

**FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
LAFAYETTE ROOM
MAY 23, 2012
4:00 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); D. J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7) (arrived at 4:25 p.m.); James W. Arp, Jr. (District 9) (via telephone)

Absent: Council Member Wade Fowler (District 8)

Others Present:

Kristoff Bauer, Interim City Manager
Brad Whited, Interim Assistant City Manager
Karen McDonald, City Attorney
Brian Meyer, Assistant City Attorney
Jerry Dietzen, Environmental Services Director
Craig Hampton, Special Project Director
Scott Shuford, Development Services Director
Frank Lewis, Senior Code Enforcement Administrator
Bart Swanson, Housing and Code Enforcement Division Manager
Karen Hilton, Planning and Zoning Division Manager
David Nash, Planner II
Craig Harmon, Planner II
Members of the Press

Mayor Chavonne called the meeting to order at 4:00 p.m.

City staff presented the following items scheduled for the Fayetteville City Council's May 29, 2012, agenda:

CONSENT ITEMS

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.

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 explained the applicant was requesting the property be rezoned for use as a salvage yard. He further explained the property was subject to the City's amortization requirements for salvage yards. He stated if the applicant was not successful in getting the property rezoned, he would be forced to end the operations on the property. He advised the applicant offered the following conditions to the request:

- 1.Limit HI uses to Auto Salvage Yard, Heavy Auto Repair, Wrecker Service and Indoor Storage (areas shown as A + B options on the map).
- 2.Limit permanent auto storage areas to no closer than 200 feet from Sapona Road.
- 3.Installation of perimeter buffering as required by the development ordinance.

Mr. Harmon further advised the Zoning Commission and staff recommend approval of HI/CZ district based on the following:

- 1.Although the Land Use Plan calls for medium density residential, the property has been used as a salvage yard for 40 plus years.
- 2.Mainly separated from surrounding residential uses.
- 3.Size of the area requested for rezoning has been reduced (now only includes A + B on the map).
- 4.Conditional Zoning will prevent other HI uses in the future.

5.Adjoins other HI zoning.

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).

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 explained the applicant was requesting the rezoning in order to expand the existing auto sales lot at the corner of Redwood and Hope Mills Roads. He noted there was a residential neighborhood adjacent to part of the lot and the impact of light trespass should be minimized by both the UDO standards and the privacy fence being erected by the owner. He advised the following conditions were offered by the owner:

- 1.Limit the allowed uses in the CC to only that of auto sales.
- 2.Install a 6-foot tall privacy fence where abutting residential zoning.
- 3.Install a 6-foot type D buffer on residential side of fence with plantings.

He further advised the Zoning Commission and staff recommended approval of a more restrictive LC/CZ district based on (1) the property having Commercial Zoning on two sides, (2) the property having Office and Institutional zoning on a third side, and (3) the Land Use Plan/Hope Mills Road Plan both calling for commercial use.

Case No. P12-19F. Rezoning from SF-10 Single Family Residential to CC Community Commercial District, or a more restrictive district, on property located on 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.

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 explained the applicant would like to build a hotel on the property. He advised the Zoning Commission and Staff recommended approval of the CC district based on (1) the property having Commercial Zoning on two sides, (2) the property having a major highway on the third side, (3) the Land Use Plan calling for heavy commercial, and (4) the property being a small isolated remnant from construction of the expressway.

PUBLIC HEARINGS

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 explained the proposed amendments were contained in the State Fire Code Appendices B and C which the City had not formally adopted. He stated while the Public Works Commission standards met or exceeded the requirements of Appendices B and C, the same standards were not necessarily being met in outlying areas in the Municipal Influence Area where service may be provided by other utilities. He further stated the amendment would ensure that the minimum fire flow and fire hydrant location standards of the NC Fire Code would be met in areas where the utility providing the service had less restrictive utility design standards. He advised the proposed amendment would meet all criteria for evaluating amendments to the development standards and the Fire Department supported the amendment. He further advised the Planning Board and staff recommended adoption of the ordinance amendment.

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.

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.

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 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.

Case No. P12-15F. Request for a Special Use Permit for 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 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.

Case No. P12-26F. Request for a Special Use Permit for a drive-thru in a commercial transition area on property located at 6915 Cliffdale 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 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.

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.

Public hearing to consider a petition requesting annexation for a non-contiguous 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.

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.

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.

Case No. P11-38F. Rezoning from SF-6 Single Family Residential to MR-5/CZ Mixed Residential Conditional District for property located at 2377 Dundle Road and being the property of 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.

MOTION: Council Member Haire moved to go into closed session for consultation with the City Attorney regarding an attorney-client privileged matter.

SECOND: Council Member Massey

VOTE: UNANIMOUS (9-0)

The regular session recessed at 5:20 p.m. The regular session reconvened at 5:40 p.m.

MOTION: Mayor Pro Tem Arp moved to go into open session.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

MOTION: Council Member Crisp, to ensure public confidence in the Police Department and Police Officers and to refute the racial allegations made by Mr. Simmons, moved that the video of the May 21, 2012, traffic stop be released.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

There being no further business, the meeting adjourned at 5:42 p.m.