

**FAYETTEVILLE CITY COUNCIL  
SPECIAL MEETING  
CITY HALL COUNCIL CHAMBER  
AUGUST 29, 2011  
5:00 P.M.**

Present: Mayor Anthony G. Chavonne (departed at 7:24 p.m.)

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); James W. Arp, Jr. (District 9)

Others Present: Dale Iman, City Manager  
Kristoff Bauer, Assistant City Manager  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Brian Meyer, Assistant City Attorney  
Scott Shuford, Development Services Director  
Craig Harmon, Planner II  
Nathan Walls, Public Information Specialist  
Members of the Press

**1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order at 5:05 p.m.

**2.0 INVOCATION**

The invocation was offered by Mayor Pro Tem Haire.

**3.0 APPROVAL OF AGENDA**

**MOTION:** Council Member Crisp moved to approve the agenda.

**SECOND:** Council Member Massey

**VOTE:** UNANIMOUS (10-0)

**4.0 PUBLIC HEARINGS**

**4.1 Case P11-45F. Rezone from AR Agricultural Residential to LC Neighborhood Commercial zoning for property at 7383 Stoney Point Road (PIN 9495-10-6440). Owned by David L. Jackson.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the Zoning Commission and staff recommended approval of the rezoning.

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.

**MOTION:** Council Member Crisp moved to approve the rezoning.

**SECOND:** Council Member Massey

**VOTE:** UNANIMOUS (10-0)

**4.2 Case P11-23F. Rezone from LC Limited Commercial to CC Community Commercial District for PINs 0428-55-3561, 0428-65-3814, 0428-64-4982 from SF-6 and SF-10 Single-Family Residential District to LC/CZ Limited Commercial Conditional zoning for PIN 0428-65-3814 for properties west of Murchison Road. Owned by Kingdom Impact Global Ministries (KIGM).**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings,

and 2010 Land Use Plan. He stated KIGM would like to have the flexibility on the front part of the property for CC Community Commercial zoning. He stated discussions were held to determine what KIGM planned for the rear portion of the property which ranged from multifamily to amphitheater and other uses associated with KIGM. He stated the Zoning Commission and staff recommended approval of the rezoning of the front part of the property from LC to CC and the rezoning of the rear portion of the property from SF-6 and SF-10 to LC/CZ subject to the following conditions:

1. The uses shall be limited to the following permitted and special uses listed in the Table of Uses:
  - a. All household living, group living, community services, day care, educational facilities, institutions, parks and open spaces, public safety, conference and training centers, and recreation/entertainment, outdoor use types as allowed in LC
  - b. The theater use type as allowed in LC.
2. The allowable density of multifamily development shall not exceed six dwelling units per acre (the maximum permitted under the prior R-10 zoning).
3. Development of the property shall accommodate the infrastructure improvements established in the Murchison Road Corridor Plan.

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.

**MOTION: Mayor Pro Tem Haire moved to approve the rezoning with the conditions.**

**SECOND: Council Member Davy**

**VOTE: UNANIMOUS (10-0)**

**4.3 Case P11-24F. Rezone SF-10 Single-Family Residential to MR-5/CZ Mixed Residential Conditional zoning for property at W. Hwy 401 (Part of PIN 9476-95-3701). Owned by John Williams, Jr.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the owner had the property rezoned to R-10 approximately two years ago in order to allow multifamily. He stated they were unable to complete their plans in a timely fashion and as a result were not able to get vested into the old zoning code. He stated the owner proposed and staff agreed that they be allowed to develop multifamily under MR-5 at the same density level that would be allowed under R-10. He stated the Zoning Commission and staff recommended approval of the rezoning with a condition being that there be a limitation of density to six or fewer dwelling units per acre.

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

Mr. Charles Morris, 831 Arsenal Avenue, Fayetteville, NC 28305, appeared in favor and expressed support for the rezoning.

