

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
AUGUST 10, 2020
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Shakeyla Ingram (District 2); Tisha S. Waddell (District 3) (via telephone); D. J. Haire (District 4); Chris Davis (District 6); Larry O. Wright, Sr. (District 7); Courtney Banks-McLaughlin (District 8); Yvonne Kinston (District 9)

Absent: Johnny Dawkins (District 5)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Telly Whitfield, Assistant City Manager
Angel Wright-Lanier, Assistant City Manager
Gerald Newton, Development Services Director
Kevin Arata, Corporate Communications Director
Gina Hawkins, Police Chief
Sheila Ambat-Thomas, Public Services Director
Taurus Freeman, Planning and Zoning Manager
Kecia Parker, Real Estate Manager
David Nash, Senior Planner
Craig Harmon, Planner
Jennifer Baptiste, Planner
Jay Toland, Chief Financial Officer
Jennifer Ayre, Deputy City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITION

Mayor Colvin accepted a Support Resolution on behalf of the City that was presented by the Tau Gamma Gamma, Fort Bragg Chapter, of Omega Psi Phi Fraternity. Council Member Davis read the resolution requesting the adoption of Police reform, collective support to end racism, and repurposing of the Market House.

Mr. Scott Bullard, Emergency Management Coordinator, provided an update on COVID-19 state of affairs in Cumberland County and North Carolina.

Mayor Colvin, Mayor Pro Tem Jensen, and Ms. Angel Wright-Lanier, Assistant City Manager, congratulated Mr. Kevin Arata, Corporate Communications Director, for their achievements in winning three "Excellence in Communications" awards from the NC3C organization.

Council Member Wright stated on behalf of the Homeless and Poverty Recovery Task Committee he would like to recognize the organizations and volunteers that participated in the very successful city-wide food drive on July 11, 2020.

Council Member Banks-McLaughlin announced she will be hosting a second "Back to School Drive" on August 15, 2020, from Noon until 3:00 p.m. at New Life Bible Church, 1420 Hoke Loop Road.

Council Member Ingram reminded everyone that the CENSUS Deadline is September 30, 2020, and encouraged all citizens to complete the CENSUS if they have not already done so.

Mayor Colvin presented the "Key to the City" to Ms. Maureen Stover for her achievement in being named the 2020 Burroughs Wellcome Fund North Carolina Teacher of the Year. Mayor Pro Tem Jensen read the following inscription: In Grateful Recognition of Her Service and Dedication to the Support, Access, and Betterment of the Students of Fayetteville While Making a Direct and Lasting Impact to Our Community. August 2020.

Ms. Shelia Thomas-Ambat, Public Services Director, introduced Mr. Kent Jackson, the new Engineering Division Manager.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Davis moved to approve the agenda with the exception of Item 6.09; removing from the agenda.

SECOND: Council Member Kinston

VOTE: UNANIMOUS (9-0)

6.0 CONSENT AGENDA

MOTION: Council Member Waddell moved to approve the consent agenda with the exception of Item 6.10; for presentation and separate vote.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

6.0 CONSENT AGENDA

6.01 Approval of Meeting Minutes:

June 22, 2020 - Special

June 22, 2020 - Regular

June 29, 2020 - Special 4:00 p.m.

June 29, 2020 - Special 5:00 p.m.

July 20, 2020 - Special 4:00 p.m.

6.02 P20-22F. Request to initially zone property from Commercial with Plan (CP) to Community Commercial (CC), located on Ramsey Street at its intersection with Bullard Circle (Tax Map # 0541-05-6993), containing 3.44 +/- acres, represented by Steve Oliverio and being the property of Meena Dave, Pramukh Enterprises LLC.

6.03 P20-23F. Request to rezone property from Single-Family Residential 6 (SF-6) to Community Commercial (CC), located at 4643 Yadkin Road, near its intersection with Castle Hayne Road (Tax Map # 0418-13-6911), containing 0.23927 +/- acres, represented by George Turner and being the property of Joseph Orsak.

6.04 Adoption of Special Revenue Fund Project Ordinance Amendment 2021-2 to Appropriate Federal Forfeiture Funds and NC Substance Tax Received to Date as of June 30, 2020

Special Revenue Fund Project Ordinance Amendment 2021-2 will appropriate \$275,404.00 in Federal Forfeiture and NC Substance Tax funds received as of June 30, 2020, to provide additional resources for law enforcement purposes.

