

Aiken City Council MinutesWORK SESSIONJanuary 8, 2007

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

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Ed Evans, Richard Pearce, Glenn Parker, Richard Pearce, Sara Ridout, Tony Baughman of the Aiken Standard, Betsy Gilliland of the Augusta Chronicle, and about 5 citizens.

Mayor Cavanaugh called the meeting to order at 6:22 P.M. He stated Council had three items to discuss in the worksession—Woodside Phase IV – Traffic Mitigation, Northside Comprehensive Plan Task Force, and Wayfinding status.

WOODSIDE PLANTATIONPhase IVTraffic MitigationHollow Creek at the ReservesAnderson Pond RoadSilver Bluff RoadTraffic SignalChime Bell Church Road

Mr. LeDuc stated last August Council approved the annexation of Woodside Phase IV known as Hollow Creek at the Reserve with conditions. Condition number 5 stated “that any required traffic mitigation measures be paid for or sufficient funds posted with the city by the developer prior to issuance of any building permits.” According to the memo to City Council from the Planning Commission, the traffic mitigation measures included left-hand turn lanes from Anderson Pond Road at Silver Bluff and at Chime Bell Church Road at Whiskey Road. In addition, their traffic engineer stated a traffic signal is warranted, but not directly because of the proposed development, at the main entrance to Woodside Plantation on Silver Bluff Road. The applicant has agreed to fund the turn lane improvements; however, they want further clarification concerning the signal, as to who should pay for this improvement. As stated in the traffic report and as verified in a memo from the Traffic Engineer Todd E. Salvagin with SRS Engineering, “The Hollow Creek at the Reserve project is not the direct cause of a signal to the main entrance to Woodside Plantation on Silver Bluff Road. Current traffic is the main reason for the need to signalize this intersection.” (Page 4 of the Executive Summary). Mr. LeDuc read from the Traffic Management Ordinance Section 11-5 “The developer will pay for some or all of the cost of any necessary roadway, traffic control, or access improvement as a result of the project. If the required mitigation occurs on or adjacent to the projects site, then the developer will pay for the improvement. If the necessary improvement is not on or adjacent to the project site, then the developer will pay a prorata share of the improvements based on the increase in traffic volume to be created by the project compared to the current traffic volume.” He said in this case even though the condition said the developer should pay for the traffic signal, staff did not feel that the developer should have to pay for it. In previous meetings City Council has stated that it was not a requirement of the developer to pay for the full improvement, but only their prorata share. Based on this premise the developer in this case would not be required to pay for the new traffic signal since the signal is already warranted based on existing conditions.

A memo from SRS Engineering states “the new entrance to the Village which will be signalized at Silver Bluff Road will be the primary entrance from the residential project of the Hollow Creek at the Reserve.” Woodside Development requested in their letter that they should not have to pay for the new traffic signal at the main gate. They are willing, however, to comply with the annexation agreement in regard to the two intersection improvements. These improvements will not be necessary until a sufficient volume of traffic from Woodside utilizes Anderson Pond Road as one of the primary access points. Furthermore, the portion of Anderson Pond Road that will be built from

the new gate to Glenwood Drive will not be completed for several more years. The County is currently in the process of developing engineering plans and obtaining right of way. Therefore, at the earliest, this portion of roadway will not be completed for another two to three years.

Mr. LeDuc stated the condition in the ordinance passed by Council states that the developer shall pay for the traffic signal. He said staff, however, feels that the developer should not have to pay for the traffic signal since it is already warranted before the development is built. He stated he wanted to discuss this matter with Council, to make sure Council understands. He said to change the requirement Council will have to amend the annexation ordinance.

Mr. LeDuc stated the second item is that the other improvements are not on site, and in one case the improvement is several miles away from the Woodside location. He said this improvement is a left-hand turn lane needed on Whiskey Road at Chime Bell Road. He said the prorata share of that based on how many cars will be using Anderson Pond Road in the future as a pass through versus those who will be using Anderson Pond Road to go to Woodside Phase IV could be determined.

Mr. LeDuc stated one issue is the traffic signal at the main entrance to Woodside and the second issue is how do they pay for the traffic improvements—the two left-hand turn lanes. He said Woodside is prepared to give the city a lump sum check for the improvements. He said in looking at the matter he started thinking about the other projects which will be coming up in the future. One project is the Powderhouse Road project from Whiskey Road to Powderhouse Road that will have at least 1,000 homes within the triangular area. He said that improvement will cost about \$14 million, based on the study with the joint City-County Citizens Committee. He said part of that cost could be paid for by the new homes that would be using it in the future. He suggested that the City could charge a Transportation Enhancement Fee, which is done in North Augusta and some other cities, where there would be a developer's agreement, and the developer would agree that because a portion of the traffic would come from their development, a portion of the construction of the roadway could be paid for by the development. He said he had suggested that the fee could be collected through the Building Permit process, but after meeting with Mr. Gary Smith, City Attorney, and Ed Evans, Planning Director, they all agree that is not the best way to collect the fee. The best way would be to charge the developer a fee per lot, and it would vary depending on the development. The developer would pay the city as they sell the lots. He pointed out as an example, the left turn lane needed at Silver Bluff Road going to the new Anderson Pond Road. He said this road would come in about Glenwood Drive. He said there is no road there now. He said it would probably be another three years or more before the road is constructed. This way the developers pay as they sell the lots. He felt this was a fairer way for the developer. He pointed out this would be done through a developer's agreement. He said this would provide more funds versus the prorata share. He said if Council would like to use this form of payment then staff will present a proposed developer's agreement with details for Council's consideration.

Mr. LeDuc stated Woodside Development can either pay for the improvements (based on their prorata share) through a lump sum payment or the City could establish a Transportation Enhancement Fee for all new homes built in this phase. It would be assessed on each new house that would access Anderson Pond Road and would be paid as the lots are sold. It would set a precedent on how the City and County collect funds for future roadway improvements. This could apply not only for Anderson Pond Road but for the construction or widening of other new roads within our community. This fee would be based on the cost of the roadway improvement versus the percentage of traffic using this road from the development necessitating these improvements. If Council chooses this form of payment we should receive more than enough funds to complete the left turn lanes and additional funds for other improvements within the area.

Mr. LeDuc stated there were two items for consideration. One is the traffic signal installation. Staff feels that the ordinance should be changed to delete the condition that says Phase IV should pay for the traffic signal at Silver Bluff and the main entrance to Woodside since the traffic report states the traffic already necessitates the signal before

Phase IV is built. The second item is how to pay for the traffic improvements that are off site, not only for Woodside, but for future developments such as the Powderhouse connector. The question is should the mitigation be paid on a lump sum basis or should it be on a per house sale basis. He said this would not be an impact fee, but it would be a Transportation Enhancement Fee and could be used for traffic improvements.

Council then discussed the suggested changes at length.

Councilman Smith stated he felt that a traffic signal is not needed at Silver Bluff at the main entrance to Woodside. He stated he uses this exit from Woodside daily. He said he did question the traffic study and the analysis. He said eventually Woodside IV will produce about 12,000 trips per day going somewhere. He pointed out there will be another exit/entrance for Woodside at Anderson Pond Road. He did not feel there would be a great deal of traffic there. He did, however, feel there would be traffic from The Village onto Silver Bluff Road, and about 80% of that traffic would turn right and go past the Woodside main gate. He said he did feel they would contribute considerably to the traffic. He said he did not think the signal is warranted now or when it might be warranted. He pointed out Silver Bluff is to be widened, and there will be turn lanes. He felt the signal is far into the future and that it should be removed from the conditions in the annexation ordinance.

Mr. LeDuc pointed out there will be a traffic signal at the entrance to The Village opposite Richardson's Lake Road. He said Woodside had committed to pay for that traffic signal.

Mr. LeDuc stated the second issue is how to pay for the improvements—through a lump fee or pay as they sell the lots. Then the City could escrow the money and use the funds as needed for the projects.

Mr. Gary Smith, City Attorney, stated he sees the traffic report listing items that need to be mitigated in order to keep the traffic at the level desired. The City would be determining how much the improvements would cost up front and this is what the developer would owe. He said the city would be dividing the cost by the number of lots in the development.