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

**MOTION: Council Member Mohn moved to approve the rezoning with the condition.**

**SECOND: Council Member Bates**

**VOTE: UNANIMOUS (10-0)**

**4.4 Case P11-25F. Rezone MR-5 Mixed Residential and MHO Manufactured Home Overlay to CC/CZ Community Commercial Conditional zoning for seven properties on the north side of Bonnie Street near Bragg Boulevard. Owned by Andrew Williams.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the Zoning Commission and staff recommended approval of the rezoning of PINs 0418-29-4945, 0418-29-5938, 0418-29-6031, 0418-29-4862, 0418-29-5844, 0418-29-6837, and 0418-29-7819 from MR-5 MHO to CC/CA with a condition being that the owner recombine the seven lots into a single parcel within 60 days of the effective date of the rezoning.

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.

**MOTION: Mayor Pro Tem Haire moved to approve the rezoning with the condition.**  
**SECOND: Council Member Bates**  
**VOTE: UNANIMOUS (10-0)**

**4.5 Case P11-26F. Rezone from OI Office and Institutional to LC Limited Commercial or DT Downtown District for property at 645 Hay Street. Owned by John Tyson.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He briefly reviewed the development pattern that O&I would support which was a lower intensity with some setback from the property line. He stated the request was for Downtown zoning and that particular development pattern would be somewhat more intense. He stated because of the differences, staff was not supportive of the request although supportive of helping the applicant achieve his goal. He stated the Zoning Commission and staff recommended denial of the rezoning and direct staff to work with the property owner to resolve the use issues through either a code amendment or a conditional zoning request.

Council Member Crisp inquired if the property were rezoned, would the owner have to go before the Historic Resources Commission with a site plan if they wanted to build something. Mr. Shuford responded in the affirmative.

Mayor Pro Tem Haire inquired if staff spoke with property owner regarding the rezoning. Mr. Shuford responded in the negative but stated he would be interested in meeting with the owner if they so desire.

A question and answer period ensued regarding the zoning and size requirement for structures in the downtown area.

Council Member Bates inquired what text amendments would come back to Council. Mr. Shuford responded they would amend the permitted and special uses in the UDO to accommodate the uses that the property owner indicated he would like to have accommodated.

Council Member Hurst inquired if the text amendments to the OI zoning would make it nonconforming. Mr. Shuford responded in the negative and explained the changes would be addressing allowable uses.

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

Mr. John Tyson, 101 Hay Street, Fayetteville, NC 28301, appeared in favor and stated before they purchased the property, they had checked the Land Use Plan and current zoning and the zoning was P2 and the Land Use Plan was downtown zoning. He stated the P2 zoning would allow catering; special event venues for weddings, receptions, and anniversaries; florist hobbies; books; antique sales; and many other uses. He stated consistent with those uses, they began plans for the building. He stated there was no opposition at the public hearings. He stated the OI zoning would not allow the uses that they had under P2. He submitted a petition with 147 signatures in support of the rezoning.

Ms. Kirby Tyson, 101 Hay Street, Fayetteville, NC 28301, appeared in favor and expressed concern that they would not be able to rebuild the property if damaged by a storm under the current zoning.

Mr. Stuart Clarke, Attorney representing the Tysons, 150 N. McPherson Church Road, Fayetteville, NC 28303, appeared in favor and stated the request was consistent with the Land Use Plan and the property owners had put a lot of effort into the property.

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

**MOTION: Council Member Davy moved to rezone to DT.**

**SECOND: Council Member Bates**

**VOTE: UNANIMOUS (10-0)**

**4.6 Case P11-37F. Rezone SF-10 Single-Family Residential to MR-5 Mixed Residential District for property at Southland Drive (PIN 0530-41-9723). Owned by Joseph Riddle, III.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was abutting property in the County zoned R5A. He stated the property was adjoining a two-lane neighborhood street and was located in an area having an entirely single-family development pattern. He stated staff review suggested the rezoning would be inconsistent with the nature of the property due to these factors. He explained the rezoning was subject to a protest petition and would require a super-majority vote of Council. He stated the Zoning Commission and staff recommended denial of the rezoning.

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

Mr. Brett Ross, 210 Southland Drive, Fayetteville, NC 28311, on behalf of the College Lakes subdivision appeared in opposition and requested that Council deny the rezoning. He stated if an apartment complex were to be built on the property, there would be three sides of homes all the way around. He expressed concern for security in that the people living in the apartments would be able to look down in the residential yards. He stated an apartment complex would destroy integrity of the entire neighborhood.

