated the application of St. Mary's could be considered. She asked that Council not remove the landmark status for St. Mary's as this would be setting a bad precedent. She pointed out that the guidelines are guiding principles and are not always rigid but are the guiding principles intended to preserve the character and integrity of property while allowing for active use.

Ms. Maureen Simpson stated she was a member of St. Mary's. She expressed concern that if St. Mary's can't grow and expand that the church will build a church on the southside and the present church will not be a place of worship but a museum.

Mr. Bill Collins, Spyglass Drive, a member of St. Mary's Church, stated he loved Aiken and commended the city government, Council, Planning Commission and Design Review Board over the years for preserving the downtown character. He said, however, it does seem that having the historic landmark designation does impose more roadblocks on consideration of expansion of the church than if it were not so designated. He said as far as setting a precedent in removal of the landmark status, he did not consider the process a "willy nilly" process. He said the process is built into the ordinance for getting designated as an historic landmark and also the process for removing the designation. He said that process is built into the law, and it is not an easy process.

Mr. Mickey Anaclerio stated he was a parishioner of St. Mary's. He said he is a property owner adjacent to St. Mary's Church, and he owns the apartment building at 243 York Street which is the second oldest house in Aiken, built about 1859. He said the house is not a landmark, and he was not sure he wanted it to be a landmark. He said he lives at 260 Fairfield Street. He said he had had good and bad experiences with the Historical Commission. He said he feels we do need the Historical Commission, as it does preserve the city. He said he is in an area where the "blue book" applies, that is, the Historic Overlay District Guidelines. He said those guidelines are very strict. He stated he was concerned about the property owner's rights. He said the decisions Council makes on this issue and changes that are made will directly affect him and what he can do with his buildings. He pointed out his property on York Street had been in his family for over 50 years. He said he was present to speak on property rights. He said in the past his grandfather had made changes to the house. He said, however, when the Historical Commission came about there were guidelines to follow to make any changes to a house. He said buildings need to be changed over the years to suit the needs and for maintenance. He said nothing stays the same. He said he appreciated Council's concerns in trying to get St. Mary's to the point where they can make some changes to the church to meet the needs. He pointed out the law had changed regarding landmarks during the time St. Mary's had been designated as a landmark. He asked that Council let St. Mary's get a fair hearing which every property owner deserves to be able to change their property in a way that is suitable to the people.

Ms. Marolyn Baril, 146 Summerwood Way, a member of St. Mary's, stated that landmark status (historic site) is supposed to be an honor not a burden. She said it is very clear that it has become a huge burden for St. Mary's and they want to be relieved of that burden. She pointed out that the proposed plans treat the historic site with the utmost respect and care.

Ms. Lucy Knowles, 1141 Two Notch Road, stated she was a landowner in the historic district. She said when the family's house was first made a part of one of the historic districts, the family was unhappy. She pointed out, however, the land value in that district had increased very dramatically as a result of the protection for historic residences. She urged Council to consider the good that the historic ordinance had done for the city. She was concerned about removal of part of the structures from landmark status and having one structure left as a landmark or historic site. She felt that if St. Claire's is left as a historic site that the Historic District Overlay Guidelines should apply to the project, since there would be an historic landmark next door to St. Mary's.

Mr. Bill Tucker pointed out the property is already part historic site and part not. He pointed out the garage, Smith Hall and the lean to have never been on the historic register, so the property is already split between landmark status and non-landmark status on one lot.

Father James LeBlanc stated the property is a rectangular lot at Park and York. In 1993 the property was designated on the historic register as a landmark. He said everything on the lot, including all the land, except for Smith Parish Hall, the two car garage, and the lean to, were designated as a landmark. He said the property has been subjected since 1993 to two different regimes of regulations. He pointed out the property is all in the Downtown Overlay District, so it is all regulated by the Downtown Overlay District, and the aspects of the parcel designated to the Aiken Historic Register are regulated by the Historic Overlay District guidelines. He said the proposal is to demolish Smith Hall and the garage which are in the Downtown Overlay District and to demolish the rectory and the colonnade which are designated to the Aiken Historic Register, and to take down the back wall of the church, which is designated to the Aiken Historic Register at this time. He said the church faces two sets of guidelines. He said that is the reason St. Mary's is appearing before Council. He said the Planning Commission's recommendation was to begin work to allow St. Mary's to take their plans to the Design Review Board for a hearing by taking away the landmark designation or Aiken Historic Register designation from the land, the rectory and the colonnade. He stated the statute allows for the taking away of a landmark designation through a process--the same way out as in making a landmark. He said the distinction between the church and the chapel is that the chapel is on the corner. The chapel stands alone, and the church plans to continue to use it as long as they are on the property. He said there are no plans to change the chapel, so it will not be a problem to have the chapel designated as a landmark with all else removed from landmark status. He said the church is a different situation. He said in order to expand the church, the back wall needs to be removed from the church. He asked that Council take the church, the rectory, the colonnade and the land from the Aiken Historic Register so they will have one set of guidelines, the Downtown Overlay District Guidelines, to follow. He said that would put them in the same position as the other churches downtown, with the exception of Friendship Baptist Church.