Mr. LeDuc pointed out there would be a higher per lot basis than what would be collected on a lump sum basis.

Councilman Smith stated that concerned him. He said there would have to be a justification for charging the fee per lot. He said there would be a certain amount of dollars of mitigation required and that amount would be divided by the number of lots. He said the city could only charge for those things that are immediately applicable to that lot. He said a variable amount per lot concerns him. He pointed out there are many projects already on the list costing \$35 million. He said if they are addressed on an arbitrary local basis he did not feel it would take into consideration the whole picture. He pointed out the alternate payment is a volunteer method for the developer. He felt this made it negotiable. He said he wanted an ordinance which says every new resident pays a certain amount and everyone knows the amount and there is no give and take as to how much a development will pay for mitigation. He said he would prefer to stay with the present ordinance. He said he would like to see the traffic management area expanded. He said nothing is looked at beyond 1/4 mile from a project. He pointed out traffic flows out much further than that.

Council continued to discuss the proposal of paying the mitigation as the lots are sold versus the developer paying the lump sum up front for traffic improvements. It was pointed out that the Woodside project is the first one that is ready for development. There have been other projects and mitigation discussed, but the projects have been delayed. He said Woodside is ready to get started on their project.

Mr. LeDuc stated he was proposing an enhancement fee that would put a large portion for the payment of the improvement on the future lots that would be sold. The fairness to the developer is that instead of giving a lump sum payment up front, they agree to a certain

price, and that price will more than cover the cost to be sure the city is not stuck. He said this would be done through a developer's agreement and signed by the developer up front. The developer could pay for the improvement as they sell the lots and charge the fee back to the lot owner. He said this would be another way for paying for the improvements and collecting the money.

Councilman Wells expressed concern in determining how the cost would be determined for the projects such as the connector from Whiskey to Powderhouse. He said the improvements would be four lanes and two lanes in some areas. He was concerned how the cost is divided for a development that is going on the road. He was concerned as to how the cost for the improvements are determined and how the cost is divided equally among the houses not knowing potentially how many houses will be built.

Mr. Pat Cunning, of Woodside Plantation, stated he did not disagree with a prorata share. He said the main reason he is present is that he did not agree with paying for the traffic signal at Silver Bluff at the main entrance to Woodside.

Council felt the matter needed more thought and discussion before making a decision on the alternate proposal of payment, whether it be a lump sum or an amount per lot sold.

Mr. LeDuc stated he would have the City Attorney prepare an ordinance for the next Council meeting that would modify the conditions of the annexation ordinance for Woodside Phase IV, Hollow Creek at the Reserve, that would delete the condition regarding the installation of a traffic signal at Silver Bluff Road and the main entrance to Woodside.

#### NORTHSIDE COMPREHENSIVE TASK FORCE

##### Appointments

Rusack, Kenton

Walker, Jacob

Taylor, Donna

Jones, Bill

Palazzo, John

Mr. LeDuc stated the Task Force for the Northside Comprehensive Plan has met on several occasions and recently held a Northside Community gathering. At that meeting nearly 200 individuals were in attendance, expressing their concerns and feelings about the north side. One of the major concerns expressed at that meeting was the lack of representation on the Task Force from anyone living in the study area. We agree with their concerns and would suggest that City Council consider adding three additional members who actually live in the study area. This would add credibility to the plan and reduce the suspicion by some residents about the city's intent for this area. We have reviewed the list of individuals that attended this meeting and would suggest that Council select three members from the list of those who attended the meeting. There is some urgency in addressing this issue since the next meeting will be January 18, 2007, which will be pivotal in terms of substance to the plan. We would like for Council to consider recommending three individuals to the Task Force.

After discussion and review of the list of recommended appointments Council agreed that the following be appointed to the Task Force since they live in the area outside the city which is proposed to be included in the Comprehensive Plan. The names agreed upon were: Kenton Rusack, 724 Wire Road; Jacob Walker, 1774 Reynolds Pond Road; Donna Taylor, 308 Summerwind Court; and Bill Jones, 114 Millrace Circle. Councilmembers also suggested that John Palazzo, 134 Pipeline Road, be added to the committee. Council approved adding the five persons suggested to the Task Force.

WAYFINDING STATUSAppointmentsWells, DonVaughters, JaneDowntown

Mr. LeDuc stated earlier this year we received information from USC-Aiken students concerning signage leading to major points of interest within the city and specific signage for the downtown area. Council asked that we take this project to the next level and the Design Group has been selected to move this project forward. The ADDA Sub-Committee, along with City staff, suggests that a couple of Councilmembers be included with the discussions prior to the Design Group beginning the design for the Wayfinding Project. If Council has no objections they are suggesting that Councilman Don Wells, who is a downtown businessman, and Councilwoman Jane Vaughters, who has shown considerable interest in the project, be asked to be a part of these discussions. We hope these discussions will take only a couple of meetings and would like to get Council's input on the selection of one or two Councilmembers to be part of this project.

Council agreed to the appointment of Councilman Wells and Councilwoman Vaughters to the committee looking at the Wayfinding project.

Aiken City Council MinutesREGULAR MEETINGJanuary 8, 2007

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

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Ed Evans, Larry Morris, Glenn Parker, Richard Abney, Richard Pearce, Anita Lilly, Sara Ridout, Tony Baughman of the Aiken Standard, Betsy Gilliland, and about 40 citizens.

Mayor Cavanaugh called the meeting to order at 7:09 P.M. Councilwoman Price 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. Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that the agenda be approved as presented.

MINUTES

The minutes of the regular meeting of December 11, 2006, were considered for approval. Councilman Sprawls moved that the minutes be approved as submitted. The motion was seconded by Councilman Wells and unanimously approved.

BOARDS AND COMMISSIONSAppointmentsMoormann, HankBuilding Code of Appeals CommitteeBallentine, Sidney

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

Mr. LeDuc stated Council has 7 pending appointments to boards and committees of the city and 1 appointment is presented for Council's consideration.

Mayor Cavanaugh has recommended that Hank Moormann be appointed to the Building Code of Appeals Committee to replace Sidney Ballentine who has resigned. If appointed, Mr. Moormann's term would expire May 12, 2008.

Mr. LeDuc mentioned that T.A. Hammond, a long time Park Commission member, had passed away.

Mayor Cavanaugh moved, seconded by Councilwoman Clyburn and unanimously approved, that Hank Moormann be appointed to the Building Code of Appeals Committee with the term to expire May 12, 2008.

Councilman Smith stated he would like to recommend that Julie Adams be appointed to the Arts Commission to replace Kay Taylor who has resigned.

Councilwoman Clyburn stated she would like to recommend that Mary Barnett be reappointed to the Park Commission for another term.

#### TOURS – ORDINANCE 01082007

##### Walking Tours Tourism

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to regulate walking tours.

Mr. Leduc read the title of the ordinance.

#### AN ORDINANCE AMENDING AIKEN CITY CODE CHAPTER 46, VEHICLES FOR HIRE, TO ESTABLISH REGULATIONS FOR WALKING TOURS, WALKING TOUR OPERATORS, AND RELATED WALKING TOURING ENTITIES WITHIN THE AIKEN CITY LIMITS.

Mr. LeDuc stated that last year City Council approved an ordinance regulating bus tours in the City of Aiken. Over the last several months City staff has been meeting with representatives from the equestrian and historic districts concerning walking and horse drawn carriage tours. The City recognizes that the tourism industry and commercial activities are important to the City while also realizing the need to maintain and protect those citizens along the routes.

The walking tour ordinance is for groups of at least 8 but no more than 40 where the primary purpose is to see historic and architectural sites, cultural attractions and scenic areas in the city. The tour companies must be licensed, and the ordinance limits the number of tour companies to no more than two operating in the city. The tour guide and the guests cannot trespass on private property or block streets while on the tour. Any speaker phones or bullhorns are prohibited during these operations.

If the tour is within the RSS and HD zones and Colleton Avenue areas they shall limit the number of guests to 15 plus the tour guide. The walking tours can operate between the hours of 9:30 a.m. and 6 p.m. in residential areas and 9 p.m. on routes that focus on commercial areas with a maximum of two conducted at any one time. In the RSS and HD zones and Colleton Avenue no more than four walking tours per month can be conducted, and in the HD zone they may not start until after 11 a.m. and must be completed by 6 p.m. Each of the tour guides must be certified as provided in the bus tour ordinance. A lot of time and effort has gone into the development of this ordinance by many individuals, and we recommend Council consider the approval of these regulations.

