

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
MAY 29, 2012
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

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); Wade Fowler (District 8); James W. Arp, Jr. (District 9)

Others Present:

Kristoff Bauer, Interim City Manager
Bradley Whited, Interim Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Tracey Broyles, Budget and Evaluation Manager
Tom Bergamine, Police Chief
Ben Major, Fire Chief
John Kuhls, Human Resource Development Director
Michael Gibson, Parks and Recreation Director
Randy Hume, Transit Director
Rusty Thompson, Engineering and Infrastructure Director
Scott Shuford, Development Services Director
Victor Sharpe, Community Development Director
Ron McElrath, Human Relations Director
Jerry Dietzen, Environmental Services Director
Steven K. Blanchard, PWC CEO/General Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend Mary Owens, Vice President, Fayetteville Cumberland County Ministerial Council.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 APPROVAL OF AGENDA

MOTION: Council Member Hurst moved to approve the agenda with the removal of Items 7.11 and 7.12.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

RECOGNITION

5.0 Recognize the winners of FAST's Bus Rodeo held on May 6, 2012.

Mr. Randy Hume, Transit Director, stated the Fayetteville Area System of Transit (FAST) held a rodeo competition for its bus drivers on May 6, 2012, which tested the skill and knowledge of bus operators and challenged drivers to keep their skills current, while building teamwork among the transit family. He announced Ms. Paula Bowers placed first in the small bus division and congratulated her accomplishment. He also announced that Ms. Bowers placed second at the North Carolina Public Transit Association statewide bus rodeo. He also congratulated Mr. Evan Legans for taking first place in the large bus division. He thanked Council Member Davy for participating in the event and Ms. Melissa Moses for coordinating the event.

6.0 CONSENT

MOTION: Council Member Fowler moved to approve the consent agenda with the exception of Item 6.1.

SECOND: Council Member Crisp
VOTE: UNANIMOUS (10-0)

- 6.1 Pulled for discussion by Council Member Hurst.**
- 6.2 Case No. P11-70F. Rezoning from SF-6 Single Family Residential and CC Community Commercial District to HI Heavy Industrial Conditional District, or a more restrictive district, on property located at 1326 Sapona Road. Containing 14.8 acres more or less and being the property of Thomas Cooper, Jr.**
- 6.3 Case No. P12-12F. Rezoning from SF-10 Single Family Residential District to CC/CZ Community Commercial Conditional District, or a more restrictive district, on properties located at 4950 Redwood Drive. Containing 0.24 acres more or less and being the property of Charles Singletary and Louise Singletary (Deceased).**
- 6.4 Case No. P12-19F. Rezoning from SF-10 Single Family Residential to CC Community Commercial District, or a more restrictive district, on property located Lake Valley Drive and across All American Freeway. Containing 0.34 acres more or less and being the property of Suite Development of FNC, LLC.**
- 6.5 Resolution accepting state revolving loan offer to construct the Edgewater/Northview Sewer Main Relocation Project.**

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO ACCEPT A STATE LOAN OFFER UNDER THE NORTH CAROLINA WATER REVOLVING LOAN AND GRANT ACT OF 1987. RESOLUTION NO. R2012-020.

- 6.6 Approval of amendment to DOT grant for Cape Fear River Trail -Phase 2.**
- 6.7 Special Revenue Fund Project Ordinance 2012-17 (FY 11 Federal Homeland Security Grant).**

The ordinance established the budget for the FY 11 Federal Homeland Security Grant awarded to the Fire Department through the North Carolina Department of Crime Control and Public Safety Division of Emergency Management. The purpose of the \$25,000.00 grant was to provide funding for equipment and training to be used on-scene by first responders to prepare for a threatened or actual weapon of mass destruction event, domestic terrorist attacks, major disasters and other emergencies to protect human life, property and the environment.

6.8 Tax refunds of greater than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Sodhi, Vimal K. & wife, Neena	2010	Corrected Assessment	\$296.55
Cherry, Karin J.	2007-2010	Corrected Assessment	102.08
Total			<u>\$398.63</u>

6.1 Amending Chapter 6, Animals and Fowl

This item was pulled for discussion by Council Member Hurst.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE REPEALING CHAPTER 6, ANIMALS AND FOUL, AND VARIOUS SECTIONS OF CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, AND CHAPTER 18, PARKS AND RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2012-009.