Mr. Swayn Hamlet, 272 S. Bragg Boulevard, Fayetteville, NC 28390, appeared in opposition and expressed concern for increase in traffic and an apartment complex being developed on the property.

Mr. Joseph King, 307 Silver Oaks Drive, Fayetteville, NC 28311, appeared in opposition and expressed concern for an apartment complex being developed on the property.

Mr. Jonathan Charleston, Attorney representing the property owner, 201 Hay Street, Fayetteville, NC 28301, appeared in favor and stated the property owners should be allowed to develop the property

to its highest and best use. He stated they were trying to maintain the current use which was multifamily.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor. He explained it was not their intention to access the property through Southland Drive. He expressed concern that the multifamily residential development rights were taken away from the property owner. He stated a compromise proposal was submitted to the neighborhood which was rejected that would have divided the property in half which would have given the first 125 feet closest to Southland Drive to remain SF-10 so that they could rezone the other 125 feet to MR-5. He stated they would request that the entire property be rezoned to MR-5.

Mr. Joe Riddle, property owner, 125 Great Oaks, Fayetteville, NC 28303, appeared in favor and stated when the property was in the County, it was rezoned for multifamily and they were trying to keep that zoning. He stated there would be no connection to College Lakes.

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

Council Member Applewhite inquired of Mr. Ross if the neighborhood was aware of the 125 foot buffer proposed by Mr. Yarborough. Mr. Ross responded the community was presented with the proposal and they denied it because they felt it would still destroy the integrity of the properties. He stated they had requested Mr. Riddle keep the property SF-10 and develop single-family homes to keep the integrity of the neighborhood.

Discussion ensued regarding access to the property through the neighborhoods and the zoning and ownership of surrounding properties.

**MOTION: Council Member Bates moved to deny the rezoning.**

**SECOND: Council Member Mohn**

**VOTE: FAILED by a vote of 2 in favor (Council Members Bates and Mohn) to 8 in opposition**

**MOTION: Council Member Arp moved to table the case and allow the developer, staff, and neighborhood to meet and resolve the issues.**

**SECOND: Council Member Crisp**

Council Member Applewhite inquired of the City Attorney if the case were tabled, how soon would it come back to Council and would there be cost involved. Ms. Karen McDonald, City Attorney, responded it was a straight rezoning and if the citizens got together and agreed to something, it would not be binding. She explained that in order for there to be some binding commitment, it would have to be some type of conditional rezoning. In response to how soon it would come back to Council, she stated if Council Member Arp's motion carried, it would be dependent upon how soon the neighborhood would get together and/or if there was consensus.

Council Member Applewhite reiterated if the meeting were held it would have to come back as a conditional zoning. Ms. McDonald responded in the affirmative and explained under a rezoning, they were allowed to develop consistent with any of the uses under that zoning classification. She stated if there was an interest in some type of limit or to lessen the development in a particular zoning classification, it would have to be a conditional rezoning.

Mayor Chavonne inquired if Council adopted the compromise proposal, would that be a conditional zoning that could be voted on tonight or would it have to go through a process and come back as a conditional zoning. Mr. Shuford responded Council could rezone the property that would be approximately 130 feet deep from Southland Drive to multifamily and leave the remaining property in a single-family designation. He stated that would be the only thing Council

could do to strike an agreement tonight. He stated a conditional zoning would require the process to start over and explained the process.

**VOTE: FAILED by a vote of 2 in favor (Council Members Crisp and Mohn) to 8 in opposition**

**MOTION: Council Member Arp moved to rezone the property from SF-10 to MR-5 excluding the strip of property that was 130 feet deep from Southland Drive which would remain SF-10.**

**SECOND: Council Member Applewhite**

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Mohn)**

**4.7 Case P11-36F. Rezone SF-6 Single Family Residential to MR-5 Mixed Residential District for property at 700 McArthur Road (PIN 0530-31-2280). Owned by Joe Riddle.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was abutting County property with R5A zoning. He stated the property was adjoining a four-lane or larger roadway (McArthur Road). He stated staff review of the request suggested that the rezoning was consistent with the surrounding development pattern. He stated the Zoning Commission and staff recommended approval of the rezoning.

