

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
SEPTEMBER 28, 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); D. J. Haire (District 4); Johnny Dawkins (District 5); Chris Davis (District 6); Larry O. Wright, Sr. (District 7); Courtney Banks-McLaughlin (District 8); Yvonne Kinston (District 9)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Telly Whitfield, Assistant City Manager
Gina Hawkins, Police Chief
Sheila Thomas-Ambat, Public Services Director
Kevin Arata, Corporate Communications Director
Gerald Newton, Development Services Director
Tracey Broyles, Budget and Evaluation Director
Jay Toland, Chief Financial Officer
Taurus Freeman, Planning and Zoning Manager
Craig Harmon, Senior Planner
Jennifer Baptiste, Senior Planner
Pamela Megill, City Clerk
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

Council Member Ingram announced the "Prismatica" event will be taking place at the Arts Council building beginning October 1 through October 31, 2020.

Council Member Ingram announced the 2020 Census is still taking place and encouraged citizens to complete the census form as tomorrow, September 29, 2020, is the last day to submit.

Council Member Wright recognized and thanked everyone involved in the Food Drive which took place on September 26, 2020, for Second Harvest Food Bank. A total of \$600.00 cash and a large amount of food was donated.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Wright moved to approve the agenda, with the exception of removing Item 7.01, P20-127 Rezoning, due to the applicant withdrawing the rezoning request.

SECOND: Council Member Jensen

VOTE: UNANIMOUS (10-0) (Council Member Ingram's unexcused absence counted as an affirmative vote)

6.0 CONSENT AGENDA

MOTION: Council Member Wright moved to approve the consent agenda with the exception of Items 6.02, 6.08, and 6.09 for presentation and separate vote.
SECOND: Council Member Haire
VOTE: UNANIMOUS (10-0) (Council Member Ingram's unexcused absence counted as an affirmative vote)

6.0 CONSENT AGENDA

6.01 P20-25F. The request is to rezone property from Single-Family 6 (SF-6) and Neighborhood Commercial (NC) to Mixed Residential (MR-5), located on Cliffdale Road (Tax Map #s 9487-47-7123 and 9487-36-6817), near the intersection of Cliffdale Road and Braybrooke Place, containing 30.98 acres ± and being the property of Joe Riddle K&Js Properties, LLC, and TPGM Properties, LLC, represented by Lori Epler of Larry King & Assoc.

6.02 Pulled for presentation and separate vote.

6.03 Adoption of Special Revenue Fund Project Ordinance 2021-8 for the FY 19 Assistance to Firefighters Grant to Purchase Automated External Defibrillators

Special Revenue Fund Project Ordinance 2021-8 will appropriate \$150,000.00 for the purchase of 60 semi-automatic external defibrillators (AEDs) to be used by the Fayetteville Fire Department (FFD). The funding sources for this project include \$136,364.00 of federal grant funds awarded by the Department of Homeland Security and managed by the Federal Emergency Management Agency, and the City's local match of \$13,636.00 provided by a General Fund transfer.

6.04 Adopt a Resolution Authorizing the Conveyance of Water and Sanitary Sewer Easements to the City of Fayetteville by and through Fayetteville Public Works Commission

A RESOLUTION AUTHORIZING THE CONVEYANCE OF AN EASEMENT TO THE CITY OF FAYETTEVILLE BY AND THROUGH THE FAYETTEVILLE PUBLIC WORKS COMMISSION FOR THE WATER MAIN ENCASEMENT PROJECT ON BRUNER STREET AND MOORE STREET. RESOLUTION NO. R2020-033

6.05 Resolution Authorizing a Quitclaim Deed of the City's Title to the County in Order to Expedite the Sale of Land

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTY SURPLUS AND QUITCLAIM CITY'S INTEREST IN JOINTLY HELD PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2020--034

6.06 Rescind Demolition Ordinance - 5725 Waters Edge Drive

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE RESCINDING DEMOLITION ORDINANCE NO. NS2019-024. RESOLUTION NO. R2020-35

6.07 Request for Legal Representation of City Employees

Authorization from the City Council to provide legal representation for City employees Christopher Todd Joyce, Sheila Washington, and Michael Mulcahy in the matter of *Richard Bradley II and Joshua Bradley v. Damion Nevarez, Michael Bridgeman, Sheila Washington, Michael Mulcahy and Todd Christopher Joyce*. The employees were acting within the scope and course of their employment with the City when the alleged incident occurred

6.08 Pulled for presentation and separate vote.

6.09 Pulled for presentation and separate vote.

6.10 Election Season Requests

Authorization to roll back bus fares to allow free rides to polling stations and temporarily suspend enforcement of placing political signs in the right-of-way.