6.05 Adoption of Capital Project Ordinance 2021-14 and Special Revenue Fund Ordinance 2021-3 to Appropriate Federal Transit Administration Grant NC-2020-033-00 for Transit Capital and Planning Projects, and Adoption of Budget Ordinance Amendment

2021-2 to Carry Forward Local Match Funding from Fiscal Year 2020 to Fiscal Year 2021

The Federal Transit Administration (FTA) has awarded grant NC-2020-033-00 to the City for public transit projects.

Capital Project Ordinance (CPO) 2021-14 will appropriate \$2,558,000.00 for the grant's capital projects that include four replacement buses for fixed route services; three replacement light transit vehicles for ADA/FASTTRAC services; bus shelters, sidewalks and accessible bus stops along transit routes; an interactive voice response system (IVR) for FASTTRAC customers; and capital maintenance funding for repair or replacement of major bus components. The funding sources for this appropriation include \$2,159,300.00 of grant funding and a \$398,700.00 local match.

Special Revenue Fund Project Ordinance (SRO) 2021-3 will appropriate \$250,000.00 for a variety of eligible planning tasks and projects such as the update of the 2014 Transit Development Plan (TDP), reporting and complying with FTA grant provisions, and monitoring transit services. The funding sources for this appropriation include \$200,000.00 of grant funding and a \$50,000.00 local match.

Budget Ordinance Amendment (BOA) 2021-2 will appropriate \$448,700.00 from General Fund fund balance to transfer to the Transit Operating Fund in order to provide the local match for the two grant project appropriations. This local match funding was anticipated in the fiscal year 2020 year-end projections, however, transfer of the funds was delayed due to the timing of the receipt of the grant award

6.06 Adoption of Capital Project Ordinance 2021-15 to Appropriate a \$40,000.00 Donation from the Kiwanis Club of Fayetteville for Playground Improvements at Honeycutt Park

The City has received notification of a \$40,000.00 donation from the Kiwanis Club of Fayetteville (FKC) for the purchase and installation of playground components at Honeycutt Park, to include a sensory dome, a spider net, a swing, and rubberized surfacing. Staff is seeking authorization to accept the donation and adoption of Capital Project Ordinance 2021-15 to appropriate the donated funding.

6.07 Adoption of Capital Project Ordinance Amendments 2021-26, 2021-27 and 2021-28 to Appropriate Payment-In-Lieu-Of Resurfacing Proceeds and Prior Year Pavement Preservation Project Balances to the Current Year Project, and Award a Contract for the First Phase of FY2021 Pavement Preservation Projects

Capital Project Ordinance Amendments (CPOAs) 2021-26, 2021-27 and 2021-28 to transfer funding balances totaling \$1,105,236.00 from FY 2018 and FY 2019 Street Resurfacing Projects and to appropriate \$93,318.00 of payment-in-lieu-of resurfacing proceeds to increase the project appropriation for FY 2021 Pavement Preservation Projects by \$1,198,554.00. The consolidation of available funding facilitates current year project administration.

Highland Paving Co., LLC, Fayetteville, NC	\$2,299,965.55
Barnhill Contracting Company, Fayetteville, NC ...	\$2,555,926.55
Jsmith Civil, LLC, Goldsboro, NC	\$2,636,449.18
Daniels, Inc., Garner, NC	\$3,619,682.50

Award of and authorize the execution of a contract for the first phase of street resurfacing of FY 2021 to Highland Paving Co., LLC, Fayetteville, NC, the lowest responsive, responsible bidder.

6.08 Phase 5 Annexation Area 22 Resolution Declaring Costs, Ordering Preparation of Preliminary Assessment Roll, and Setting Time and Place for Public Hearing on Preliminary Assessment Roll

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL. RESOLUTION NO. R2020-029

6.09 Resolution to Grant Easement Authority to PWC CEO/General Manager

This item was removed from the agenda.

6.10 This item was pulled from the consent agenda for presentation and separate vote.

6.10 Adoption of Amendments to Ordinance Prohibiting Sleeping in Parks Overnight

Council Member Waddell stated she had pulled this item from the consent agenda for a separate vote.