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

Mr. Joseph King, 307 Silver Oaks Drive, Fayetteville, NC 28311, appeared in opposition to the multifamily rezoning but stated he would have no objection to single-family rezoning.

Mr. Joshua Thompson, 313 Silver Oaks Drive, Fayetteville, NC 28311, appeared in opposition and expressed concern on what a multifamily development would do to the neighborhood.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor and stated the property had been zoned R6 historically for many years for apartments. He stated the property owner bought it at R6 and paid prices for an R6 development.

Mr. Joe Riddle, property owner, 125 Great Oaks, Fayetteville, NC 28303, appeared in favor. He stated he bought the property to add to the tract he already had and there were no road connections to College Lakes and had no plans to connect to College Lakes.

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

A question and answer period ensued regarding the buffer requirements under the UDO and the process for applying with PWC for City utilities for property being developed in the County.

**MOTION: Council Member Bates moved to deny the rezoning.**

The motion died due to lack of a second.

**MOTION: Council Member Massey moved to approve the rezoning.**

**SECOND: Council Member Crisp**

Council Member Crisp inquired if the applicant would have to erect a buffer if a structure were erected. Mr. Shuford responded in the affirmative.

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Mohn)**

**4.8 Case P11-41F. Rezone from LC Limited Commercial to CC Community Commercial District for 15+ acres at Sycamore Dairy Road (PIN 0418-53-3255). Owned by Joseph Riddle, III.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated staff review of the request suggested that the rezoning was consistent with the CC zoning district due to its location and size. He stated the Zoning Commission and staff recommended approval of the rezoning.

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

Mr. Michael Royal, 2316 Larkhaven Court, Fayetteville, NC 28303, appeared in opposition. He stated they tried to work out a compromise with a rezoning with conditions which failed.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor. He stated they received restrictions from the community which eliminated 83 different uses in a CC zoning to the most basic types of retail activities. He stated the restrictions they received were more extensive than the LC zoning and they would be better off with LC than to comply with the restrictions. He briefly reviewed the restrictions that Mr. Riddle had voluntarily agreed to.

Mr. Jonathan Charleston, 201 Hay Street, Fayetteville, NC 28301, appeared in favor. He stated they were trying to preserve the zoning that was on the property six weeks ago.

Mr. Joe Riddle, property owner, 125 Great Oaks, Fayetteville, NC 28303, appeared in favor and provided a brief history of the property.

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

Council Member Mohn inquired if this case could be approved as a conditional zoning tonight instead of delaying it for a month. Mr. Shuford responded in terms of use limitations, it was staff's recommendation that it be sent back to the Zoning Commission to start the process as a conditional zoning with some use limitations as the expected result of that conditional zoning negotiation.

Council Member Crisp stated the CC properties were there when the housing development was developed and inquired of Mr. Royal as to why they bought into that when the properties were in close proximity to heavy commercial. Mr. Royal responded they understood there was commercial around the area and were not opposed to commercial but wanted conditions to protect themselves so that the commercial developments would not deter individuals from building the neighborhood.

Council Member Arp inquired of Mr. Riddle if he would be willing to work with the community regarding the conditions. Mr. Riddle responded he was willing to work with neighborhood.

**MOTION: Council Member Arp moved to table the case to allow the developer and residents to meet and go through the list of items that have been discussed and bring back for consideration at a later date.**

**SECOND: Council Member Crisp**

Council Member Applewhite inquired if they could huddle in the hallway. Ms. Karen McDonald, City Attorney, responded if there was an interest in the Council to allow them a few moments to see if they could come to some agreement, then Council could certainly do that. She stated that if an agreement could not be made, then it could come

back to Council for a definitive vote consistent with what Mr. Riddle requested.

Consensus of Council was to allow the parties an opportunity to discuss the issues and come to some type of compromise and continue with the remaining agenda items.