6.02 P20-27F. Rezoning of an existing apartment complex from Single-Family 10 (SF-10) to Mixed Residential 5 (MR-5), located off McArthur Road (Tax Map# 0439-39-0892) totaling 33.27 acres ± and being the property of Aspen Point, LLC; Crystal Lake Apartments, LLC, represented by Lori Epler.

MOTION: Council Member Waddell moved to call for a public hearing for October 26, 2020, for this item.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0) (Council Member Ingram's unexcused absence counting as an affirmative vote)

6.08 Bid Recommendation - Two 67kV Delta Primary Voltage Power Transformers for Black & Decker & PO Hoffer Substation Rebuild Projects

6.09 Bid Recommendation - Two 67kV Delta Primary Voltage Power Transformers

Council Member Dawkins stated he would like more information on Items 6.08 and 6.09 from the Public Works Commission.

MOTION: Council Member Wright moved to move both Item 6.08 and Item 6.09 to a future meeting agenda; 30 to 60 days ahead.

SECOND: Council Member Dawkins

VOTE: UNANIMOUS (10-0) (Council Member Ingram's unexcused absence counting as an affirmative vote)

7.0 PUBLIC HEARINGS

7.01 P20-12F. Rezoning of all or portions of properties located on Candlelight Drive off Kenwood Drive and on Arbor Road from Single-Family Residential 6 (SF-6), Single-Family Residential 10, and Limited Commercial (LC) to Mixed Residential 5 (MR-5), totaling 8.82 acres ± and being the properties of Measamer Construction Co. Inc, Measer/West, LLC and Westco Properties, LLC, represented by Tim Clark of McKim and Creed.

This item was removed from the agenda.

7.02 P20-26F. The request is for a Special Use Permit to allow the construction of a four unit townhome, zoned as Single-Family 6 (SF-6), located at 600 and 602 Roxie Avenue (Tax Map # 0416-78-5714 and 0416-78-5616), totaling .48 acres ± and being the property of Wayside Investments, LLC, represented by Scott Brown.

Ms. Jennifer Baptiste, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the applicant is requesting that a Special Use Permit be issued to allow the construction of a four-unit townhome development. The site is currently vacant. On August 11, 2020, the Zoning Commission voted 3 to 0 to recommend City Council approve the Special Use Request for the construction of townhomes at 600 and 602 Roxie Avenue.

These parcels were initially heard for rezoning from Single-Family Residential 10 (SF-10) to Single-Family Residential 6 (SF-6) by the Zoning Commission on April 9, 2019, and approved by City Council on May 28, 2019. According to the application and staff report filed for the rezoning case, P19-15F, a rezoning was requested to allow for smaller lots and with a Special Use Permit (SUP) multi-family development. Under the SF-10 zoning district, the combined site would

be limited to two units. However, the SF-6 zoning district would allow up to four units on the combined sites.

The entire area directly adjacent to the subject parcels are Single-Family Residential structures. Although the area is dominated by single-family uses, the area has a variety of housing accommodations with some homes owner occupied and others as rental units. 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. Scott Brown, 409 Chicago Drive, Suite 112, Fayetteville, NC, appeared in favor and stated he is the applicant on behalf of the owner.

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

Discussion ensued.

MOTION: Council Member Dawkins moved to approve the requested Special Use Permit (SUP) to construct a four-unit townhome development on the parcels currently zoned Single-Family Residential 6 (SF-6), as presented by staff and based on the information provided above and all attachments. The SUP is consistent with applicable plans because (1) the City's Unified Development Ordinance and 2040 Future Land Use Plan both support this type of business in this location; (2) the uses surrounding this property are a mix of uses which are compatible with the proposed SUP; and (3) the proposed SUP is reasonable and in the public interest because the proposed zoning fits the character of the overall area. The SUP meets all eight findings of fact.

SECOND: Council Member Davis

VOTE: UNANIMOUS (10-0)

7.03 P20-28F. The request is for a Special Use Permit to allow an automotive wrecker service on property zoned Community Commercial (CC), located at 4800 & 4802 Murchison Road (Tax Map # (0429-33-

2524, 0429-33-2447 & 0429-33-3405), near the intersection of Murchison and Bowden Road, containing 1.15 acres ± and being the property of Steven McBride, represented by Henry Tyson, Tyson Commercial Real Estate.

Mr. Craig Harmon, Senior Planner, presented this item and stated the property was the former location of a consignment and thrift store. The owner's request is to use the existing building and fenced area, to the rear of the property, to operate an automotive wrecker service. The owner will be responsible for meeting the use specific standards of the Unified Development Ordinance (UDO). A Special Use Permit is required for a wrecker service to be located in a Community Commercial (CC) district. On August 11, 2020, the Zoning Commission held a public meeting regarding this case. There was one speaker in favor and none in opposition. The Commission voted 3 to 0 to recommend approval.