Council approved this ordinance on first reading at the October 23, 2006, meeting, held second reading and public hearing at the November 13, 2006, meeting, and continued the public hearing to this meeting.

A public hearing was held.

Mr. Kent Cubbage, 144 Jasper Street, stated he is the owner and operator of Aiken Ghost Tours, which is currently the only licensed walking tour company in Aiken. He stated he has no issues with the changes which had been made in the proposed ordinance. He did point out that there is a mechanism for approval of specific routes, which is the City Manager or his designee.

Mr. LeDuc stated if a major change was requested in a tour route he would, of course, come to City Council with the request.

Councilwoman Vaughters questioned the need for allowing two walking tour companies, when presently there is only one company. She stated she would prefer to have one company, and if another company wishes to open, the request would be brought to Council. She said she was not saying to limit the number of companies to one, but that Council have some say about another company.

Mr. Gary Smith, City Attorney, stated he would prefer for Council not to limit the number of companies to one, as this would give the impression of creating a monopoly. He said the purpose of the ordinance is to set forth the criteria for a license for the job. He said if the person has to come before Council, it gives the opportunity to be subjective. If the person meets the criteria they should be able to operate a tour company.

Councilman Wells felt that the proposed ordinance had the necessary criteria to be sure a tour company was following the regulations, and if not the license could be revoked. He felt that Council should not limit the number to one company, as this would be restricting free business.

Councilwoman Price stated she felt more comfortable with allowing two companies rather than limiting the number to one. She pointed out Aiken has conscientious citizens and if something is not right the citizens let the city know about it.

Ms. Rosa Lee Fox, 616 Colleton Avenue, stated many feel that those in the Historic District are under siege. She said they had been before Council many times about allowing businesses in the Historic District in order to enhance and support the city's push to develop a tourism industry in Aiken and in order to enhance the downtown businesses. She said they want to do what they can to enhance the downtown, but not the tourist industry. She felt the proposed walking tour ordinance was very disturbing. She felt that a tour group of 28 people would require a microphone in order to project the guide's voice to the group, but the ordinance does not allow a bullhorn. She was concerned about groups of people in the neighborhoods and security and privacy. She was concerned about a tour guide being able to keep track of a large group of people and being sure they did not leave the group and go onto someone's private property. She also asked that Council keep the number of walking tour companies to one, and if another company wants to get approved they could come before City Council. She stated people in the Historic District want quietness and privacy, and whenever tours come into the area that quietness and security is threatened.

Mayor Cavanaugh reminded those present that before the recent ordinances were adopted regarding bus tours and carriage tours there were no controls at all. The ordinances have put in place some regulations for tours in the areas.

Ms. Jenne Stoker, 331 Kershaw Street, stated she had worked on the walking tour ordinance as well as the bus and carriage tour ordinances. She stated the group had worked hard to make the ordinance very restrictive so it should not have to come back to Council for the next company to be approved. She said if a company applies it has to go by the ordinance and should not have to come back to Council. She said, however, Aiken is a small town so probably not more than two companies will be needed for walking tours. She stated in working on the ordinances it was never the intention to keep people from coming downtown to shops and restaurants. She said the purpose had been to keep extra traffic off residential streets. She said she had learned a lot about compromise in the process of working on the ordinances. She said some of her friends feel there should be zero walking tours in residential areas.

Mr. Kent Cabbage stated when he has a large group he has not had trouble with projecting his voice. He said he had never had to yell or scream or project his voice to disturb people in the area. He said he does not stop in front of a house. He pointed out the ordinance requires another person if the tour has more than 28 people and that person always walks behind the group.

Mr. Jack Wetzel, 494 Powderhouse Road, stated he has barns at 844 Two Notch Road. He expressed concern about tours in the horse district and people disturbing the horses and invading the privacy of the people in the area. He asked that Council protect the horse district and the equine industry by not allowing intrusions during training, as this poses a safety risk to those conducting tours and the horses in training. He asked that tours not be allowed in the horse district during training time from November to April. He asked that Council protect the horse district and equine industry in Aiken.

Councilwoman Vaughters asked Ms. Stoker if the committee had considered leaving the horse district out of the walking tour ordinance.

Ms. Stoker stated she would like to leave the horse district out of the ordinance, but she did not think that was possible. She said under the proposed ordinance it is possible to have four walking tours in the horse district. She pointed out the route has to be approved by the City Manager. She said possibly the ordinance could be changed so that the dirt roads are not allowed to be toured by walking tourists. She said presently there are carriage tours which go through the horse district, but the tours are not allowed until after 11 a.m., which is after the race horses have finished training. She said after that, however, there are horses of all kinds doing all kinds of things. She said people walking down the street could be a problem. She said it seems that Mr. Wetzel is asking that Council not allow any walking tours in the Horse District. She pointed out there had been a problem in the past with a walking tour before there were any regulations. She said that is when she started working with the city on regulations to control tours. She pointed out presently only one walking tour route has been proposed. She stated in reality she does not want any tours anywhere anytime, but she realizes that is not realistic. She stated presently there is no tour route recommended for the Horse District area, and if there is a tour a route would have to be established and approved.

Mr. Jack Wetzel stated he felt people should not intrude on the horse industry, as the equine industry does not intrude on other places in town. He pointed out the horse industry does contribute immensely to Aiken.

Mr. LeDuc pointed out there are regulations for hire and not for hire. He said a person in the horse area could invite a group of people to come to the horse area and walk them around. He wondered if that would be considered a tour. He pointed out the proposed ordinance does cover not-for-hire tours as well as for-hire tours. He said if there were no tours whatsoever, people in the area would need to know that no tours are allowed.

Ms. Rosamond McDuffie, Oakmont Drive, asked why the city has to have walking tours. She pointed out tours invade the privacy of residents in town. She felt 40 people on a tour was too many. She said she would be alarmed if a group came walking down her street. She felt it was an invasion of privacy for a group of people to walk down a street.

Mr. Gary Smith, City Attorney, stated the ordinance came about because people were walking in the public right of way which any person has the right to do as long as they are abiding by the laws. The purpose for having the walking tour ordinance is to regulate people who may chose to walk as a group. He said presently people can walk as a group down any right of way and would not be breaking any rule of the City of Aiken.

Mr. Kent Cabbage pointed out the ordinance regulates tours in the Horse District to 15 people per tour. He pointed out the numbers allowed in a tour group are geared towards where the tour is. He said he felt that the concerns that had been expressed would be addressed on a route specific, street specific, infrastructure specific basis when the tour application is approved.



Councilwoman Price stated growing up she knew very little about the horse industry, but some members of the horse industry had helped her in recent years to understand and appreciate the horse industry to a much greater extent. She stated growing up she felt that individuals connected with the horse industry were at a higher class. She said she was trying to have an appreciation for an elitist attitude in addition to respecting privacy. She pointed out one does not want people gawking at their home, but yet the roads are public roads and people can walk down the roads.

Mayor Cavanaugh again pointed out presently there are no regulations governing walking tours. He suggested that Council adopt the proposed ordinance, as it can always be changed if something does not work out properly. He pointed out a committee had worked long and hard and had many meetings to put the proposed ordinance together.

Councilman Smith stated safety and security for both the horses and tourists are the paramount issues in the Horse District. He suggested that possibly there could be a regulation for no tours in the Horse District from November to April.

Mr. Kent Cabbage pointed out such regulations, as far as time, could be regulated in approving a route for the tour. He stated the proposed ordinance is very restrictive. He said it has come a long way and he was glad we had gotten to where we are. He pointed out presently there are no regulations, and the proposed ordinance moves from completely being unregulated to very restrictive.

Mr. Walter Lamb, 320 Magnolia Lake Court, thanked Council for taking the time to consider a walking tour ordinance. He said the city needs to learn how to grow and has to have some rules to control things. He said the proposed ordinance has the advantage of some regulations. With no ordinance there is no control. He said he felt it would be good for a growing community to have some regulations for walking tours.