MOTION: Council Member Fowler moved to disapprove amending Chapter 6, Animals and Fowl.

SECOND: Council Member Bates

VOTE: FAILED by a vote of 4 in favor to 6 in opposition (Council Members Massey, Davy, Arp, Chavonne, Hurst, and Applewhite)

MOTION: Council Member Applewhite moved to approve amending Chapter 6, Animals and Fowl.

SECOND: Council Member Hurst

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Bates, Crisp, and Fowler).

7.0 PUBLIC HEARINGS

7.1 Public hearing on the recommended Fiscal Year 2012-2013 City and Public Works Commission budgets.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Jose Cardona, 233 Addison Street, Fayetteville, NC 28309, appeared in opposition of the recommended Fiscal Year 2012-2013 City budget and stated it was wrong to use taxpayers' money to fund nonprofit organizations.

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

No action was taken on this item.

7.2 Text amendment request to amend City Code Section 30-5, Development Standards, to add standards for fire-flow and fire hydrant locations in accordance with Appendices B and C of the North Carolina Fire Code as amended.

Mr. Scott Shuford, Development Services Director, presented this item and stated the minimum fire-flow standards were necessary to ensure public safety and to maintain and/or enhance the City of Fayetteville Fire Department's ISO rating.

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.

ORDINANCE AMENDING CHAPTER 30-5 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE TO ESTABLISH A NEW SECTION 30-5.O ESTABLISHING MINIMUM FIRE-FLOW STANDARDS. ORDINANCE NO. S2012-010.

MOTION: Council Member Bates moved to adopt the ordinance.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

7.3 Amend City Code Chapter 30, Articles 4 and 9, to create, classify, and set special standards for transitional housing, and establish conditions to allow modification of the separation standards for certain group living facilities in business zoning districts through the special use permit process.

Mr. Scott Shuford, Development Services Director, presented this item and stated the amendment was prompted by a request to establish a halfway house on Ramsey Street in a commercial location. He stated the location appeared appropriate for the use, but a separation standard had not been met. He briefly reviewed and explained the separation requirement of halfway houses. He stated staff was proposing maintaining the separation requirements in residential districts, but allowing the separation standards to be reduced or waived in business districts through the special use permit process. He stated the special use permit process would allow individualized consideration of a particular group living or institutional facility's relationship to and/or concentration of similar facilities based on a variety of factors unique to the property, such as topographical or transportation facility barriers (such as rivers, railways, and major highways); degree or extent of separation from other such uses; and surrounding neighborhood characteristics (including proximity to social services and public transportation). Additionally, he stated a Transitional Housing use was needed because group homes, halfway houses, therapeutic homes, and assisted living facilities all addressed the housing needs of persons transitioning from confinement circumstances or suffering from various disabilities. He stated Transitional Housing would meet the housing needs of homeless persons who may not be transitioning from confinement circumstances or suffering from various disabilities. He advised the Planning Board and staff recommended adoption of the ordinance amendment.

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 requested the Council approve the amendment.

Mr. Charles Morris, 831 Arsenal Avenue, Fayetteville, NC 28302, appeared in favor and stated the amendment would protect the residential zoning.

Mr. David Evans, 3280 Lillian Place, Fayetteville, NC, appeared in favor and stated he worked in real estate and the amendment would be an advantage.

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

A brief discussion period ensued.

MOTION: Council Member Haire moved to deny the proposed text amendment.

SECOND: Council Member Davy

VOTE: FAILED by a vote of 3 in favor (Council Members Haire, Davy, and Massey) to 7 in opposition

MOTION: Council Member Bates moved to approve the text amendment as presented.

SECOND: Mayor Pro Tem Arp

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Haire)

7.4 Case No. P12-13F. Request for a Special Use Permit for halfway house in a Community Commercial District, on property located at 3611-B Ramsey Street.