Ms. Karen McDonald, City Attorney, stated the proposed ordinance amendments do not prohibit protest, it will prohibit the erection of tents at the Market House.

MOTION: Council Member Waddell moved to deny adopting the amendments to the ordinance prohibiting sleeping in parks overnight.

SECOND: Council Member Ingram

VOTE: FAILED by a vote of 3 in favor to 6 in opposition (Council Members Colvin, Jensen, Haire, Davis, Wright, and Kinston)

MOTION: Council Member Haire moved to adopt the proposed amendments to the ordinance prohibiting sleeping in parks overnight.

SECOND: Council Member Wright

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Waddell)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTIONS 18-2 AND 18-19 OF CHAPTER 18, PARKS AND RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2020-006

7.0 PUBLIC FORUM

Mr. Kenneth Brown, 7225 Mariners Landing Drive, Fayetteville, NC, expressed concerns regarding police reforms.

Ms. Laura Kane, 3405-D Christakait Place, Hope Mills, NC, requested the addition of FAST transportation to the Millstone Landing area in Hope Mills.

Mr. Michael Flowers, 4495 Briton Court, Fayetteville, NC, expressed concerns regarding social distancing and personal protection equipment.

Ms. Dawn Adkins Hurley, 1904 Manteo Street, Fayetteville, NC, spoke in support of the Market House.

Mr. Michael Pinkston, 7019 Calamar Drive, Fayetteville, spoke in support of the Market House.

Ms. Parker Lindsay, 515 Argyle Road, Fayetteville, NC, spoke in support of the Market House.

Mr. Roy Martin, 5900 Welford Place, Fayetteville, NC, spoke in support of the Market House.

Ms. Jackie Taylor, 1040 Olvander Road, Fayetteville, NC, spoke in support of the Market House.

Mr. Imam Eronomy Mohammad Smith, 1200 Murchison Road, Fayetteville, NC, commented on the state of the City.

Mr. Shawn McMillan, 6024 Goldenrain Drive, Fayetteville, NC, expressed concerns regarding police reforms.

Council Member Shakeyla Ingram, 1822 Camden Road, Fayetteville, NC, expressed concerns regarding District 2 issues.

Mayor Colvin recessed the meeting at 8:24 p.m., and reconvened the meeting at 8:34 p.m.

8.0 PUBLIC HEARINGS

8.01 Public Hearing to Consider Closing a Portion of Danish Drive

Ms. Kecia Parker, Real Estate Manager, presented this item and stated a petition was received on June 1, 2020, requesting the closure of a portion of Danish Drive. Closing the street will not deny access to any property owners. The first step in the process dictated by N.C.G.S. § 160A-299 is to have a resolution signed granting the public hearing to consider the closing and as such, City Council set the public hearing for August 10, 2020. Staff has followed all of the statutory procedures to include posting the property and mailing out certified notice letters to adjacent property owners. The property has also been posted on both ends with notice and the notice of this hearing was published for four consecutive weeks in the local newspaper. Staff also consulted with the public utility companies to ensure any needed easements would be reserved. The Traffic Engineer has completed a Traffic Analysis study of the area and determined there was no significant impact to traffic flow by the closure. Fire and EMS were also contacted and relayed no impacts to their response times.

A petition has been received requesting the City to close a portion of Danish Drive to enhance development of the property. N.C.G.S. § 160A-299 gives authority and procedures required for the City to close a city street or alley. This closure will not landlock any abutting property owners. A traffic analysis has been completed by staff and found that there would be no significant impact to the traffic system. The public utility companies were contacted and easements will be reserved as requested for the City and the Fayetteville Public Works Commission. No access will be denied to anyone as a result of the proposed closing. The Emergency Response times will not be significantly affected. The City will be reserving an aboveground and underground utility easement over the entire closed portion for City utilities and for PWC. Staff contacted the Engineer for the property owner to ensure he was aware the reserved easement would not be allowed to be built upon and the plans submitted have reflected that the redevelopment would not affect the easement reservation.

Discussion ensued.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing was opened and closed.