Ms. Stoker responded to Councilwoman Price's comments and stated that one does not have to be elite to want privacy and safety. She stated the ordinance is somewhat restrictive, but other towns have similar restrictions. She said it takes restrictions to keep safety and privacy for everyone, not just the elite. She stated she would like for Council to approve the ordinance in some fashion, knowing that under Section 46-43 there is a method for the City Manager to approve a special tour if there is a special tour.

Councilwoman Clyburn stated she gives much credit to Mr. LeDuc as the person to approve any special tours or routes. She stated she did not feel that he would approve anything that would cause him more work. She stated he exercises good judgment. She said she felt the proposed ordinance is a good ordinance. She said she felt there does have to be some regulation to control the tours.

Mr. Jack Wetzel expressed concern about who would be responsible if there was an incident where someone on tour got hurt by an animal or if one of the riders were hurt. Mr. Gary Smith responded that it would depend on the circumstances of the incident.

Ms. Rosa Lee Fox stated she did not feel it was sensible to suggest to people who reside in Aiken that they take some type of elitist posture because they have concerns about their privacy and security when we are talking about groups of people in their neighborhood. She felt they had a right for concern and that did not make them elitist. She stated she felt it would be wise to consider eliminating tourism from the Horse District during the months when training is going on. She pointed out the Historic District is an extension of the Horse District. She stated there have always been regulations so people know what to do. She said if Council passes the ordinance it would allow and give legal status to groups of people who don't know what to do in certain areas. She again expressed concern about safety and privacy rights of people.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that the ordinance be amended to eliminate walking tours from the Horse District.

Mr. Gary Smith, City Attorney, stated he would ask that Council consider going into executive session to receive legal advice regarding the proposed motion.

Councilman Wells moved, seconded by Councilwoman Price and unanimously approved, that Council go into executive session to receive legal advice. Council went into executive session at 8:35 P.M.

After discussion Councilman Sprawls moved, seconded by Councilwoman Clyburn and unanimously approved, that Council end the executive session. Council then returned to the Council Chambers to continue the Council meeting. Council returned to the Council Chambers to continue the meeting at 8:52 P.M.

Mayor Cavanaugh called the meeting to order and stated Council went into executive session to receive advice from the City Attorney regarding the motion for walking tours.

Mr. Gary Smith, City Attorney, stated based on the motion that was made, he wanted Council and the audience to understand his concerns regarding the motion. He said the purpose of the ordinance is to make sure that all walking tours in the City of Aiken are properly and appropriately regulated. He said the only way to do that is with an appropriate ordinance that passes all the tests associated with constitutionality. Picking and choosing which district the ordinance may or may not apply to gives him concern that Council may be placing the ordinance in a situation where it may or may not be constitutional, because Council may not be treating the entire city the same way. He said since he has that concern, he has asked Council to reconsider the motion to eliminate walking tours from the Horse District. He said unless the ordinance applies the same way to all areas of the city, he was concerned that it would not be upheld as constitutional, and the city may face legal liability to whoever may challenge the ordinance.

Councilwoman Price stated because of the concerns expressed by the City Attorney in eliminating the Horse District from the walking tour ordinance she wished to withdraw her motion. Mayor Cavanaugh agreed to withdraw his second to the motion.

Mayor Cavanaugh stated after considering the ordinance he would recommend that Council adopt the ordinance as presented to Council.

Councilman Wells moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance amending the Aiken City Code Chapter 46, Vehicles for Hire, to establish regulations for walking tours, walking tour operators, and related walking touring entities within the Aiken city limits as presented to Council.

#### IMPACT FEES – ORDINANCE 01082007A

Affordable Homes  
State Housing Grant Funds  
Second Baptist Church  
Development Fees

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to absorb impact fees for grant assisted affordable homes.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE TO ESTABLISH FUNDING TO PAY DEVELOPMENT IMPACT FEES FOR QUALIFYING DEVELOPMENTS THAT CREATE AFFORDABLE HOUSING.

Mr. LeDuc stated that over the last several years Council has debated the need for impact fees. The one constant question is how these fees affect affordable homes that are being built in our community. In this case, we will define affordable homes as those constructed utilizing state or federal housing grant funds. Currently every home pays a water impact fee of \$750 and \$400 for sewer. It is recommended that those fees stay in effect, except for the homes receiving a state or federal grant to make them more affordable.

We recently had a request from Second Baptist Church, who wants to construct over 100 homes behind Aiken High School and is applying for a tax credit grant to subsidize these homes. One of the tax credit questions for this grant is whether or not the community waives impact fees. Also, yearly we are asked by HUD as part of our CDBG grant funding, whether or not we waive impact fees. According to our State law, impact fees should not be waived once established.

Staff checked other municipalities and found the best way to fund these fees is for the General Budget to pay the Utility Budget the impact fee. Therefore, we recommend City Council consider setting up a fund starting January 1, 2007, utilizing money from the Special Holding Account to pay for the impact fees for any affordable homes that use state and federal grant money. If Council approves this request, we would initially place \$20,000 in our Special Holding Account and next budget year have a line item in the budget for these fees. Currently we are receiving \$175,000 from the One Cent Sales Tax each year for the Northside rehabilitation. Money would be taken from the One Cent Sales Tax to pay the Utilities Fund for the impact fees.

A public hearing was held.

Mr. Harvey Ramseur, 7 Whitmarsh Drive, Director of the Second Baptist Development Corporation, stated they were overwhelmingly in support of the ordinance. He said this would make such a difference in being able to receive funds to help build affordable homes on the Northside.

Councilwoman Vaughters asked several questions regarding the impact fee and how it would be paid. Council discussed the matter briefly.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to set aside money in the General Fund Account to pay the Enterprise Fund for impact fees charged for new affordable housing that utilizes state or federal housing grant funds.

#### ANNEXATION – ORDINANCE

Toolebeck Road  
Amanda Court  
Planned Residential  
TPN 137-19-01-006  
TPN 137-19-01-007  
Larlee Construction, LLC  
Crowell and Company, Inc.

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to annex property on the north side of Toolebeck Road to be zoned PR.

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 79.9 ACRES OF LAND, MORE OR LESS, OWNED BY LARLEE CONSTRUCTION, LLC AND CROWELL AND CO., INC. AND LOCATED ON TOOLEBECK ROAD AND TO ZONE THE SAME PLANNED RESIDENTIAL (PR).

Mr. LeDuc stated the owner of two parcels on Toolebeck Road totaling 79.9 acres would like to annex into the city under the Planned Residential (PR) zone. The property is currently in the county and zoned Urban Development. This same tract of property came before City Council last September with a request for water and sewer. Both the Planning Commission and City Council denied this request based primarily on two reasons. One, the property would be outside the city limits and could not be annexed at that time. And, two, the property would be on city sewer but not city water and therefore the non-payment of a utility bill could not be controlled through the city water meter system. Since that time the property is now contiguous and would be served by the city's

sanitation and Public Safety staff. Also, the city has worked out a preliminary agreement with the Couchton-Montmorenci Water District that they would cut off the water for non-payment of the sewer service if it were not paid.

The Planning Commission discussed this project at length and was concerned that the boundary of our Comprehensive Plan lies inside Toolebeck Road. Although our sewer and fire boundaries go beyond Toolebeck Road, they want direction from Council on how to handle properties outside the Comprehensive Plan areas. They realize that as we continue to expand our resources to new areas, there is an additional cost and burden concerning our city services. Primarily for those reasons they denied this request.

The Planning staff had recommended several conditions for consideration if the annexation was approved:

1. that the development comply with the concept plan submitted including the narrative and that there be a note added to the plan that the project will comply with the provisions of the Planned Residential zone at 4.2.6 of the Zoning Ordinance;
2. that prior to the annexation becoming effective, proof of recording of a plat creating a property line corresponding to the proposed city limit line be provided;
3. that the development shall show at least one access onto Woodward Drive, and if the access is denied, that a revised concept plan be reviewed by the Planning Commission and City Council;
4. that those areas of open space which are not part of existing easements should be planted with a minimum of 10 Large Trees or a comparable number of Small Trees or a combination thereof per acre as deemed practical by the Planning Director;
5. that within the buffer along the western boundary of the property, and anywhere on the perimeter of the development where the lots are close to the perimeter, the developer shall plant wax myrtles [or other appropriate vegetation as determined by the Planning Director] five feet on center from each other or at such other appropriate distance as determined by the Planning Director;
6. that a waiver be granted from 5.6.2(d) of the Land Development Regulations requiring a landscaped median at each entrance and that any entrance from Woodward Road be landscaped in the same manner as is proposed for the entrance from Toolebeck Road;
7. that all references to setbacks be removed from the Concept Plan and narrative;
8. that the developer be required to install a cut-off on each sanitary sewer connection;
9. that a developer's agreement including all conditions of approval be recorded at the County RMC Office; and
10. that if applicable conditions are not met within 180 days, the annexation would be null and void.