Containing a portion of 5.63 acres more or less and being the property of Cedar Creek Crossing West 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 Special Use Permit was requested to open a halfway house on the property. He explained the location currently would not meet the separation requirement between halfway houses and large or small group homes and therefore the halfway house could not locate on the property. He advised the Zoning Commission and staff recommended approval as presented by staff and upon a finding that all of the following standards were met:

- 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 district(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. John Tyson, 101 Hay Street, Fayetteville, NC 28301, appeared in favor. He stated he and his wife were the owners of the building and that the building had a steel roof and masonry wall and met all the safety requirements. He stated it was a modern secure building with 400 parking spaces. He requested the Council approve the Special Use Permit request.

Mr. Charles Morris, 831 Arsenal Avenue, Fayetteville, NC 28302, appeared in favor and stated the amendment would protect the residential zoning, the group home would be an opportunity for employment, and encouraged the Council to approve the Special Use Permit.

Mr. David Evans, 3280 Lillian Place, Fayetteville, NC, appeared in favor and stated he worked in real estate and the amendment would be an advantage. He stated Mr. and Mrs. Tyson had invested a lot of money into the building and the proposed group home would be a class act operation, and stated it was a perfect fit.

Ms. Heather Andrews, 3519 Medical Drive, Columbia, SC 29203, appeared in favor and stated she was a senior partner representing the Alston Wilkes Society. She provided a power point presentation along with photographs of the three group home facilities her company manages. She stated the facility would require 15 to 20 full-time staff.

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

Council Member Applewhite inquired if the facility would be for males only. Ms. Andrews responded the facility would be co-ed and provide a secure separation and the female section would be completely self-contained.

Council Member Applewhite inquired what type of offenders would be offered accommodation at the facility. Ms. Andrews responded bank robbers and money launders and that there would not be violent or sex offenders. She provided an overview of the day-to-day operations and staffing schedules.

Council Member Applewhite inquired if a community meeting had been held to notify residents in the surrounding areas. Mr. Harmon responded a community meeting was not required. Mr. Tyson stated he had not been notified by any residents or businesses in opposition to the special use permit request.

MOTION: Council Member Bates moved to approve the special use permit request.

SECOND: Council Member Crisp

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Applewhite and Haire)

7.5 Case No. P12-21F. Request for a Special Use Permit to allow a recycling/salvage yard in an HI district on property located at 525 S. King Street. Containing 24.47 acres more or less and being the property of Advanced Internet Technologies.

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 Special Use Permit was requested to allow for the operation of an auto recycling/salvage yard. He stated as a recycling center, each auto that was brought in would first be stripped and drained of most hazardous materials. He explained the request was to be able to provide a capacity for up to 1,346 autos for recycling. He further explained the facility would also have two buildings, one for retail sales and the other for the recycling of parts. He advised the Zoning Commission and staff recommended approval as presented by staff and upon a finding that all of the following standards were met:

- 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 district(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. Jonathan Alpher, 636 Dundee Drive, Wilmington, NC 28405, appeared in favor. He stated he opened Pick n' Pull last year just outside of Wilmington and locating the same type facility in Fayetteville would provide 15 to 20 full-time jobs with benefits, and requested the Council approve the Special Use Permit.

Mr. Marc Vanover, 1021 Ringlett Drive, Wilmington, NC, appeared in favor. He stated he was the general manager of Pick n' Pull and described the general operations of the facility with photographs.

Mr. Neil Yarborough, 116 E. Russell Street, Fayetteville, NC, representing the applicant, appeared in favor and explained the facility was a recycling business. He requested the Council

approve the permit request.

Mr. Mike Thompson, 727 Treewood Drive, Fayetteville, NC, appeared in opposition and stated the business was a junkyard. He expressed concern for the volume of business which would generate a large amount of traffic in the residential neighborhood. He requested the Council deny the request.

Mr. Martin Hendrix, 2919 Amelia Drive, Fayetteville, NC 28304, appeared in opposition and stated he was speaking to the Council to defend the Cape Fear River. He stated the Cape Fear River was a treasure and requested the Council vote "no" to protect the neighborhood and the river.

Ms. Becky Arrington, 4421 Atlantic Avenue, Fayetteville, NC 28304, appeared in opposition and expressed concern for the increase in traffic, safety issues for the neighborhood children, and environmental issues.

Ms. Nellie Mazingo, 407 S. King Street, Fayetteville, NC 28304, appeared in opposition and expressed concern for the increase in traffic. She stated she and her neighbors were proud of their neighborhood and did not want a junkyard in it.