A RESOLUTION AND ORDER CLOSING A PORTION OF DANISH DRIVE. RESOLUTION NO. R2020-030

MOTION: Council Member Banks-McLaughlin moved to adopt the resolution and order closing a portion of Danish Drive.
SECOND: Council Member Haire
VOTE: UNANIMOUS (9-0)

8.02 P20-09F. The request is for a Special Use Permit to allow a paint and body shop in a former automotive parts shop, zoned as Community Commercial (CC) and Heavy Industrial (HI), located at

350 E. Russell Street (Tax Map # 0437-72-8456), 0.63 acres ± and being the property of Jimmy and Mary Fann and William and Catherine Fann, represented by Edgar Quinones.

Ms. Jennifer Baptiste, Senior Planner, presented this item with the aid of a PowerPoint presentation. Ms. Baptiste stated according to the Cumberland County Tax Department website, this building was constructed in the 1990s. When the site was developed, it was developed according to the standards of the City of Fayetteville's Ordinance. With the adoption of the Unified Development Ordinance in 2013, automotive painting/body shop was identified in the Use Table as a use requiring the issuance of a Special Use Permit in the Community Commercial (CC) zoning district. This portion of East Russell Street is dominated primarily by various commercial and industrial uses. This site is approximately 0.63 acres with the building being a 5,500 square feet steel frame structure. The front exterior of the building closest to East Russell Street has a typical storefront façade. The recessed portion of the building is designed to accommodate the automotive repair/painting aspect of the business and has overhead rolling automotive service doors facing the rear property line. The site has parking in the front, along the northern property line, and chain linked fenced parking in the rear of the building.

The applicant is requesting a Special Use Permit be issued for the site to allow the operation of an automotive painting/body shop. The applicant is seeking to relocate his existing business, Eggyz's Customz, from 4003 Raeford Road to this site. There are currently two employees, the applicant and his wife, and the operating hours for the business are Monday through Friday, 9:00 a.m. until 5:00 p.m. According to the applicant, all vehicle repairs will be completed indoors. Vehicle painting and any waste disposal will have to be performed in compliance with Federal, State, and Local safety and environmental regulations. The SUP must meet the following findings of facts:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

The Planning staff recommends approval of the proposed SUP based on the proposed SUP implements the policies adopted in the Unified Development Ordinance; the expansion of this use is allowed in the Community Commercial (CC) district and will not detract from the overall area; the proposed SUP ensures that new development is

compatible with the 2010 Land Use Plan; and there are no other factors which will substantially affect the public health, safety, morals, or general welfare.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Edgar Quinones, 4003 Raeford Road, Fayetteville, NC, appeared in favor of the Special Use Permit and stated he is the applicant.

There being no one further to speak, the public hearing was closed.

Discussion ensued.

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow an existing nonconforming use to conform to the current Unified Development Ordinance standards and allow the business to expand onto a portion of an adjoining site as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Community Commercial and Heavy Industrial district, (2) this use complies with the findings, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is May 7, 2020. The SUP shall expire one year from its effective date if a building permit is not issued within that time. All eight findings of fact have been met.

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

8.03 P20-13F. The reissuing of a Special Use Permit to allow a Communications Tower to be located in a Community Commercial (CC) Zoning District at 1876 Bureau Drive (Tax Map # 0455-17-6410) near the intersection of Bureau Drive and Cedar Creek Road, and is the property of Beasley Media Group.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated on October 22, 2018, the Fayetteville City Council held a public hearing regarding case P18-30F. The application by Beasley Media Group requested the approval to construct and operate a 195-foot communications tower at 1876 Bureau Drive, just south of Ruby Tuesday and Cedar Creek Road across the street from the Holiday Inn. Since the issuance of the SUP, the property owners failed to acquire a building permit before the one-year time limit had expired. With this application, Beasley Media Group is submitting the same communications tower request that was approved in 2018. The applicant proposes a free-standing, triangular shaped lattice tower with three support legs and steel framing. The proposed tower location is within the Community Commercial (CC) zoning district. The City's standards call for a setback of half of the tower height from each of the adjoining property lines. The applicant is asking for a reduction in this setback requirement through the SUP process. A tower that is 195 feet tall would require a setback of 97.5 feet. The applicant is asking for a reduction in this number for the property lines to the west (15 +/- foot reduction) and south (49 +/- foot reduction), as shown on the site plan. Both of these property lines are adjacent to areas where an active farm currently is located. The SUP must meet the following findings of facts:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing was opened and closed.