At the Planning Commission meeting the developer was very concerned with items 5 and 6 and wanted them modified or eliminated. They stated their plans are to build homes which will fit within the market place of Aiken, and they feel these two conditions will make their development unaffordable. The Planning Commission also voiced concern over eliminating these two items.

Mr. LeDuc stated that at the last meeting Council discussed the concerns of the Planning Commission and conditions 5 and 6 which talk about where the property is located and the trees on the property. He said Mr. Evans' memo originally stated that there should be a large buffer along all the sides of the property. He pointed out in looking at the plat there are large sections along some major utility lines and therefore a buffer is not needed in those areas. However, in the areas on the west side and on the east side, there are some small buffers, and that is the area the Planning Department is most concerned about in making sure there is a large enough buffer. He pointed out in looking at the property a utility company has a storage area which is not very attractive. He said a buffer is needed there to separate the lots from the storage area. He pointed out Mr. Evans had revised his original memo and has said as long as the developer provides buffers for those areas that would satisfy him.

Mr. LeDuc pointed out there is a 50 foot power line easement which runs through the middle of the property. He pointed out some properties back up to the easement. In that area there is a large growth of trees and the Planning Department has stated that those trees should remain. He said the developer had adjusted the drawing for the buffer to save the trees. He said a green space was put in that area to save the trees.

He said both conditions 5 and 6 were basically satisfied as far as what the developer was concerned about versus what the Planning Department and Planning Commission were concerned about.

Mr. LeDuc stated the basic area that City Council needs to make a decision on is how far Council wants to see the city limits go. He said the further the city limits are stretched the further the city has to go with services—garbage, police, water, sewer, etc. He said staff had looked at the railroad track or US 78 as being somewhat a natural city limit boundary. He said this proposed development backs up to the area. He said the question is whether the city wants to cross over Toolebeck with city services. He said if the answer is no, then the property should not be annexed. He pointed out the property is now contiguous to the city and could be annexed. He pointed out when it originally came to the city, it was not contiguous to the city limits. He said this, however, is a question Council has to decide.

Mr. LeDuc stated there were 10 conditions and the developer has agreed to all of them. The developer was having some difficulty with conditions 5 and 6, but they have been worked out. He pointed out in condition 5 the developer was able to preserve the trees and condition 6 the 25 foot wide buffer would be provided in those areas necessary, but not along the power line area.

City Council approved this ordinance on first reading at their December 11, 2006, meeting. For City Council consideration, this is second reading and public hearing of an ordinance to annex property off Toolebeck Road consisting of 79.9 acres as Planned Residential.

A public hearing was held.

Mr. Jerry Wilkins, 1431 Toolebeck Road, stated he had understood there was concern on Council as to how far the city limits should extend. He also stated there had been some statements made that if the property was not annexed that the lots would have to be larger to accommodate septic tanks. He was concerned about the density of the proposed development and that the properties are kept up in the future so it does not become undesirable housing. He said he would like for the lots to be larger for the development, as he was concerned about the density.

Mr. Bill Reynolds, 1035 South Boundary, stated he was a Planning Commission member, however he was not speaking for the Planning Commission, but as one member of the Planning Commission. He stated in the memo to Council from Mr. LeDuc he had indicated to Council that the Planning Commission was asking for direction from City Council on how to handle properties outside the Comprehensive Plan. He said this might seem to be a minor issue, but he felt the Planning Commission was struggling with how to think about applications for annexation or city services that are outside the Comprehensive Plan area. He pointed out Aiken is growing and the Commission is seeing more and more applications for city services and annexation for areas outside the Comprehensive Plan area. He pointed out study of the northside Comprehensive Plan is underway, but it is a very large area and it will take time to complete the study, and probably it will be close to two years before the Plan is adopted by City Council. He said in the meantime the city will be receiving requests for annexation and city services without any guidance as to what the proper land use should be. He pointed out the present application for Toolebeck Road could have a domino effect with other properties becoming contiguous to the city and asking for annexation and city services. Mr. Reynolds then reviewed three scenarios. He pointed out if the city has a request for rezoning inside the city the Planning Commission and City Council all start from the same point in evaluating the application. There are approved, consistent objective criteria

to apply to the application in considering it. Secondly, if there is an application for annexation or city services outside the city but inside the Comprehensive Plan area, again there are objective, consistent criteria to apply to the application. He said, however, when there is land outside the Comprehensive Plan area there is no consistent, well thought out criteria to apply to the application, and there are many thoughts and questions when considering the application. He said the questions are all legitimate concerns, but the problem is there is no real direction in considering such applications. He expressed concern about no real direction and stated the application before Council at this time would be setting a precedent. He asked that Council be thinking about future applications for city services and annexation on land outside the city's Comprehensive Plan area.

Mr. Martin Buckley, Two Notch Road, stated he agreed with Mr. Reynold's suggestions and felt that the Comprehensive Plan should include the areas beyond and contiguous to the present planning area. He said he was concerned about the density of the proposed project and felt the density would be less if the project does not get city sewer. He felt this was one control the city has, i.e. to not provide sewer so the density of the area would be less. He was also concerned about the buffers around the property and felt the buffers should be increased rather than decreased. He felt there was a conflict with two entities, i.e. providing services to the area and being able to collect the bill.

Councilwoman Clyburn stated she appreciated the comments of Mr. Bill Reynolds and felt that there is concern of Council also as to what is going to happen as far as areas in the service area but not in the Comprehensive Plan, especially over the next few years while the Northside Comprehensive Plan is being considered.

Mayor Cavanaugh pointed out the Comprehensive Task Force had worked a long time in revising the Comprehensive Plan on the south side and a committee is working on the Northside Plan. He said the city continues to grow, however, and it seems that there needs to be a continuous committee working on the Comprehensive Plan. He pointed out Council had approved the Planned Residential and Planned Commercial and those zones are very helpful in helping to control developments. He pointed out there are many things to consider in a proposed development. He said if it is inside the city, the city will receive taxes and revenue from the water or sewer services. He said whether the area is inside the city or not the city will receive traffic from the development. He pointed out if the development is outside the city there will be a reduction in the lot size and therefore there will be a reduction in the amount of traffic versus development in the city and outside the city. He said he had mixed emotions about the proposed development. He said he did feel the development is too dense. He also pointed out that up to a certain cost of housing, about \$165,000, residential housing does not pay its way, but is a cost to the city. Above that amount housing pays for its services provided by the city.

Mr. John Crowell, 924 Cedar Creek Road, Augusta, GA, stated he is the developer for the project. He stated the present plan before Council shows 55' lots. He said with the consideration at the last meeting regarding the buffers and taking out the side setbacks and going to a 10' minimum building line on both sides, he would be able to increase the lot sizes about 10', therefore making the lots 65' instead of 55' lots. He said that would decrease the number of lots in the project. He said this proposed project would be similar to Arbor Place in North Augusta, except that this project would have more separation between the houses than Arbor Place. He said the home plans would be similar to Arbor Place. He said the cost of the homes in the project would be about \$125,000 to \$130,000. He said he felt Aiken still needed some affordable housing. He pointed out the housing which he planned to build would be 3 bedrooms, 2 baths with about 1,400 to 1,700 square feet.

Council then discussed briefly the number of developments approved recently.

Councilwoman Vaughters stated when the Planned Residential zone was set up she expected to receive some detailed plans showing exactly where things would be, where trees would be planted. She said she expected to see detailed plans with specific information that would make Council see how the development would be a real attribute to the city. She said she expected to see more detailed plans than what was presented.

She was concerned about the density of the project and traffic that would be created from the development.