Mr. Tim Evans, 2256 Cypress Lakes Road, Hope Mills, NC, appeared in opposition and expressed concern for the protection of the river and requested a 100-foot buffer be included.

Mr. Jose Cardona, 233 Addison Street, Fayetteville, NC, appeared in opposition and expressed concern for the area in question should flooding occur. He stated there had been findings of a lot of dead bodies in the river lately.

Mr. Christopher Evans, 2457 Gainey Road, Fayetteville, NC, appeared in opposition and expressed concern should flooding occur. He read quotations from Oliver Wendel Holmes, President Lyndon Johnson, and Paul Newman (actor).

Mr. Hosea Ray, 703 Kooler Circle, Fayetteville, NC, appeared in opposition and expressed concerns pertaining to increased traffic volume, hazardous chemical use, and protection of the Cape Fear River.

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

A question and answer period ensued with Mr. Vanover, General Manager of the Leland Pick n' Pull facility.

MOTION: Council Member Davy moved to deny the request for a special use permit due to concerns from area residents and the possible negative impact to the Cape Fear River, and to direct staff to go back and research information for a possible overlay in the area.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (10-0)

7.6 Case No. P12-15F. Request for a Special Use Permit for a dog kennel on property located at 7351 Stoney Point Road. Containing 4 acres more or less and being the property of Ronald and Joy Whitehead.

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 Special Use Permit was initially requested to open a dog park and kennel and the owners had since dropped the request for a dog park. He stated the owners originally submitted a site plan with two possible locations for the facilities, listed as A and B on the map in the owner's information packet. He stated the owners along with the Zoning Commission and staff ruled out option A on the map and option B was being recommended by the Zoning Commission for approval. He explained animal care uses would have to meet special requirements in order to be developed. He stated the applicant withdrew the request for a private dog park and had taken the option A location for the kennel off of the request. He briefly reviewed the animal care uses. He advised the Zoning Commission and staff recommended approval for a dog kennel as presented by staff and upon a finding that all of the following standards were met:

- 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 district(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. Wesley Whitehead, 6427 Clifffdale Road, Fayetteville, NC 28314, appeared in favor and stated his parents owned the property located at 7351 Stoney Point Road. He provided a power point presentation.

Ms. Joy Whitehead 7351 Stoney Point Road, Fayetteville, NC 28306, appeared in favor and stated she had lived on the property in excess of 20 years and was a true animal lover. She requested the Council approve the request for a Special Use Permit.

Ms. Elizabeth David, 7376 Stoney Point Road, Fayetteville, NC 28306, appeared in favor and stated she was a neighbor and friend of the applicant, and that Ms. Whitehead was a true dog lover.

Mr. Carlos Pacheco, 7040 Pleasant Street, Fayetteville, NC 28306, appeared in opposition and expressed concerns regarding the danger of loose dogs and traffic increase and objected to having a dog kennel.

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

MOTION: Council Member Crisp moved to approve the Special Use Permit.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

7.7 Case No. P12-26F. Request for a Special Use Permit for a drive-thru in a commercial transition area on property located at 6915 Clifffdale Road. Containing 0.34 acres more or less and being the property of SVP Construction and Quality Oil Company.

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 Special Use Permit was requested to allow a drive-through on commercial property adjacent to a SF-10 single-family detached housing development. He explained when fully developed, the property would have a gas station and drive-through car wash. He further explained the car wash, located on a separate property, must be approved through the Special Use Permit process. He advised the Zoning Commission and staff recommended approval as presented by staff and upon a finding that all of the following standards were met:

- 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 district(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. Ms. Lori Epler, P.O. Box 53787, NC 28305, representing Larry King and Associates, appeared in favor and stated she was available for any questions regarding the site plan.

Mr. Ron Sutfin, 1540 Silas Creek Parkway, Winston-Salem, NC 27127, representing Quality Oil Company, appeared in favor and stated he was available to answer questions on the development of the gas station and car wash.

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

MOTION: Council Member Applewhite moved to approve the request for a special use permit.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

7.8 Case No. P12-28F. Initial zoning from CD – Conservation District, R5A - Residential, R10 - Residential, RR – Rural Residential (County) to CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential or a more restrictive district, on property located between Dundle and Stoney Point Roads in the area known as Gates Four and the surrounding newly annexed areas. Containing 780 acres more or less.