Ms. Coleen Reed, 207 Brandon Road, pointed out at this meeting Council had changed the definition of "demolition." She asked with that change would it really be necessary to remove the landmark status from the church. She pointed out having been involved in bringing three properties before Council requesting landmark status, she is opposed to removing the landmark designation. She said she understood what the church has been going through. She said she felt the Design Review Board will weigh equally, and they will do what is right for the church to keep it a vibrant building. She pointed out St. Mary's is one of two churches on the historic register, but she stated based on the amount of time, effort and energy that it takes to put a property on the Register, perhaps no one in the other churches was willing to invest that effort. She pointed out it took her at least three years to get the Farmers' Market on the Register, two years for the Immanuel School Building, and then one year for the Pinelawn Cemetery. She said it does take a lot of time, effort and energy to get landmark status and takes a group of individuals to step forward and do the work. She asked that Council not remove the church from landmark status.

Mayor Cavanaugh stated he felt it was necessary to remove the landmark status for the church in order for Council to do everything they can to make it possible for St. Mary's to be able to go before the Design Review Board and present their plans. He pointed out this is a church, and he felt we should do whatever possible to make it usable for the church members to be able to use their building for worship.

Mr. Jeb Beckum, 118 Governors Lane, stated he was in support of the removal of the St. Mary's structures from the landmark status. He pointed out the church had been there for over 100 years and it has been very well taken care of. He said he was sure they would continue to take care of the church. He was concerned about having a lot of laws and many boards to have to go through for review.

Councilwoman Clyburn pointed out that St. Mary's was put on the historic register before 1999. She pointed out some changes were made in 1999 which further complicated the matter. She stated from what she heard Mr. Evans read from the Downtown and the Historic Guidelines she did not see how St. Mary's could go forward without the removal from the Historic Register.

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council approve on second reading an ordinance to remove all structures, as well as the land, on the St. Mary Help of Christians' Church property, except for St. Claire's Chapel from the designation as a Landmark or Historic Site.

Councilman Smith stated he supported the idea of changes and was under the impression that St. Mary's would be able to take their case to the Design Review Board. He said, however, he was not aware of the two different guidelines-the Downtown and Historic Guidelines, applying to the Design Review. He said even though he voted against it on first reading, he will support removal of landmark status on second reading.

Councilman Dewar stated he had thought the issue would be a simple process when they first came to Council. He pointed out the process St. Mary's had followed and some changes that had been made in the ordinances in order to allow them to appear before the Design Review Board. He said his concern is support for the Historic Preservation Program. He said it seems everyone is concerned about appearing before the Design Review Board under the Historic Guidelines. He said he was opposed to the request at the last meeting and was for preservation of the landmark status. He said he still felt the church could be retained on landmark status and still proceed. He said he supports the desires of the church and they deserve to have their project reviewed. He said this is a tough decision to make.

Councilwoman Clyburn stated she felt the work of the Design Review Board is hard, and they have tough decisions to make. She pointed out her decision was made on what Council did in passing the requirements in the manuals which the Design Review Board must use in making a decision.

Mayor Cavanaugh stated he also felt the Design Review Board does a good job, and he felt they would be fair in their review of St. Mary's request.

Councilwoman Price pointed out she felt it was great to be able to come to Council and that citizens have their comments and concerns heard. Then each Councilmember would make up their mind as to how they would vote on the issue.

Councilman Wells stated he was concerned about historical properties in Aiken and would like to preserve as many buildings as possible. He said St. Mary's has not been an easy decision. He said he felt the problem is that there are several ordinances that need to be revised, since they seem to conflict with each other. He said Council will need to study the ordinances and see if some changes can be made so ordinances do not conflict and so a structure can be a landmark status but still be able to make some improvements to the building. He stated St. Mary's had been dealing with this problem for over a year and a half. It has been a long process, and he would like for them to be able to go forward with their plans. He said because of these issues he was in support of St. Mary's being removed from landmark status.