**MOTION: Mayor Chavonne moved to be excused from the meeting.**  
**SECOND: Council Member Applewhite**  
**VOTE: UNANIMOUS (10-0)**

Mayor Pro Tem Haire continued with the remaining agenda items and proceeded to Item 4.9.

**4.9 Case P11-40F. Rezone from OI Office and Institutional to LC Limited Commercial District for property on Cliffdale Road (PIN 0417-26-2808), 10+ acres. Owned by Joseph Riddle, III.**

Mr. Scott Shuford, Development Services Director, presented this item. Mr. Shuford showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was subject to the 2003 Glensford Area Study and was rezoned to P2 in accordance with the recommendations of the study in 2005. He stated staff review of the request suggested that the rezoning was inconsistent with the surrounding development pattern. He stated the Zoning Commission and staff recommended denial of the rezoning.

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

Mr. Michael Hannan, 4739 Flintcastle Road, Fayetteville, NC 28314, appeared in opposition and provided background information on the Glensford Area Study. He briefly reviewed the recommendation for the Cliffdale Road tract to rezone from R5 to P2 which would effectively create a balance of equities in the area.

Mr. Jonathan Charleston, Attorney representing the property owner, 201 Hay Street, Fayetteville, NC 28301, appeared in favor. He stated the zoning on the property was downzoned from R5 to P2 and under the UDO was being downzoned again from P2 to O&I. He stated they were trying to preserve the zoning that was on the property before the UDO.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor and stated they needed LC on the property.

Mr. Joe Riddle, property owner, 125 Great Oaks, Fayetteville, NC 28303, appeared in favor and provided background information on the zoning of the property.

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

A question and answer period ensued regarding the zoning restrictions, the Glensford Study, restricting some of the heavier uses, the setback requirements, and preventing foot traffic.

**MOTION: Council Member Arp moved to refer the case back to the Zoning Commission for consideration as a conditional zoning with a LC conditional zoning with allowable uses being trimmed to a closer proximity to P2 uses.**  
**SECOND: Council Member Mohn**  
**VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)**

**4.10 Case P11-29F. Rezone SF-10 Single Family Residential to CD Conservation District for property on Alleghany Road (PIN 0416-37-7799). Owned by Riddle Properties, LLC.**



Mr. Scott Shuford, Development Services Director, stated the next six cases were very similar. He stated all were rezonings from SF-10 to Conservation District and were proposed by the owner of the property. He stated they have since learned that the owner was not interested in the change in zoning because there were opportunities to develop each of the six properties at some level with some form of single-family residential development. He stated the Zoning Commission and staff recommended denial of the rezoning of all six cases.

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

Mr. Neil Yarborough, Attorney representing the Riddle family, 115 E. Russell Street, Fayetteville, NC 28301, appeared in opposition. He stated most of the property would not be developed but were wanting to keep it in its current zoning of SF-10.

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

**MOTION: Council Member Mohn moved to deny the rezoning per the applicant's request.**  
**SECOND: Council Member Arp**  
**VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)**

Ms. McDonald recommended that Items 4.11 through 4.15 be handled together. She stated they were proposing that staff make a brief presentation on all of the cases, open one public hearing for all of the cases, allow speakers to speak, then close the public hearing for all of the cases, and Council make one motion on Items 4.11 through 4.15.

Consensus of Council was to proceed as proposed by staff.

**4.11 Case P11-30F. Rezone SF-10 Single Family Residential to CD Conservation District for property at (PIN 0416-47-0684). Owned by Riddle Properties, LLC.**

Mr. Scott Shuford, Development Services Director, presented this item and showed vicinity maps. He stated the Zoning Commission and staff recommended denial of the rezoning.

**4.12 Case P11-31F. Rezone SF-10 Single Family Residential to CD Conservation District for property at (PIN 0416-49-5192). Owned by Joseph Riddle, III.**

Mr. Scott Shuford, Development Services Director, presented this item and showed vicinity maps. He stated the Zoning Commission and staff recommended denial of the rezoning.

**4.13 Case P11-32F. Rezone SF-10 Single Family Residential to CD Conservation District for property at 3330 Broomsgrove Drive (PIN 9495-11-5899). Owned by March Riddle.**

Mr. Scott Shuford, Development Services Director, presented this item and showed vicinity maps. He stated the Zoning Commission and staff recommended denial of the rezoning.