Mr. Crowell pointed out he had presented pictures of the proposed homes, landscaping plans, and a concept plan. He said he did not know what else to submit. He pointed out the various things he had changed since meeting with the Planning Commission to try to meet the desires of Council for the project.

Councilman Smith stated he also felt density is a problem with the proposed project. He said, however, he was concerned about how far the city is willing to extend its city limits and also water and sewer services. He was concerned that annexing this project would allow other projects beyond this to be annexed and the question is where do you stop. He was concerned about going into the Montmorenci-Coughton Water District area which he felt was a natural boundary for the City of Aiken. He felt the matter is really a boundary question for him. He said by giving sewer only the city would be enabling a higher density on the property where density is not needed. He said he felt the city limit should not go any further. He said he was opposed to the annexation of the project.

Mr. Walter Lamb, 320 Magnolia Lake Court, stated he was impressed with the growth of the city. He said there was a problem concerning controlling the growth. He was concerned that the city did not know how many houses the city has approved and was concerned that the city would not know the impact of another proposed subdivision if they don't know what has already been approved. He was concerned about the impact on the school system and traffic in the area.

Mr. Ed Giobbe, 541 Grace Avenue, stated he agreed with the comments that Planning Commissioner Bill Reynolds had made. He said the Planning Commission needs some direction from Council as to how to handle projects for annexation and city services outside the city's Comprehensive Plan. He was also concerned about affordable housing and what is defined as affordable housing and how much affordable housing is needed. He was concerned about the impact of projects such as this in terms of financial stability of Aiken.

Ms. Jenne Stoker, Kershaw Street, stated she was concerned about the project and its possible cost to the city. She wanted Council to be sure that growth pays for growth. She pointed out that if the houses are below the cost where they will pay for themselves as far as city services and taxes, then does the city need 250 of this housing. She pointed out in the downtown area inexpensive housing and small lots are mixed with other larger housing and lots, which gives value to the inexpensive housing. She stated when there is a project with cookie cutter lots you are forever holding the value of the housing down. She said affordable housing is needed, but she would like to see affordable housing to be required in all subdivisions so there are mixed lots and mixed prices of housing and there would not be one whole area with low cost housing, which could become blighted at some point. She felt that if the proposed housing would not pay for itself, then she felt Council should not annex the property and provide city services. She felt Council does have some control over the development by saying no for annexation and city services.

Councilman Smith pointed out that the Planning Commission had voted 6 – 0 to deny the project.

Mayor Cavanaugh stated he had voted for the project on first reading, however, he was not going to support the annexation on second reading. He said he did not feel that the project would pay for itself as far as city services and taxes with the housing being below \$165,000 per house. He said he felt something did need to be done about South Carolina's annexation laws. He pointed out there are many donut holes with areas surrounded by the city. He said the city did need to consider where the city should grow and where the city limits should be. He said it might be hard to try to determine that we don't want the city to go any further than a certain area. He said whatever is outside the city limits will be developed, and it will bring traffic into the city and outside the city and the city will get nothing for it. He said there may be times when the city may have to reach out beyond where they think the city limits should be because of some good reason to bring in developments. He pointed out that if this project is not annexed the property

will be developed and the city will have no control over it and it will bring traffic into the city limits. He said, however, he could not support this project.

Councilman Smith moved, seconded by Mayor Cavanaugh and unanimously approved, that Council deny on second and final reading an ordinance to annex property off Toolebeck Road consisting of 79.9 acres as Planned Residential.

#### NORTHSIDE INCENTIVES – ORDINANCE

##### Incentive

##### Northside Comprehensive Plan

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to repeal the Northside incentives.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE REPEALING THE ORDINANCE ESTABLISHING INCENTIVES FOR THE DEVELOPMENT OF PROPERTY ON THE NORTH SIDE OF THE CITY OF AIKEN.

Mr. LeDuc stated in March, 2005, City Council approved the establishment of incentives to encourage the revitalization and growth of designated areas on the northside of the city. Since then we have seen a remarkable change on this side of the city. We are now projecting that the number of people living within the Northside Comprehensive Plan area may triple within the next 20 years.

The City had established a goal four years ago to build 50 new homes yearly on the northside. Since that time we have exceeded that goal and it no longer appears that the incentives are necessary to encourage development on the northside. Staff is therefore recommending that we repeal the ordinance which established incentives for the development of property on the northside of the City of Aiken.

Councilwoman Clyburn stated she had a question regarding the repealing of the ordinance. She pointed out an ordinance had been passed at this meeting regarding impact fees.

Mr. LeDuc explained that the ordinance adopted by Council at this meeting pertained to impact fees and the paying of the fees for affordable homes which receive state or federal grant assisted funds only. He pointed out the northside incentive ordinance was a tax credit for three years for homes built or refurbished in a designated area. He said the city had been successful in developing the northside, and it was felt this ordinance was no longer needed. He pointed out no one had applied for the incentive during the time it was in effect.

Councilman Sprawls moved, seconded by Councilman Smith and unanimously approved, that Council pass on first reading an ordinance to repeal incentives for development on the northside of Aiken, and that second reading and public hearing be set for the next regular meeting of Council.



REZONE – ORDINANCESouth Park Commons CourtCSRA PropertiesShah, NeelHoliday Inn ExpressFairfield Inn and SuitesColony ParkwayTPN 106-08-22-001TPN 121-17-21-002TPN 121-17-21-003TPN 121-17-21-004TPN 121-17-21-005TPN 121-17-21-006TPN 121-17-21-007TPN 121-17-21-008TPN 121-17-21-009TPN 121-17-21-010TPN 121-17-21-011TPN 122-05-25-001

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to rezone 3.01 acres on South Park Commons Court.

Mr. Gary Smith, City Attorney, stated he wished to recuse himself from the meeting. He said his law firm is building a new law office across the street from the proposed building and he has filed a potential conflict of interest statement. It was pointed out he has nothing to do with the project, but felt he wanted to avoid any appearance of a conflict since his law firm is building a law office across the street from the proposed project.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE LOCATED ON THE NORTH SIDE OF COLONY PARKWAY FROM LIMITED PROFESSIONAL TO OFFICE/INSTITUTIONAL (O).

Mr. LeDuc stated that Neel Shah and his family who own and manage the Holiday Inn Express and Fairfield Inn and Suites would like to purchase 3.01 acres east of the Fairfield Inn and Suites. This property is currently zoned LP (Limited Professional), and they would like to rezone it to O (Office/Institutional). Currently the site consists of 12 residential lots, one of which is occupied by a vacant single family dwelling unit. In 1988 when the property was annexed, it consisted of the Holiday Inn Express, Applebee's, space for other professional buildings and the Colony Apartments. The current lot was zoned LP to provide a transition from the more intense uses along Whiskey Road and the residential area to the north and the apartments to the east.

In 2004 the current owner asked that the buffer between the residential units on the north and his proposed residential project be decreased from 35 feet to 10 feet with a privacy fence constructed along the northern boundary. At that time the trees were removed from the site and the buffer reduced to 10 feet but no privacy fence was installed.

The Shahs would like to build another hotel at this location, which would require this property to be rezoned Office and a Special Exception approved by the Board of Zoning Appeals. The O Zone allows a variety of uses. If a Special Exception is approved by the BZA a number of other permitted uses could be allowed in that zone.

Mr. LeDuc stated the process would be that if Council decides to approve the rezoning they would still have to get approval from the BZA for a Special Exception for a hotel in the O zone. Presently the O zone does not allow a hotel by right. The procedure would be that the property would need to be rezoned first by City Council and then it would go before the BZA for Special Exception.