This item appeared on the City Council's August 24, 2020, agenda as a public hearing. It was however tabled for 90 days at the request of Council Member Haire to allow the applicant/owner the opportunity to meet with the community regarding their plans for the existing building. The item was tabled before the public hearing was opened. According to the UDO, an Automotive Wrecker Service is an establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than 90 days. If an establishment has ten or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days, stacks vehicles, or portions of the vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard. 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. Michael Porter, Attorney representing the applicant, 5851 Ramsey Street, Fayetteville, NC, appeared in favor.

Mr. Steve McBride, Property Owner, 4241 Colby Court, Fayetteville, NC, appeared in favor.

Mr. Henry Tyson, Commercial Broker, 410 Wayberry Drive, Fayetteville, NC, appeared in favor.

Mr. Michael Stewart, Certified General Appraiser, 280 McDougald Road, Fayetteville, NC, appeared in favor.

Bishop Eddie Hightower, 960 Sunbury Drive, Fayetteville, NC, appeared in opposition.

Mr. Leonard Hedgepeth, 4620 Murchison Road, Fayetteville, NC, appeared in opposition.

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

Discussion ensued.

MOTION: Council Member Haire moved to table this item and leave the public hearing open until the October 5, 2020, work session meeting.

SECOND: Mayor Pro Tem Jensen

VOTE: FAILED by a vote of 4 in favor to 6 in opposition (Council Members Ingram, Waddell, Dawkins, Wright, Banks-McLaughlin, and Kinston)

MOTION: Council Member Wright moved to deny the Special Use Permit (SUP) to allow an Automotive Wrecker Service in a CC commercial zoning district, as presented by staff, based on the standards of the City's development code and the evidence presented during this public hearing. And that the application is inconsistent with applicable plans because the proposed use does not meet the City's Unified Development Ordinance (UDO) standards.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Waddell, Jensen, and Dawkins)

7.04 Public Hearing for Text Amendments: TA20-001, TA20-002, and TA20-003; three proposed text amendments to Article 30 of the Unified Development Ordinance.

Mr. Taurus Freeman, Planning and Zoning Manager, presented this item and stated text amendments to the Unified Development Ordinance (UDO) are suggestions for approval by the professional planners of the Development Services Department. A public hearing before the Planning Commission, in accordance with the standards of the Code, shall be held for the Planning Commission's review and recommendation. A public hearing before the City Council, in accordance with the standards of the Code, shall be held for Council to review the Planning Commission's recommendation and other relevant factors prior to rendering a final determination. On August 18, 2020, the Planning Commission recommended approval of the proposed amendments: TA20-001, TA20-002, and TA20-003 by a vote of 8 to 0.

TA20-01: 30-2.C.4.d.8.c., Conditional Zoning (Conditions of Approval) - resolves conflict of the subsections a. and c. by omitting subsection c. to allow for less restrictive standard of the parallel general uses zoning district. Section 30-2.C.4.8.a allows dimensional standards to be modified and "less restrictive than the base district" through the Conditional Rezoning process without having to file a separate Variance application for the same property/project. However, Section 30-2.C.4.8.c states "no condition shall be less restrictive than the standards of the parallel general use (base) zoning district."

TA20-002: Table 30-5.D.4, Maximum Fence and Wall Height and Setback Height in Front Yard - amend to increase height of fences from three-feet (3') to four-feet (4') for individual single-family (attached or detached) and two- to four-family dwellings and serving other development. This will allow conformity with industry standards.

TA19-003: 30-5.L.7.b.1, Signs Permitted with a Sign Permit (Specific Standards) - Residential & Large Multi-building Developments - allows identification signs in the medians as an administrative approval by Development Services, Traffic Engineering, and the Fire Department without submission of an Alternative Sign Plan that requires approval from the Planning Commission. Currently, all Alternative Sign Plans have to be approved by the Planning Commission. It is Staff's opinion; this is an unnecessary step for applicants, which will expedite the process.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-2, ADMINISTRATION, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2020-008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-5, DEVELOPMENT STANDARDS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2020-009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-5, DEVELOPMENT STANDARDS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2020-010

MOTION: Council Member Haire moved to approve Text Amendments TA20-001, TA20-002, and TA20-003; adopting the respective ordinances.

SECOND: Council Member Ingram

VOTE: UNANIMOUS (10-0)

7.05 Phase 5 Annexation Utility Improvement Project Area 22 Public Hearing on Preliminary Assessment Roll

Mr. Mark Brown, PWC Customer, presented this item and stated this item is to hold a public hearing to receive public comment for Annexation Areas as part of the statutory requirement process. Preliminary assessment notices were mailed on August 28, 2020, and September 21, 2020, informing property owners of their assessments and public hearing date. A notice was published in The Fayetteville Observer on August 28, 2020, and September 22, 2020 for the preparation of the preliminary assessment roll and public hearing.

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

Mr. Mark Brown stated this item was to hold the public hearing; no action is required at this time.

8.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:01 p.m.