

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
AUGUST 22, 2011  
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); 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  
Lisa Smith, Chief Financial Officer  
Victor Sharpe, Community Development Director  
John Kuhls, Human Resource Development Director  
Scott Shuford, Development Services Director  
Frank Lewis, Senior Code Enforcement Administrator  
Rusty Thompson, Engineering and Infrastructure Interim Director  
Bart Swanson, Housing and Code Enforcement Division Manager  
Craig Harmon, Planner II  
David Nash, Planner II  
Randy Hume, Transit Director  
Jeff Thompson, Fayetteville Advisory Committee on Transit  
Rebecca Rogers-Carter, Management Services Manager  
Jennifer Lowe, Public Information Officer  
Nathan Walls, Public Information Specialist  
Members of the Press

**1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order.

**2.0 INVOCATION**

The invocation was offered by Dr. George Blackwell, Retired Secretary of Christian Education, A.M.E. Zion Church International, and a retired pastor.

**3.0 PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the American Flag was recited by those in attendance.

**4.0 APPROVAL OF AGENDA**

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

**SECOND: Council Member Massey**

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

**5.0 ANNOUNCEMENTS AND RECOGNITIONS**

There were no announcements or recognitions.

**6.0 CONSENT**

**MOTION: Council Member Bates moved to approve the consent agenda.**

**SECOND: Council Member Hurst**

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

**6.1 Case No. P11-21F. Request for rezoning from R10 Residential District to OI Office and Institutional District in the Hospital Area Overlay District on property located at 3410 Village Drive. Containing 0.50 acres more or less and being the property of Michael A. Leke.**

**7.0 PUBLIC HEARINGS**

**7.1 Case No. P11-11F. Request for rezoning from SF-6 Residential District to LC Limited Commercial District on property located at 120 Lock Trail. Containing 0.39 acres more or**

**less and being the property of Anna B. Singleton.**

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 remodeling business at the corner of Cedar Creek and Clinton Roads wished to use the property as additional parking for its existing building and new warehouse. He stated the property currently had a rental house that would be removed if the rezoning were approved. He stated the Zoning Commission and staff recommended approval of the rezoning.

Council Member Bates inquired how much traffic would be generated. Mr. Harmon responded the location would mostly be for storage and would not be a heavy traffic area.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Gary L. Strickland, 1409 Clinton Road, Fayetteville, NC 28312, appeared in favor and stated the traffic generated by customers would be on the Clinton Road side which would be a parking area. He stated there would be no parking in the rear of the property.

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

**MOTION: Council Member Davy moved to rezone as presented by staff.**

**SECOND: Council Member Massey**

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

Mayor Chavonne stated he was informed that he overlooked an announcement and recognized Mr. Ron McElrath, Human Relations Director. Mr. McElrath announced on behalf of the North Carolina Human Relations Commission, in collaboration with local Human Relations Commissions, Governor Beverly Purdue would sign a proclamation declaring September as Diversity Month. He stated the proclamation would encourage citizens in every city and community to spend time with someone of a different race, religion, ethnicity, etc.

**7.2 Case No. P11-12F. Request for a Special Use Permit (SUP) for a child care center in the OI Office/Institutional zoning in the Hospital Area Overlay District, on property located at 3401 Village Drive and 1802 Conover Drive. Containing 0.36 and 0.48 acres more or less and being the property of Kavv, LLC Series 4 and Edward D. Lowry.**

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 applicant intended to use both the existing office building fronting Village Drive and the home behind it on Conover Drive for the Child Care Center. He stated the closest child care center was over 1,000 feet away and the requirement under the UDO was a minimum 500-foot separation. He stated the Zoning Commission recommended approval of the SUP based upon the following findings of fact:

- 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.
- Council Member Applewhitie inquired if there would be more than one entryway onto the site. Mr. Harmon responded there would be a circular drive that would entrance and exit on Conover Drive.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Arthur Duke, 151 Buckingham Avenue, Fayetteville, NC 28301, was sworn in by the Deputy City Clerk. He appeared in favor and requested Council approve the rezoning.

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

**MOTION: Council Member Hurst moved to approve the Special Use Permit based on the findings of fact.**

**SECOND: Council Member Arp**

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

**7.3 Case No. P11-13F. Request for rezoning from SF-10 Residential District to MR-5/CZ Residential District/Conditional Zoning district to develop 78 duplex apartments on property located North of Fisher Road. Containing 8.29 acres more or less and being the property of Willie J Sigler and wife, Gabrie.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon stated that staff was requesting that this rezoning be tabled. He stated it was a conditional zoning, a site plan was involved, and they wanted to make sure the site plan had the chance to go through the Technical Review Committee and meet all the requirements of the UDO before the project went forward.

Discussion ensued regarding the public hearing. Ms. Karen McDonald, City Attorney, explained that due to the item being advertised as a public hearing, Council would have to make a motion to table it.