The Planning staff recommended several conditions should the property be rezoned as follows:

1. that the applicant obtain a Special Exception from the Board of Zoning appeals within 120 days to have a full service motel at the site, including a restaurant.
2. that the 35 foot buffer abutting the adjacent residential area required by the 1988 annexation be reestablished and planted with dense evergreen trees and shrubbery as determined necessary by the Planning Director and the privacy fence required as a condition of the approval of the reduction of the buffer be erected;
3. that the applicant execute an agreement with the City stating the following:
  - a. that the tree survey for the Fairfield Inn will be used as a basis for determining the number of tree replacement inches.
  - b. that any building within 100 feet of the northern boundary will not exceed 15 feet in height;
  - c. that there will be no encroachment in the reestablished 35 foot deep buffer along the northern boundary;
  - d. that prior to the issuance of the building permit for any use other than single-family residential, that the existing alleyways be removed and replaced with perimeter planting strips;
  - e. that there will be a maximum of one curb cut on Colony Parkway with interconnection between the Fairfield Inn site and the subject property;
  - f. that any dumpster will be at least 200 feet from the northern boundary and 100 feet from the eastern boundary;
4. that the applicant and owner sign a developer's agreement listing the conditions of rezoning and that the agreement be recorded at the RMC Office.
5. that all conditions be met within 180 days of approval or the rezoning is null and void.

At the meeting several individuals owning property on the north side spoke against the application, and the Planning Commission voted 6 to 0 to recommend denial of this request.

Mayor Cavanaugh stated since there were members of the audience who wished to speak on the matter Council needed to suspend the rules to allow those to speak.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council suspend the rules and allow citizens to speak on first reading of the ordinance.

Mr. Don Robinson, 191 Hickory Road, stated his property abuts the property proposed to be used for a hotel. He said he had lived on Hickory Road since 1963. He said he was opposed to the rezoning of the property. He said previously he had agreed to the single family housing on the property, as he did not want apartments adjacent to this property. He said he did not want to have a four story hotel adjacent to his house either. He pointed out when the property was rezoned two years ago, a privacy fence was to be erected and that has not been done yet. He stated because the fence had not been erected, whenever a car goes down Songbird Lane the light shines into their bedroom windows. He pointed out that he understands there was no time limit as to when the fence had to be erected. He said he had talked to the Shahs today. He said they had assured him they would not have flood lights shining onto his house. They also stated they would have a 50 foot buffer between their property and his property. Mr. Robinson pointed out the information says a 100 foot buffer and that no building with 100 feet could be over 15 feet tall. He pointed out a four story hotel could not be built with only 15 feet height. He pointed out once the rezoning is approved, anything allowed in the O zone could be built on the property. He pointed out the Shahs have stated they plan to build a hotel on the property within 5 years. He felt many things could happen in the meantime, and anything allowed in the O zone could be built on the property. He felt a hotel on the adjacent property would devalue his property.

Ms. Sissy Sullivan, 1205 Two Notch Road, stated she lived down the street from the proposed development. She stated she was concerned about the development of a large, tall building being built in the area. She was concerned about the impact of

developments in the area which affect traffic in the neighborhood. She was concerned that another hotel would add to the traffic on Whiskey Road which would have an indirect impact on the broader neighborhood, with a direct impact to the people who live on Hickory Road. She stated she had the same concern as Mr. Robinson as far as the zoning to O zone. She was concerned that anything allowed in the O zone could be built on the property. She felt the Limited Professional zone was appropriate, as it serves as a buffer between business and residential. She stated people in the neighborhood care and are concerned about the quality of life for the neighborhood and Aiken.

Ms. Jann Smith, 103 Dogwood Road, stated a few years ago the neighborhood rallied against a request for Limited Professional on Two Notch Road. She was concerned about density in the area. She pointed out there are already two hotels in the area, and the neighbors do not want another hotel nor a four story building in the area. She stated a hotel would encroach and impact on privacy in the neighborhood. She asked that Council not rezone the area to O zone and that a hotel not be allowed in the area.

Mr. Neel Shah, 132 Hasty Road, stated he had live in Aiken about 20 years and his father lived here about 30 years. He stated his family owns and operates the hotels in the area—the Holiday Inn Express and the Fairfield Inn. He said he had talked to Mr. Robinson. He pointed out the hotels had been very good business-wise, and they fit into Aiken very well. He pointed out the design and landscape of the hotels are very well done. He stated they had a contract with Mr. Gerstenberger to purchase the property. He said about two years ago the property was zoned to allow residents. He stated one house had been built, and Mr. Gerstenberger had had no success with selling the residential homes. He pointed out a new law office is to be built in the area; there is a retail store in the area; there are two hotels, a restaurant and an apartment complex in the back. He said some concerns of Mr. Robinson were his privacy, lighting, and green space. Mr. Shah presented a handout to Council showing a concept plan. He stated they would provide green space and all the parking for the hotel would be in the front. He said it would not be feasible to make the hotel three stories and provide all the parking and landscaping. He said they would propose to provide a 50 foot buffer from Mr. Robinson's property. He said the back of the property would all be green space. There would be nice subdued lighting in the back of the hotel and not high powered lighting. The high powered lighting would be in front of the hotel. All the noise factor would be to the front because all the parking would be to the front. He felt those were some of the biggest concerns. He said he felt his family had done a very good job in Aiken. He pointed out there are no trees on the property at this time. He said they would landscape the property like they did Fairfield Inn and the Holiday Inn Express.

In response to a question from Councilman Wells, Mr. Shah stated there would be some hotel room windows on the back of the hotel, but there would be no balconies on the back. He said they were proposing a Springhouse Suites by Marriott. He said there would be no food and beverage, as it is a limited service hotel. There would be no restaurant involved with the hotel.

Mayor Cavanaugh stated he had met with Mr. Shah and talked about the project and his questions had been answered. He stated he was concerned about two things—one being the zoning change. He said there always has to be a very good reason for Council to change zoning of an area. He pointed out Limited Professional is an intermediary zone between residential and business. He pointed out it is proposed that the hotel would not be built for 5 years, and this was a concern. He said a lot of things can happen in 5 years as the property could change hands, etc. He point out there are many things which can be built in an O zone, and he was concerned that something else could be built on the property other than a hotel. He said he was also concerned about what the neighbors in the area think about the project. He said the Shahs had done a wonderful job with the hotels which they own, and he felt they would do a good job with another hotel, but he could not agree to the zoning change not knowing what may happen 5 years from now. He said he could not support the zoning change for the hotel.

Mr. Neel Shah stated he understood the concerns. He pointed out the reason O zone was chosen was that it was felt that everyone would be more comfortable with the O zone with a Special Exception for a hotel. He said their only intention was to build a hotel.

He pointed out the hotel has to be four stories in order to get the rooms necessary. He pointed out the land is small and much of the land would be used for landscaping and parking. He said Mr. Robinson does not want to see a four story building out his window, so there would be a privacy fence and landscaping. He pointed out presently there is a great buffer between the residential and Holiday Inn Express and Fairfield Inn. He said good landscaping would create privacy for the adjacent property owners. He said that is a reason to wait for 5 years to let the trees grow and put the fence up.

Councilwoman Clyburn pointed out it had been mentioned that the building had to be 100 feet from the north boundary and asked Mr. Shah when he learned that. She asked if he would be able to get the hotel on the property and meet the 100 foot setback.

Mr. Shah stated he had just seen that tonight and if 100 feet is required they would try to meet the requirements. He said they would try to get the hotel on the property with a 100 foot setback on the northern boundary. He said they had to have a certain number of rooms in order to justify the business.

Councilman Smith stated he respected Neel and his father as they had done great things for Aiken. He said he was opposed to rezoning unless there is a very good justification for the rezoning. He said LP zone is intended to be a Limited Professional zone, and he felt it would be wrong to change that zone.

Mr. Shah pointed out, however, there are already two hotels in the area, an apartment complex, a restaurant, and more offices being built. He said the area tends not to be residential. He said they do respect the decision of Council.

Councilwoman Vaughters stated she appreciated the Shahs and their letting her know what they want to do. She said when the neighbors oppose a project she cannot support the project. She said she felt four stories was too tall for the area. She said she felt one reason the residential has not sold is that all the trees were removed from the property. She stated she was concerned that the fence which had been promised had not been erected. She felt that a building permit should not have been issued until the fence was erected. She felt the fence should be in place now as it should have been erected two years ago.

It was pointed out that apparently a time limit was not put on erecting the fence, which was a mistake. It was also discussed that presently a limit of so many days is given to meet conditions to avoid something like this happening. Council also discussed removal of trees in residential areas with it being pointed out that there is no tree protection requirement for detached single family residential no matter what the zone is.

Councilman Smith moved, seconded by Councilwoman Vaughters and unanimously approved, that Council deny on first reading an ordinance to rezone 3.01 acres of property located on Colony Parkway from Limited Professional to Office/Institutional.