Councilwoman Vaughters stated she had voted for redefining "demolition" so St. Mary's would not have to be removed from landmark status. She felt the church should be able to go to the Design Review Board with their plans. However, she was concerned about the Downtown Guidelines and some wording in that manual that may cause some more problems for the church. She said she wanted the request to get to the Design Review Board successfully. She said she felt the Historic Guidelines might fit better than the Downtown Guidelines. She was concerned that there are other changes in the manuals that need to be made so St. Mary's will not have a problem with their request. She said she wanted St. Mary's church to be used. She said, however, she cannot vote to remove the church as a landmark. In her mind the church is a landmark.

Mayor Cavanaugh called for a vote on the motion to pass the ordinance on second reading to remove all structures as well as the land on the St. Mary Help of Christians' Church property, except for St. Claire's Chapel from the designation of a Landmark or Historic Site. The motion was approved by a vote of 6 in favor and 1 opposed. Councilwoman Vaughters opposed the motion.

Mr. LeDuc stated Councilwoman Vaughters had brought up some good points. He said it had been a very confusing process. He said new precedents are being set. He said this is new ground as to how to look at the structures in the Downtown Overlay. He said staff will look at the Downtown Design Guidelines and see how that fits based upon Council's decision at this meeting.

ZONING ORDINANCE – ORDINANCE 01282008A

Amendment

Demolition

Design Guidelines

Demolition

Downtown Guidelines

Mr. Gary Smith, City Attorney, stated Mr. Evans had read from Section 3.1.11 on page 33 of the Downtown Architectural Design Guidelines which states "removal of a portion of an existing building shall be considered to be demolition for the purposes of these guidelines." He said in the previous ordinance in which Council adopted amending the definition of "demolition" in Chapter 10 of the Zoning Ordinance, the ordinance also states that it not only amends the Zoning Ordinance definition of demolition, but it also states the Design Review Manual is amended regarding the definition of "demolition." He said since all the members of Council voted in favor of that ordinance, if one member of Council wanted to vote to reconsider that ordinance he felt it would be appropriate to also delete that sentence on page 33 of the Downtown Architectural Design Guidelines. He felt this would be in keeping with Council's desire to amend the Zoning Ordinance. He said Council had amended the Design Review Manual with that ordinance and this statement is in the Design Review Manual also so the proper notice has been made. He said this is in keeping with what Council wants to do. He said he felt Council could use this process to get that sentence removed from the Design Review Manual. He pointed out the definition of "demolition" is in the Zoning Ordinance so Council had to amend that to be able to proceed. He said, however, there is a sentence in the Design Review Manual regarding demolition. He said he did not understand that being in the Design Review Manual if there is a definition of "demolition" in the Zoning Ordinance. He felt that sentence should be removed. He said with that sentence removed, it would help St. Mary's not have a hindrance to having their application reviewed by the Design Review Board. He said if that sentence is left in the Design Review Manual it would be contrary to the ordinance passed amending the Zoning Ordinance regarding demolition and could create a conflict. He said it could be changed later, but he felt Council could change it at this meeting if Council desires.

Councilman Dewar stated this was under the commercial section and questioned whether the church was a commercial type building. Mr. Gary Smith stated the church was an existing commercial type building. He pointed out that on page 32 Section 3.1.10 talks about additions to existing structures under the guidelines for existing commercial type buildings. All of the references are pictures of churches.

Mr. Gary Smith stated the reason he was suggesting this at this time is that Council had just had second reading on the ordinance to amend "demolition." This matter has already been before the Design Review Board and the Planning Commission for their review. He said by doing this now, the matter will not have to go through the whole process again. This would be consistent with what has already been before Council, the Design Review Board and the Planning Commission. He stated he felt if Council makes this amendment Council would still need to thoroughly review the ordinances and manuals to be sure there are no further conflicts in the manuals. He pointed out the last sentence in Chapter 5 Section 5.2.3.J(3) needs to be amended in the future as well as some other changes that need to be made. He said this sentence in the Downtown Architectural Design

Guidelines conflicts with the previous ordinance Council passed. He said he felt that sentence needs to be removed so Council's intent is clear.