Discussion ensued.

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow an existing nonconforming use to conform to the current Unified Development Ordinance standards and allow the business to expand onto a portion of an adjoining site as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Community Commercial and Heavy Industrial district, (2) this use complies with the findings, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is May 7, 2020. The SUP shall expire one year from its effective date if a building permit is not issued within that time. All eight findings listed have been met.

SECOND: Council Member Banks-McLaughlin

VOTE: UNANIMOUS (9-0)

8.04 P20-19F. The request is for a Special Use Permit to reduce the required 500 feet distance separation between a Warehouse Storage site and residential districts, zoned Heavy Industrial (HI), located at 601 Hillsboro Street (Tax Map # 0437-48-3320), 8.03 acres ±, represented by Bryan Welborn of NSE and being the property of M & M Smith Storage Warehouse, Inc.

Ms. Jennifer Baptiste, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated according to the Cumberland County Tax Department website, this site was developed in the early 1970s in accordance to the development standards of the City of Fayetteville's Ordinance at that time. With the adoption of the

Unified Development Ordinance in 2013, warehouse storage uses were identified in the Use Table as a use by right in the Heavy Industrial zoning district; however, the UDO established developmental standards that require the use maintain a 500 feet distance separation from any residential zoning districts.

M & M Smith Storage Warehouse currently operates an approximately 75,000 square feet warehouse space that provides storage for various commercial clients. The center provides commodity storage and distribution of raw materials, semi-manufactured products, and finished goods for suppliers, manufactures and retail facilities. This storage center is not opened to the general public meaning that it does not provide individual storage units for rent.

This area along Hillsboro Street has a variety of uses in the area. According to the Cumberland County Tax Department website, the properties in the immediate area of the subject site were developed between the late 1980s and 2018. Hence, this site was developed prior to the development of the surrounding properties. The applicant is requesting a Special Use Permit to reduce the required 500 feet distance separation between the existing Warehouse Storage site and the adjacent residential zoning districts. The request is to cover the existing use and bring it into conformity with the current UDO as well as allow the construction of a new facility on the site. The new facility will be an approximately 76,500 square feet building and will be just north of the existing building. The new facility will allow the company to expand services while the existing building will continue to be used mainly as an administrative site. If the SUP is approved, the new facility will have to be evaluated for compliance with the current UDO for screening, landscaping, and truck/vehicle access. The SUP must meet the following findings of facts:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Neal Smith, 139 Pinehurst Avenue, Southern Pines, NC, stated he is the engineer for this project and appeared in favor.

Mr. Matthew Smith, 3101 Hyman Place, Fayetteville, NC, stated he is the property owner and appeared in favor.

Mr. Leon Gedei, 531 Edwards Drive, Fayetteville, NC, expressed concerns regarding noise, and appeared in opposition.

There being no one further to speak, the public hearing was closed.

Discussion ensued.

Mayor Colvin announced there is an additional speaker and re-opened the public hearing.

Ms. Mae Matthews (via zoom) appeared in opposition and stated she is speaking on behalf of her mother, who has resided at 520 Edward Street for 50 years, and asked if it is the City's intention to convert this entire area to a commercial zone, and if so, how will the residents be compensated for the decline in values caused by these decisions.

Mayor Colvin closed the public hearing.

Council Member Davis requested Dr. Gerald Newton, Development Services Director, to provide his professional opinion on this SUP request.

Dr. Gerald Newton, Development Services Director, stated, what you have in front of you is you have almost two acres that they're proposing to put in adding on to the half-acre under roof just to the north. They have extra buffering that's a requirement and they also will be improving the site just to the north of it. The reason they'd have to acquire the property north to relocate a line is that they are traversing a diagonal line, so the buffering that he's referring to is our most dense buffering, but in addition to that, they have additional landscaping in the front on Hillsborough to show that they're going to screen it and have more. In terms of ambient noise coming from the railroad, but having an actual facility setting up next to it, as a trumpet would do, it moves in a different direction, so in terms of how the staff looked at it and how the Commission looked at it, this is an area that is zoned already for the use. So then the question became is this reduction of something that they're already not meeting, is the reduction of a standard of 500, which is typically put in place when you're looking at industrial parks and you're trying to create separations, but when you are in communities such as Fayetteville where it was partially a mill town where you had mills and then you had the businesses and all the residents around mixed, it's typical to have places that don't fit that standard. That's why this one is here. So from the professional view of the planners who looked at it, it makes sense to allow this addition. It furthers what we say in bringing more business in. It's already zoned for it. The issue then becomes is that enough distance. In our position and that of the Planning and Zoning Commissions, it is.