Mr. Gary Smith, City Attorney, returned to the Council Chambers at 10:47 P.M.

#### ACCOMMODATIONS TAX

Accommodations Tax Committee

Recommendations

St. Andrews Society of Aiken

Highlands Games

Aiken Chamber of Commerce

Chamber of Commerce

Equestrian Guide

Mayor Cavanaugh stated the next item is consideration of recommendations from the Accommodations Tax Committee for funding of requests.

Mr. LeDuc stated the Accommodations Tax Committee met in February, 2006 and reviewed applications for this past year's award cycle. Since Council approved those recommendations in March, 2006, two additional applications have come before the

Committee—one by the St. Andrews Society of Aiken for the 2007 Highlands games and the second by the Aiken Chamber of Commerce for the Equestrian Guide.

Dick Dewar, Chairman of the Highland Games, has requested \$5,294.29 to purchase billboards, magazine ads, rack cards and web sites, all to be used to promote the games outside the required 50 mile radius of Aiken.

The second request by the Aiken Chamber of Commerce is to help cover the printing costs of the Aiken Equestrian Guide. This one time 36-page directory was mailed to 6,000 individuals outside the 50-mile radius of Aiken. The Chamber of Commerce request was for \$9,800.

Both of these requests were approved unanimously by the Accommodations Tax Committee. Funding for these two requests will come from the Contingency Fund and from left over funding not used from previous years.

Councilman Sprawls moved, seconded by Councilman Wells and unanimously approved, that Council approve the recommendations for Accommodations Tax funding as recommended by the Accommodations Tax Committee with \$5,294.29 for the Highland Games and \$9,800 for the Chamber of Commerce.

#### JURY BOX 2007

##### Municipal Court

##### Jurors

##### Jury Box

##### City Court

Mayor Cavanaugh stated Council needs to approve the Jury Box for 2007.

Mr. LeDuc stated that Sara Ridout serves as the City Clerk for the City of Aiken, and each year a jury box is prepared, and submitted to City Council for approval.

Under our form of government, the members of City Council are the jury commissioners for the Municipal Court for the city. Each year City Council must approve the preparation of a Jury Box during the first 30 days. The box contains two compartments designated as compartment "A" and compartment "B." The names of all registered voters in the city are placed in compartment "A" and during the year jurors are randomly selected from compartment "A." After selection for a particular term of court, the names are then placed in compartment "B" so that the names are not selected again during that calendar year. We have a total of 18,255 registered voters in the city.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council approve the preparation of the Jury Box for 2007.

#### AIKEN PERFORMING ARTS GROUP

##### Memorandum of Understanding

##### APAG

##### Washington Center for the Performing Arts

##### Agreement

##### Contract

Mayor Cavanaugh stated Council needed to consider approval of the Aiken Performing Arts Group Memorandum of Understanding.

Mr. LeDuc stated one of Council's goals was to provide citizens and visitors alike additional cultural opportunities at the Washington Center for the Performing Arts. In our agreement with the Aiken Community Playhouse, they have the ability to use the facility for a certain number of days during the year to present plays for the community. The mission of APAG is to contribute to the quality of life of our citizens through presenting performing artists of the highest excellence on the stage.

Three years ago APAG formed, using volunteers who brought a rich and wide-range of musicals, theatrical and other performing arts to Aiken. They have undertaken the task for the city to provide a broad range of entertainment for our citizens to enjoy, enhancing the economic and cultural climate of the city. For this reason, after several years of working with them, we feel it is important for the city to formalize our working arrangement through a Memorandum of Understanding.

The proposed Memorandum lists the responsibilities of the City and the responsibilities of APAG in working together to meet these goals. Tom Hofstetter has single-handedly organized this group of volunteers and has developed an entertainment series for the enjoyment of all citizens to enjoy. We highly commend Tom and his board for the tremendous job that they have done in providing a variety of entertainment at the theater.

Mayor Cavanaugh asked if the city was providing some money for financial assistance and sponsorship to the APAG through the city budget.

Mr. LeDuc stated some financial assistance is provided when necessary, with the funds coming from the Accommodations Tax funds. He said about \$10,000 is budgeted each year for help for the APAG, but only a few thousand dollars have been used. The APAG gets sponsorships and memberships to pay for most of the cost involved.

Councilwoman Price moved, seconded by Councilman Smith and unanimously approved that Council approve the Memorandum of Understanding between the City of Aiken and the APAG and highly commend Tom Hofstetter and his entire board for the dedication and civic mindedness in contributing to the highest quality of life for all the citizens of Aiken.

#### DEDICATION

Water  
Sewer  
Stormwater  
Utilities  
Streets  
Easements  
Kensington I  
Middlebury Townhomes, Phases 1 and 2  
Singletree, Sections 1-A and 1-B  
Christopher Downs Court  
Christopher Downs, Phase 2  
Christopher Downs, Phase 3  
Christopher Downs, Phase 3A  
ADIZ, LLC  
Nordahl Land Investment of SC, Inc.

Mayor Cavanaugh stated resolutions had been prepared for acceptances of deeds of dedication for streets, water systems, sanitary sewer lines, stormwater lines, and all easements connected with them.

Mr. LeDuc read the titles of the resolutions.

#### RESOLUTION 01082007B

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION,  
FROM NORDAHL INVESTMENT OF S.C., INC., OF ALL THE STREETS,  
SANITARY SEWER LINES, STORM SEWER LINES, WATER LINES, ALL  
EASEMENTS FOR THESE UTILITES AND A CERTAIN DETENTION POND FOR  
THE KENSINGTON, SECTION I SUBDIVISION

RESOLUTION 01082007C

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION, FROM ADIZ, LLC, OF ALL THE STREETS, AS WELL AS THE WATER SYSTEM, SEWER SYSTEM, STORM SEWER, AND UTILITY EASEMENTS IN MIDDLEBURY TOWNHOMES, PHASE 1 SUBDIVISION

RESOLUTION 01082007D

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION, FROM ADIZ, LLC, OF ALL THE STREETS, AS WELL AS THE WATER SYSTEM, SEWER SYSTEM, STORM SEWER, AND UTILITY EASEMENTS IN MIDDLEBURY TOWNHOMES, PHASE 2 SUBDIVISION

RESOLUTION 01082007E

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION, FROM ADIZ, LLC, OF ALL THE STREETS, AS WELL AS THE WATER SYSTEM, SEWER SYSTEM, STORM SEWER, AND UTILITY EASEMENTS IN SINGLETREE, SECTION 1-A AND SINGLE TREE, SECTION 1-B

RESOLUTION 01082007F

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION, FROM ADIZ, LLC, OF ALL THE STREETS, AS WELL AS THE WATER SYSTEM, SEWER SYSTEM, STORM SEWER, AND UTILITY EASEMENTS IN CHRISTOPHER DOWNS, PHASE 2, CHRISTOPHER DOWNS, PHASE 3, CHRISTOPHER DOWNS, PHASE 3A, AND CHRISTOPHER DOWNS COURT

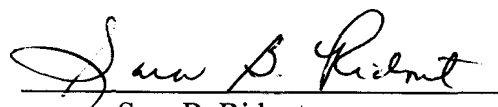
Mr. LeDuc stated the Kensington Subdivision located off of Powderhouse Road and six developments by ADIZ, LLC located off of Spencer Drive have requested the City to accept the water, sewer, and stormwater utilities, along with all roads and a stormwater detention pond. The Public Works Department has inspected this infrastructure, and they are recommending acceptance of all of these deeds of dedication.

Council typically accepts them after a minimum 1-year installation period and places the water, sewer, and stormwater utilities along with the roads under the City's ownership and maintenance program. This gives the city the ability to fix and maintain any future problems associated with this infrastructure.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council approve the five resolutions accepting the deeds of dedication for Kensington I; Middlebury Townhomes, Phases 1 and 2; Singletree, Sections 1-A and 1-B; Christopher Downs Court; Christopher Downs, Phase 2; Christopher Downs, Phase 3; and Christopher Downs, Phase 3A as stated in the resolutions and shown on the as built plans.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:59 P.M.

  
Sara B. Ridout  
City Clerk