Councilwoman Price moved, seconded by Councilman Wells, that Council reconsider the ordinance amending the City of Aiken Zoning Ordinance and the Design Review Manual regarding the definition of "demolition." The motion was approved by a vote of 6 in favor and 1 opposed. Councilwoman Vaughters opposed the motion.

Mr. Gary Smith stated the proposed amendment would be to remove the sentence located in Section 3.1.11 of the Downtown Architectural Design Guidelines the next to the last sentence on page 33 which states "removal of a portion of an existing building shall be considered to be demolition for the purposes of these guidelines."

Councilwoman Price moved, seconded by Councilman Wells, and unanimously approved, that Council amend the ordinance amending the Zoning Ordinance and the Design Review Manual regarding the definition of "demolition" by also removing the next to the last sentence in Section 3.1.11 of the Downtown Architectural Design Guidelines on page 33 regarding demolition of a building.

Mr. LeDuc stated staff will review the manuals so if there are other conflicting items they can be brought back to Council, possibly at the next meeting.

AIRPORT – ORDINANCE

Aiken Airport

Lease

BW Airplane, LLC

Aiken Aviation Enterprises

AvServ, LLC

BusAvDel, LLC

FBO

Fixed Base Operator

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on two ordinances to reassign lease agreements for property at the Aiken Airport.

Mr. LeDuc stated he would like for Council to continue this item. He stated he had received a call from Mike Laver, with the FBO, right at 5 PM asking that the matter be delayed as he had a few questions about the matter that he would like to resolve before the final reading.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council continue the reading on the proposed ordinances to the next meeting of Council as requested.

NEWS RACKS – ORDINANCE 01282008C

Downtown

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to place city-owned newsracks in the central business district.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ADDING SEC. 36-12 TO THE AIKEN CITY CODE REGARDING THE PLACEMENT OF CITY OWNED NEWSRACKS IN THE CENTRAL BUSINESS DISTRICT.

Mr. LeDuc stated over the last several years, we have been working on a method to provide a more aesthetically pleasing way to distribute publications in the central business district. After many discussions with City Council and the publishers, we feel we have developed an ordinance which meets most of the concerns expressed by all participants. As you are aware, the majority of these individuals would prefer to keep things as they are presently. Instead, we are proposing the individual units be centralized

in newsrack modules located no closer than 400 feet apart throughout the central business district. These units would be similar to the one we had displayed at the corner of Richland Avenue near Laurens Street that met with the general approval of the downtown merchants. At the meeting in December, the publishers stated they were concerned about liability and the difficult process of going through City Council to make any timely changes. We have used the model from Greenville and have shortened the ordinance from over ten pages to three pages, with the City Manager having day-to-day oversight of the newsracks. The city will own each of these racks and recoup their expense over a 5-year period at approximately \$75 per unit per year. We will maintain them and have the liability for each of these racks. Only coin-operated devices will be installed by those publishers that desire them. The initial location for these units are shown on a diagram given to Council and the exact locations will be determined based on existing trees, light poles, benches, trash receptacles, and other items in the brick paver area.

Should Council approve this ordinance, we will ask the publishers how many boxes they are willing to pay for before ordering the units. Once the units arrive we would install them and allocate the spaces accordingly. If these publishers or others want additional space after that time, it would be allocated on a case by case basis. If additional boxes are needed, the City Manager would make the determination on whether to order more boxes or to maintain the same number of units at that location. We have had numerous discussions with the publishers concerning this ordinance and although there is not total agreement on all these issues, we feel we have met most of their concerns and those of City Council. Letters were sent to all affected publishers in December notifying them of these changes.

Mr. LeDuc stated he and Mr. Huggins walked the entire downtown today and looked at all the proposed locations. He said the locations shown on the map are probably tentative and will have to be worked out. The proposed ordinance puts a lot of the day to day decision making on the City Manager rather than having to go to City Council each time for a decision. Mr. LeDuc pointed out in looking at the boxes he found that very few are newspapers, but most are magazines for real estate, cars, etc.

City Council approved this ordinance on first reading at their December 10, 2007, meeting.

For City Council consideration, this is second reading and public hearing of an ordinance to place city-owned news racks in the central business district.

Council briefly discussed the ordinance asking a few questions regarding the location of the boxes and who would make the decision regarding the boxes.

The public hearing was held and no one spoke.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on second and final reading an ordinance to place city-owned news racks in the central business district.