**4.14 Case P11-33F. Rezone SF-10 Single Family Residential to CD Conservation District for property at Lakeridge Drive (PIN 0405-47-0315). Owned by March Riddle.**

Mr. Scott Shuford, Development Services Director, presented this item and showed vicinity maps. He stated the Zoning Commission and staff recommended denial of the rezoning.

**4.15 Case P11-34F. Rezone SF-10 Single Family Residential to CD Conservation District for property at Alleghany Road (PIN 0408-82-2846). Owned by March Riddle.**

Mr. Scott Shuford, Development Services Director, presented this item and showed vicinity maps. He stated the Zoning Commission and staff recommended denial of the rezoning.

This is the advertised public hearing set for this date and time for Items 4.11 through 4.15. The public hearing was opened.

Mr. Neil Yarborough, Attorney representing the Riddle family, 115 E. Russell Street, Fayetteville, NC 28301, appeared in opposition and requested the rezoning be denied.

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

**MOTION: Council Member Arp moved to deny the rezoning per the applicant's request for Items 4.11 through 4.15.**  
**SECOND: Council Member Hurst**  
**VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)**

**4.16 Case P11-27F. Rezone from OI Office and Institutional to CC/CZ Community Commercial Conditional Zoning for property on Boone Trail Extension at Quiet Cove (PIN 0426-25-5453). Owned by Boone Trail Center, LLC.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was developed as access and parking for an adjoining developed property that was zoned CC. He stated prior to the UDO remapping, the property was zoned P2 because of its potential to access an adjoining street that served office uses. He stated staff would support the rezoning provided such access was precluded and the property owner agreed with the proposed condition. He stated staff review of the request suggested that the rezoning was consistent with the nature of the property and the Comprehensive Plan. He stated the Zoning Commission and staff recommended approval of the rezoning subject to the condition that access to the adjoining street (Quiet Cove) serving office use shall not be allowed.

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

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor.

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

**MOTION: Council Member Davy moved to approve the rezoning with the condition.**  
**SECOND: Council Member Massey**  
**VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)**

**4.17 Case P11-28F. Rezone SF-6 Single Family Residential to MR-5 Mixed Residential for property at 502 Setter Drive and McArthur Road (PIN 0530-30-8380). Owned by Crystal Lake II, LLC.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated staff review of the request suggested that the rezoning was consistent with the surrounding development pattern. He

stated the Zoning Commission and staff recommended approval of the rezoning.

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

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor.

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

**MOTION: Council Member Bates moved to deny the rezoning.**

The motion died due to lack of a second.

**MOTION: Council Member Hurst moved to approve the rezoning.**

**SECOND: Council Member Massey**

A discussion period ensued regarding the effect this would have the school system.

**VOTE: PASSED by a vote of 7 in favor to 2 in opposition (Council Members Bates and Mohn)**

**4.18 Case P11-39F. Rezone SF-10 Single Family Residential to MR-5 Mixed Residential District for property at Portsmouth Drive (PIN 9497-91-3688). Owned by March Riddle.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was located in an area having an entirely single-family development pattern, except for the LC-zoned property to the south. He stated staff review of the request suggested that the rezoning was inconsistent with the surrounding development pattern. He stated the Zoning Commission and staff recommended denial of the rezoning.

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

Mr. Jonathan Charleston, Attorney representing the property owner, 201 Hay Street, Fayetteville, NC 28301, appeared in favor and stated the goal of the property owner was to be able to continue to develop the property at the same level they were able to do it before the UDO. He stated the property was bordered on three sides by multifamily which was what the owner was seeking to do.

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

A question and answer period ensued regarding access to the property through a single-family neighborhood and the zoning of the surrounding properties.