Due to the recent action taken in the legislator regarding Gates Four, this item was removed from the agenda.

7.9 Case No. P11-23F. Initial zoning from R40 Residential (County) to SF-15/CZ Single Family Conditional District, or a more restrictive district, on property located on Underwood Road. Containing 116.77 acres more or less and being the property of John Koenig Estate Builders LLC.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was being petitioned for annexation into the City in order to develop single-family residential and was located partially inside the City's MIA (Municipal Influence Area). He stated the current zoning of R40 in the county would allow for 111 lots. He explained under the Council's old policy, the property would come into the City with AR zoning. He further explained the City's new policy would allow the applicant to request the zoning district that they would like to have in the City. He advised if the initial City zoning were AR, the owner would be allowed to develop up to 250 lots on the property. He stated the owner would like to come into the City under a SF-15 Residential Conditional district which without any limiting conditions would allow up to 345 units or 368 units with a zero lot line. He stated the owner's only condition would be to limit the number of allowed lots to 260, 10 more than would be allowed in an AR district. He advised the Zoning Commission and staff recommended that if the property were annexed, it should become a SF-15 Conditional district based on SF-15 Conditional (1) only having 10 more lots than what would be allowed in the AR District, (2) being one of the City's low-density zoning districts, and (3) allowing flexibility in lot sizes and setbacks under zero lot line that AR would not. He further advised the Zoning Commission and staff recommended approval of the initial zoning to SF-15/CZ as presented by staff if the property were annexed.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. John Koenig, 1763 Wilmington HWY, Fayetteville, NC 28305, appeared in favor and stated he was the developer and was leaving a 5 acre park in the northeast corner of the property. Mr. Richard Wiggins, 202 Fairway Drive, Fayetteville, NC, representing Mr. Koenig, appeared in favor and stated this was a well-planned development.

Mr. Chris Pusey, 409 Chicago Drive, Fayetteville, NC 28305, consultant representing Mr. Koenig, appeared in favor and stated he would be happy to address any questions.

Ms. Annie Orness, 1512 Dunbrook Court, Eastover, NC 28312, appeared in opposition and stated she bought her home in a rural setting and allowing the development would be a travesty.

Mr. John Jackson, Attorney for the Eastover Sanitary District, 115 E. Russell Street, Fayetteville, NC 28312, appeared in opposition and stated the area was rural.

Mr. Lawrence Buffaloe, 1531 Middle Road, Eastover, NC 28312, appeared in opposition and expressed concerns for environmental issues, potential flooding, and inability of the land to cope with stormwater and run-off.

Mr. Matthew Wilson, 1513 Dunbrook Court, Eastover, NC 28312, appeared in opposition and stated this was a bad idea and the County had voted unanimously to disapprove the rezoning in February 2012. He expressed concerns for the school district, limited medical facilities, and crime.

Ms. Morgan Johnson, 1610 Beard Road, Wade, NC 28395, appeared in opposition and stated his constituents had requested he represent them and requested the Council to deny the request for rezoning. He stated Eastover was viewed as the front door to Fayetteville and would like it to remain that way.

Ms. Liz Reeser, 2308 Furlong Place, Eastover, NC 28312, appeared in opposition and expressed concern for increased traffic in the area. She stated she had served on the Eastover Land Use Committee and requested the Council deny the request.

Ms. Barbara Geode, 1507 Heatherly Court, Eastover, NC 28312, appeared in opposition and stated she and her husband were new residents to the state of North Carolina. She addressed potential problems pertaining to water, flooding, drainage, and ecological issues and concluded by stating she objected to annexation.

Council Member Crisp inquired if the property was in the limits of Eastover. Mr. Harmon responded in the negative and stated the property was in a no-man's land in the County, a partial amount of the land was within the Fayetteville's Municipal Area of Interest (MAI) and Eastover was not permitted to annex for 15 years, but that was not the case for Fayetteville. There being no one further to speak, the public hearing was closed.

A discussion period ensued pertaining to storm water, a 5 acre tract for parkland, value of homes in the area, and average square feet of homes.