COMPREHENSIVE PLAN – ORDINANCE 01282008D

Nothside

Mayor Cavanaugh stated this the time advertised for second reading and public hearing on the Northside Comprehensive Plan.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN COMPREHENSIVE LAND USE AND TRANSPORTION PLAN.

Mr. LeDuc stated for the last few years it has been City Council's desire to create a Comprehensive Plan for the northside. This area is roughly bounded on the east by Highway 1, on the north by I-20, and to the west by Route 19. In addition, there are other areas within the plan that encompass our utilities. The Task Force, made up of citizens

both inside and outside the city, has been meeting for over a year to develop this plan. Currently the County has a Land Management Plan for this area that lacks details on what type of development coincides within these areas. Since we own the water and sewer utilities and have the ability to approve their use, we also have the ability to determine what type of growth should be in this area. This Plan will give both the Planning Commission, and City Council, direction when future utility requests are made.

A lot of hard work went into this Plan and the Planning Commission unanimously approved its adoption.

Should Council approve this Plan, it will become part of the City's overall Comprehensive Land Use and Transportation plan for our entire community.

City Council approved this ordinance on first reading at the November 26, 2007, meeting. For City Council consideration, this is second reading and public hearing of an ordinance to approve the Northside Comprehensive Plan.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Wells and unanimously approved, that Council pass on second and final reading an ordinance to approve the Northside Comprehensive Plan.

ELECTION - ORDINANCE

Non-Partisan Elections

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the city's election procedures to provide non-partisan City Council elections.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING CITY ELECTIONS PROCEDURES TO PROVIDE FOR NON-PARTISAN CITY COUNCIL ELECTIONS.

Mr. LeDuc stated City Council has discussed over the past couple of years the possibility of moving to a non-partisan form of election. According to research by our Staff Attorney, Richard Pearce, this can be accomplished in two different manners. One would be by petition signed by 15% of the certified voters in Aiken or for City Council to pass an ordinance requesting a special referendum election for this question only. Further research says that if Council approves the ordinance this special referendum would be the only question and no other matters could be placed on the ballot. As per the South Carolina Code, the referendum question would need to be substantially in the form of:

"Shall the municipality of Aiken change its method of election of members to City Council from partisan election with a primary to a non-partisan general election system?"

If Council votes to hold this referendum, the election would need to be held within 30-90 days from the time we get approval from the Justice Department. The Department of Justice under the Voting Rights Act has to pre-clear the ordinance before we can call for this referendum. The Justice Department has 60 days to respond to our request. Therefore this special election would probably be held sometime mid-year. If the voters approve this form of election, then the first non-partisan election would be held in the fall of 2009.

Mr. LeDuc stated that currently the City of Aiken has a partisan election process where there is a primary held by the parties. The City then conducts the general election. In the non-partisan election there would not be party elections such as Democrat or Republican, but any individual who meets the filing requirements and pays the filing fee could file for the general election in November.

For City Council consideration, this is first reading of an ordinance to amend the city's election procedures to provide for non-partisan City Council election. Upon City Council approval, second reading and public hearing will be held.

Council then discussed the matter at length with several citizens also expressing their opinion regarding the issue.

Councilman Wells stated he felt the non-partisan system would widen the field, so he felt there would most likely always be a run-off.

It was pointed out the City of Aiken is one of about six cities in South Carolina still with a partisan election. All other cities in South Carolina have a non-partisan election.

Councilwoman Price stated she felt she could not support a non-partisan election process.

It was pointed out that presently the primaries are paid for by the parties, but the general election is paid for by the City of Aiken. However, with a non-partisan election, if there is a run-off there will be two elections that the city will have to conduct and pay for. It was pointed out that each candidate will have to pay a filing fee, but the fee would be reasonable so individuals can afford the fee. It was stated the general election would be held in November and if there was a run-off the election would be held two weeks later.

Mayor Cavanaugh moved, seconded by Councilman Dewar and unanimously approved, that Council suspend the rules and allow citizens to speak on the ordinance on first reading.

Mr. John Brecht, 743 Chafee Lane SW, stated as a citizen and as Chairman of the Democratic party he did not see a good reason to change the present election process. He pointed out the party primaries would be eliminated, but then the city would have the general election and probably a run off every time so the City would be paying for two elections. He said there would be no net gain for the city to change to non-partisan elections. He stated he felt partisan elections are a keystone to our country's democracy and have been in place for centuries. He said he did not understand any real purpose to have non-partisan elections, as the system works as it is. He felt to eliminate the parties from the local process would be a great disservice. He said he did not feel changing to non-partisan elections would encourage involvement, but felt it might encourage the wrong kind of involvement.