Discussion ensued.

MOTION: Council Member Ingram moved to deny the special use permit as it does not meet findings of fact number seven; the special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district.

SECOND: Council Member Wright

Discussion ensued.

Council Member Waddell asked Council Member Ingram if she would consider Item (4), the special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands, as an inclusion to her motion.

AMENDED MOTION:

Council Member Ingram moved to deny the special use permit as it does not meet findings of fact numbers four, the special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands, and seven, the special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district.

SECOND: Council Member Wright

VOTE: PASSED by a vote of 6 in favor to 3 in opposition (Council Members Jensen, Waddell, and Davis)

8.05 AX20-001: Annexation request for the Pramukh Enterprises LLC Property, on Ramsey Street at its intersection with Bullard Circle (Tax Map # 0541-05-6993), containing 3.44 +/- acres; related to P20-22F: Initial Zoning

Mr. David Nash, Senior Planner, presented this item and stated the property is located on the western side of Ramsey Street, south of Bullard Circle (shown on the Vicinity Map and Legal Description Map). This property is in the City's Municipal Influence Area (MIA). The owner plans to build a medical office building on the property. The owner would like to use Fayetteville Public Works Commission (PWC) sewer and water services. Since the property is in the Fayetteville Municipal Influence Area (MIA), the use of PWC sewer will require that the property be annexed, per City Council Policy 150.2.

The property consists of one tax parcel that is approximately 3.44 acres. The land is currently vacant. The Basic Information Sheet has more information about the property, factors affecting its development, and the future project.

The property requested for annexation is close to the existing municipal boundary, but it is not contiguous to the City. This means that the annexation request has been processed as a non-contiguous, i.e., satellite, annexation.

On July 14, 2020, the Zoning Commission held an initial zoning public hearing for this property. The Zoning Commission voted to recommend approval of (as a straight rezoning) to Community Commercial, if the property is annexed.

Sufficiency: The City's Real Estate staff has found the annexation petition submitted by Pramukh Enterprises, LLC, to be sufficient.

Compliance with Satellite Annexation Standards: There are five standards that a satellite annexation area must meet in order to be annexed. This property meets the five standards as follows:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the primary corporate limits of the City of Fayetteville;
- b. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another municipality than to the primary corporate limits of the City of Fayetteville;
- c. The area described is so situated that the City of Fayetteville will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376 and as interpreted by the City Attorney's office, will be fragmented by this proposed annexation; and

- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed 10 percent of the area within the primary corporate limits of the City of Fayetteville.

Effective Date: The 2011 changes to the state annexation law regarding effective dates did not apply to satellite areas. The law remains the same: a satellite annexation may be made effective immediately or on any specified date within six months from the date of passage.

The special protocols regarding COVID-19 require that public hearings be held through Zoom meetings. This means the public will be allowed to submit written comments from the date of notice of hearing (July 31) until 24 hours after the hearing (August 11). Written comments will be accepted during this designated period and the hearing will be continued until a date certain after the comment period has ended. In light of these special requirements, staff recommends the ordinance effective date be set for August 31, 2020.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Steve Olivero, 1906 Nash Street North, Wilson, NC, stated he is representing the applicant and appeared in favor. Mr. Olivero expressed concerns regarding the additional 24 hours the public will have to submit written comments.

There being no one further to speak, the public hearing was closed.

Ms. Karen McDonald, City Attorney, stated the additional State legislation was put into place due to the COVID-19 pandemic.

Discussion ensued.

MOTION: Council Member Jensen moved to bring this item back to Council at the August 19, 2020, special meeting.

SECOND: Council Member Ingram

VOTE: UNANIMOUS (10-0)

9.0 ADMINISTRATIVE REPORTS

9.01 Flooding Investigation and Moratorium Request for Locks Creek

This item was for information only, and was not presented.

9.02 Removal of Market House Image from City Property

This item was for information only, and was not presented.

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:24 p.m.