Mr. Kristoff Bauer, Interim City Manager, stated that parkland dedication was a new requirement in the UDO.

MOTION: Council Member Davy moved to approve the rezoning to SF 15/CZ.

SECOND: Council Member Hurst

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

7.10 Public hearing to consider a petition requesting annexation for a noncontiguous area known as Lexington Woods Subdivision.

Mr. David Nash, Planner II, presented this item. He provided background information on the petition and briefly reviewed the location of the property and surrounding area. He stated the land in the area was currently vacant, but the owner was proposing to develop the land into a single-family detached residential subdivision with a maximum of 260 lots and part of the area was located in the Fayetteville MIA. He stated all of the area was in the Eastover Sanitary District. He stated the owner had originally attempted to get the property rezoned in the County to allow more units, but was turned down by the County, and therefore decided to petition for annexation into the City. He explained the owner was requesting that if the area were annexed, that it be initially zoned in the City as SF-15, with the condition that the area would contain no more than 260 units. He further explained that under the SF-15 zoning, the area could contain as many as 345 units assuming zero lot line regulations were not used. He explained if zero lot line regulations were used, the area could contain as many as 368 units. He advised staff recommended adoption of the ordinance with an effective date of May 29, 2012, and establish the initial zoning as SF-15 with the condition that no more than 260 units be built in the property.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Liz Reeser, 2308 Furlong Place, Eastover, NC 28312, appeared in opposition and stated she was disappointed the Council had approved the rezoning.

Mr. John Jackson, 115 E. Russell Street, Fayetteville, NC 28301, appeared in opposition and stated the addition of a subdivision would drive out the local "Mom and Pop" businesses, and expressed concerns regarding providing water and sewer services.

Mr. Mathew Wilson, 1513 Dunbrook Court, Eastover, NC 28312, appeared in opposition and inquired who would benefit from the annexation.

Mr. Lawrence Buffaloe, 1531, Middle Road, Eastover, NC 28312, appeared in opposition and inquired how the property could be re-zoned before it was annexed.

Mr. Morgan Johnson, 1610, Beard Road, Wade, NC 28395, appeared in opposition and stated he believed this type of annexation would cause fragmentation of the existing community and would downgrade the quality of life.

Ms. Marilyn Johnson, 1610 Beard Road, Wade, NC 28395, appeared in opposition and stated annexation would divide the community.

Ms. Annie Orness, 1512 Dunbrook Court, Eastover, NC 28312, appeared in opposition and expressed concerns regarding increased traffic, increased street lighting, and the amount of homes that sit on the market unable to sell.

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

MOTION: Council Member Davy moved to approve the annexation with an effective date of May 29, 2012.

SECOND: Council Member Hurst

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Bates)

7.11 Case No. P11-24F. Initial zoning from C3 Commercial (County) to CC Community Commercial District, or a more restrictive district, on property located at 3836 Cumberland Road. Containing 0.65 acres more or less and being the property of Mary and Jay Rivers.

This item was removed from the agenda.

7.12 Public hearing to consider a petition requesting annexation for a noncontiguous area known as the Rivers Property.

This item was removed from the agenda.

7.13 Case No. P12-20F. Rezoning from SF-6 Single Family Residential to LC Limited Commercial District, or a more restrictive district, on property located at 535 & 541 Bunce Road. Containing 2.21 acres more or less and being the property of Horizon's Property Management, LLC [NC Recommended].

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. Mr. Harmon stated the properties in question were located near the intersection of Bunce Road and Cliffdale Road. He stated currently there was a daycare center on one property and an office on the other. He stated the owner had indicated they would like to put a mower dealership with retail sales and service on the property. He explained this would be a straight rezoning and if approved any of the permitted uses in the district could go on the properties.

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

Mr. Larry Boney, 41165 Fern Creek, Fayetteville, NC 28314, appeared in favor and stated the property used to belong to his parents and was used as a day care center. He stated he would like to use the property for retail.