Councilwoman Clyburn stated she appreciated the comments of Mr. Brecht. She also pointed out there are other issues involved in the way people vote and a change might prove challenging. She stated she would like to see the ordinance passed on first reading in order to have a public hearing and discussion on the matter.

Councilman Dewar stated he had talked to Andy O'Byrne, the Republican Chairman, and he supports keeping the partisan elections and keeping the parties involved.

Ms. P. J. Causey, 1125 Alderman Street, also expressed concern about people who want to run for office but are not affiliated with a party. She said it was difficult to run for office if not affiliated with a party.

Mr. Jeb Beckum, 188 Governor's Lane, stated he was in favor of the non-partisan election and doing away with party involvement.

Ms. Ann Dicks, 314 Jehossee Drive, stated she was opposed to the non-partisan elections. She pointed out many people always vote by party rather than the person. She felt changing the method of election would be confusing to some people. She felt if people really want to become involved they will seek election and become involved. She felt the system is not broken so why change.

Councilwoman Vaughters stated she wants people to be involved and to state what they believe and what they feel is good for the city. She said she likes to know where people stand on local issues. She said she would like to see more people become candidates for

public office. She felt it would be less expensive to run for City Council in a non-partisan race.

Mr. David Allen, 108 Driftwood Circle, stated he felt the system was broken. He pointed out a very small percentage of people vote. He felt there should be a way to get more people to vote. He said he was opposed to partisan elections on a local level.

Councilman Dewar stated it is not an easy issue, and he can see pros and cons.

Councilman Smith stated he had strong feelings on both sides of the issue. He said he felt it should be passed on first reading and give the citizens the opportunity to express their feelings on the issue.

Councilman Smith moved, seconded by Councilman Dewar, that Council pass on first reading an ordinance to amend the city's election procedures to provide for non-partisan City Council elections. The motion was approved by a vote of 6 in favor. Councilwoman Price abstained from voting.

RULES OF ORDER

First Reading of Ordinances

Public Input

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to allow Council to change the rules of order to allow the public to give comments during first reading of an ordinance.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE AIKEN CITY CODE REGARDING THE PROCESS FOR ALLOWING PUBLIC INPUT REGARDING THE CONSIDERATION OF AN ORDINANCE.

Mr. LeDuc stated historically City Council has allowed citizens and other interested parties to provide input regarding matters on first reading. However, to do so requires City Council to take a vote to suspend the rules of order. Currently our rules state that the public is given an opportunity to discuss items during the public hearing which occurs on second reading. Approving this ordinance will allow individuals to speak about the ordinance or subject during the first or second reading of the ordinance without Council having to vote to suspend the rules of order.

For City Council consideration, this is first reading of an ordinance to allow Council to change the rules of order to allow the public to give comments during the first reading of an ordinance. Upon City Council consideration a second reading and public hearing will be held.

Councilwoman Vaughters stated if there is a public hearing on first reading, then she felt signs needed to be posted on the property before first reading not 10 days before the second reading.

Mr. LeDuc stated he thought the purpose was to allow people to speak without having to suspend the rules so it would not be an advertised public hearing.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on first reading an ordinance to allow Council to change the rules of order to allow the public to give comments during first reading of an ordinance.

OPEN SPACE

Task Force Committee

Recommendations

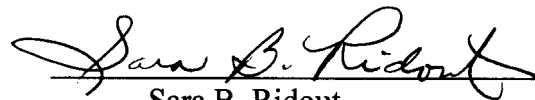
Mr. LeDuc stated this item had been added to the agenda after discussion at the Work Session. Staff was recommending that Council approve the recommendations from the

Open Space Study group and that the City hire a consultant to pull together the various plans to be part of our Comprehensive Plan. Secondly, that Sandra Korbelik be dedicated to Open Space up to one-half of her time. Thirdly, that ACOLT be asked to assist the city in open space acquisition and that the city partner with other agencies like Aiken County in trying to get them to work together for open space acquisition.

Councilman Wells moved, seconded by Councilwoman Price and unanimously approved, that Council approve the recommendations of the Open Space Study Committee and that the city move forward on the recommendations from the committee for Open Space.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 P.M.


Sara B. Ridout
City Clerk