**MOTION: Council Member Applewhite moved to deny the rezoning.**

**SECOND: Council Member Bates**

**VOTE: UNANIMOUS (9-0)**

**4.19 Case P11-42F. Rezone from SF-10 Single Family Residential to OI/CZ Office and Institutional Conditional Zoning for property near Marshall Road between Roxie Avenue and All American Expressway on ramp (PIN 0417-80-0261). Owned by March Riddle.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated that provided certain uses were prohibited and hours

of operation were restricted, staff felt OI development standards would minimize impact on the single-family neighborhood. He stated the Zoning Commission and staff recommended approval of the rezoning subject to the following conditions:

1. Operation shall be prohibited between 7:00 p.m. and 7:00 a.m., all days of the week.
2. Use categories that shall be prohibited at this location are:

Transportation/Communication  
Eating Establishments  
Recreation/Entertainment, Outdoor  
Retail Sales and Services  
Visitor Accommodations  
Waste Related Services

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

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor and stated the property was not usable for single family due to its proximity to the All American Expressway. He stated the property owner agreed with the conditions.

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

**MOTION: Council Member Hurst moved to approve the rezoning with the conditions.**  
**SECOND: Council Member Massey**  
**VOTE: UNANIMOUS (9-0)**

Mayor Pro Tem Haire called for a one-minute recess.

The regular meeting resumed and Mayor Pro Tem Haire continued with Item 4.8.

**4.8 Case P11-41F. Rezone from LC Limited Commercial to CC Community Commercial District for 15+ acres at Sycamore Dairy Road (PIN 0418-53-3255). Owned by Joseph Riddle, III. - CONTINUED**

Mr. Yarborough stated Mr. Riddle and Mr. Charleston negotiated with the community representatives and worked out an agreement. He stated they were going to request that the item be sent back for CZ zoning with a condition that the 27 items of use limitation that were agreed upon would be excluded in the CC/CZ zoning.

Mr. Royal stated discussions were held regarding the buffer. Mr. Shuford explained it was requested that they go out and take a look at the property at the property line between the residential and commercial and advise whether or not the existing vegetation would be the equivalent of the required buffer. He stated the ideal would be to specify exactly what the buffer would be between the two land uses as part of the conditional zoning request.

Mayor Pro Tem Haire inquired if they would be able to settle the case tonight. Mr. Shuford responded in the negative.

**MOTION: Council Member Arp moved to refer the case back to the Zoning Commission as a conditional zoning case to include the 27 items identified as well as the buffer issue.**  
**SECOND: Council Member Crisp**  
**VOTE: UNANIMOUS (9-0)**

**4.20 Case P11-43F. Rezone from MR-5 Mixed Residential, LC and CC Limited and Community Commercial to OI/CZ Office and Institutional Conditional Zoning for property on East Shepherd**

**Street between Roxie Avenue and All American Expressway (PIN 0416-89-5706). Owned by March Riddle.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated that provided certain uses were prohibited and hours of operation were restricted, staff felt OI development standards would minimize impact on the single-family neighborhood. He stated the Zoning Commission and staff recommended approval of the rezoning subject to the following conditions:

1. Operation shall be prohibited between 7:00 p.m. and 7:00 a.m., all days of the week.
2. Use categories that shall be prohibited at this location are:

Transportation/Communication  
Eating Establishments  
Recreation/Entertainment, Outdoor  
Retail Sales and Services  
Visitor Accommodations  
Waste Related Services

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

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor and stated the property owner agreed with the conditions.

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

**MOTION: Council Member Hurst moved to approve the rezoning with the conditions.**  
**SECOND: Council Member Arp**  
**VOTE: UNANIMOUS (9-0)**

**4.21 Case P11-35F. Rezone CD Conservation District to SF-10 Single Family Residential District for property at 2345 Dundle Road (9495-47-0022). Owned by March Riddle.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the Zoning Commission and staff recommended approval of the rezoning.

A question and answer period ensued regarding access to the property.

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

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, appeared in favor.

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

**MOTION: Council Member Crisp moved to approve the rezoning.**  
**SECOND: Council Member Mohn**  
**VOTE: UNANIMOUS (9-0)**

**5.0    ADJOURNMENT**

          There being no further business, the meeting adjourned.

Respectfully submitted,

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JENNIFER K. PENFIELD  
Deputy City Clerk

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ANTHONY G. CHAVONNE  
Mayor

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