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

MOTION: Council Member Applewhite moved to approve the rezoning to NC.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

7.14 Case No. P12-22F. Rezoning from SF-6 Single Family Residential to CC/CZ Community Commercial Conditional District, or a more restrictive district, on property

located at 408 Waddell Drive. Containing 1.34 acres more or less and being the property of John and Pearlie Hodges.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the owner of the property had requested a rezoning to Community Commercial Conditional in order open a counseling center for behavioral health and youth/adolescent sexual health problems. He stated the property was located at the end of Waddell Drive in an area that was currently exclusively residential. He stated if the Commission was inclined to rezone the property, staff would recommend that they go no higher than an OI Office & Institutional district. He stated the conditions offered by the owner were to limit the allowed uses in the CC to only that of counseling services as described in the applicant's packet.

He stated staff recommended denial of the CC/CZ district based on (1) the property being completely surrounded by residential development, (2) a strong case could be made that this was an illegal spot zoning, and (3) the Land Use Plan calling for residential development. He also stated the Zoning Commission recommended approval of a more restrictive OI district based on the community need and the facility being located in a mostly undeveloped area of Waddell Drive.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Pearlie Hodges, 408 Waddell Drive, Fayetteville, NC, property owner, appeared in favor and requested the property be rezoned in order for her to operate a counseling center. She stated she was a clinical counselor and the majority of her patients would be soldiers from Fort Bragg. There being no one further to speak, the public hearing was closed.

Council Member Crisp inquired where the patients would park. Ms. Waddell responded the parking spaces would be put within the boundaries of the property.

MOTION: Council Member Haire moved to rezone the property to OI/CZ.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

7.15 Case No. P11-38F. Rezone SF-6 Single Family Residential to MR-5/CZ Mixed Residential Conditional District for property at 2377 Dundle Road. Owned by March Riddle.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property owner was seeking a conditional zoning approval to allow him to develop in the same manner as he could prior to the UDO taking affect. He stated the conditions offered by the owner were no more than the former R-6 density (45 units or 54 units zero lot line). He advised the Zoning Commission and staff recommended approval based on the principles of the UDO remapping project.

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 this was in keeping with the Land Use Plan and there was no opposition.

Mr. Joe Riddle, 125 Great Oaks Drive, Fayetteville, NC, appeared in favor and stated the property was adjacent to a trailer park. He stated he owns the property along with his sisters. There being no one further to speak, the public hearing was closed.

MOTION: Council Member Crisp moved to approve the rezoning.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Uninhabitable Structures Demolition Recommendation

Mr. Scott Shuford, Development Services Director, presented this item with the aid of a power point presentation and multiple photographs of the properties. He stated staff recommended adoption of the ordinances authorizing demolition of the structures. He reviewed the following demolition recommendations:

4606 Blanton Road

Mr. Shuford stated the structure was a residential home that was inspected and condemned as a dangerous structure due to a fire on June 27, 2011. He stated the owner of the property was currently pursuing some complicated reconstruction of the home and staff was requesting the property not be considered for demolition at this time.

Council Member Bates inquired if there was a time limit for the repairs. Mr. Shuford responded staff would be monitoring the progress of the repairs to ensure they were completed in a timely manner.

Council Member Applewhite inquired if staff could provide Council with an update of past properties that were granted an extension of time for repairs. Mr. Shuford responded staff would provide that information.

211 Deep Creek Road

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure in August 2011. He further stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He noted to date there were no repairs to the structure and the utilities were disconnected in August 2010. He further noted within the past 24 months there had been 16 calls for 911 service and 6 code violations with no pending assessments. He advised the low bid for demolition of the structure was \$1,789.00.

1156 Fay Hart Road

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure in September 2011. He further stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He noted to date there were no repairs to the structure and the utilities were disconnected in August 2010. He further noted within the past 24 months there had been 37 calls for 911 service and 7 code violations with pending assessments of \$565.41 for lot cleaning. He advised the low bid for demolition of the structure was \$1,395.00.

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (211 DEEP CREEK ROAD, PIN 0437-30-6837). ORDINANCE NO. NS2012-022.

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (1156 FAY HART ROAD, PIN 0436-27-6244). ORDINANCE NO. NS2012-023.

MOTION: Mayor Pro Tem Arp moved to approve the demolitions by adopting the ordinances.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

9.0 ADMINISTRATIVE REPORTS

9.1 Tax refunds of less than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
McKnight, Dennis James	2010	Corrected Assessment	<u>\$6.62</u>
			<u>\$6.62</u>

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 11:36 p.m.