**MOTION: Council Member Arp moved to table the case until a site plan was submitted.**

**SECOND: Council Member Massey**

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

**7.4 Case No. P11-15F. Request for rezoning from HI Heavy Industrial District to MR-5 Mixed Residential District on properties located along Grace Avenue (east side of Old Wilmington Road). Containing 1 acre more or less and being the property of the City of Fayetteville.**

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 properties were owned by Habitat for Humanity and they were wanting to build new homes on the vacant lots. He stated MR-5 zoning would be consistent with all other residential districts in the area. He stated some of the existing lots in the request would be nonconforming in size in an SF-6 zoning district. He stated the Zoning Commission and staff recommended approval of the rezoning to Mixed Residential 5.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Ann Griffin, Executive Director with Habitat for Humanity, 310 Green 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.**

**SECOND: Council Member Bates**

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

**7.5 Case No. P11-18F. Request for rezoning from AR Agricultural Residential District to SF-6 Residential District on property located at Cliffdale Road & Lowell Harris Road. Containing 29.42 acres more or less and being the property of Retha H. Newton.**

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 road frontage on the property was on both Cliffdale and Lowell Harris Roads. He stated the Land Use Plan called for low-density residential bordered by medium-density residential. He stated the Zoning Commission and staff recommended approval of the rezoning to SF-6. Mr. Harmon noted that under the UDO, multifamily was allowed in the SF-6 District but only under a Special Use Permit. He explained if the rezoning were approved, the only way that multifamily could be put on the property would be to have it brought back through the Zoning Commission to the City Council and have a hearing for a Special Use Permit and conditions could be added.

Council Member Massey inquired if the Special Use Permit process would be at the cost of the applicant. Mr. Harmon responded in the affirmative and explained it would be a new application. A question and answer period ensued regarding access to the property, the traffic in the area in relation to schools, and no site plan being available at this time.

Council Member Bates inquired if they would see the site plan once approved. Mr. Harmon responded it would depend on what was planned for the property. He stated if the rezoning were approved and the site plan was for single-family residential, it would not come back to Council; but if the plan was for multifamily, it would come back to Council as a Special Use Permit.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Scott Brown, from 4D Site Solutions, 409 Chicago Drive, Suite 112, Fayetteville, NC 28306, representing the applicant appeared in favor and stated there were no plans prepared for the site at this time. He stated he did not anticipate DOT allowing full access but a main access off Lowell Harris Road.

Ms. Rosa M. Sandefur, 982 Lisa Avenue, Fayetteville, NC 28314, appeared in opposition and expressed concern as to what would be placed on the property and whether there was connection to sewer.

Ms. Rita Olivera, Sanchez Drive in Cliffdale Forest, Fayetteville, NC, appeared in opposition and expressed concern as to what would be placed on the property, the increase in traffic, and the increase in crime.

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

Mr. Harmon explained the owner of the property applied for a rezoning and was requesting SF-6 zoning which was single-family with a 6,000 square foot minimum per lot. He stated under SF-6, all that would be permitted would be single-family residential homes, however, the owner of the property could come back in the future, if approved as an SF-6, and apply for a Special Use Permit which would have to go through the Zoning Commission and City Council.

Mr. Brown further explained there was a sewer outfall to the north and they would be within the distance required by both the City and PWC.

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

**SECOND: Council Member Arp**

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

**7.6 Case No. P11-19F. Request for a Special Use Permit (SUP) for a Collision Center in the CC Community Commercial District on property located at 5510 Cliffdale Road. Containing 3.3 acres more or less and being the property of Harris Wholesale Inc.**

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 the former Harris Distribution Center (Anheuser Bush) on Cliffdale Road near Skibo Road and the facility had been vacant for two years. He stated Hendrick Motors was wanting to purchase the property and turn the former warehouse into an auto paint, body, and repair center. He stated the amount of renovations to the building would require it to come into compliance with the UDO standards. He stated no site plan was required at this time since all renovations would be to the interior of the building. He stated the Zoning Commission recommended approval of the SUP based upon the following findings of fact:

- 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. Dan Dederick, 6830 Surrey Road, Fayetteville, NC 28306, appeared in favor and stated they employ approximately 40 employees at 543 North McPherson Church Road and would be adding approximately 20 more jobs to the workforce when they move to the new site. He stated the move would also reduce the traffic on North McPherson Church Road.

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

Council Member Crisp inquired of Mr. Dederick on how they would handle leaking antifreeze from wrecked vehicles being brought to the property. Mr. Dederick responded they receive guidance from a national company on how to dispose of antifreeze, batteries, paints, etc., which if not done right was a serious federal offense.

**MOTION: Council Member Arp moved to approve the Special Use Permit based on the findings of fact.**

**SECOND: Council Member Massey**

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

**7.7 Case No. P11-20F. Request for rezoning from C1 Commercial District to MR-5 Residential District on property located at 4049 Rosehill Road. Containing 2.33 acres more or less and being the property of Carrie C. Andrews.**

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 zoned commercial by the County some years ago and could be a good case for an illegal spot zoning. He stated the owners of the property were currently developing the land behind it with apartments and if rezoned would propose to make the property part of the development. He stated the 2010 Land Use Plan called for the area to be developed as medium-density residential. He stated the Zoning Commission and staff recommended approval of the rezoning to Mixed Residential-5.

Council Member Massey inquired if any projected impact was given for traffic increase. Mr. Harmon responded he could not recall the numbers.

Council Member Bates inquired if the rezoning were approved, could they put apartments in but at a greater density. Mr. Harmon responded in the affirmative.

Council Member Bates inquired if the rezoning weres not approved, could they still put apartments. Mr. Harmon responded in the affirmative but not at the density that it could be under an MR-5 District.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Colton Clifton, 5625 Millrace Trail, Raleigh, NC, representing the buyers appeared in favor and stated they felt the highest and best use was multifamily.

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

A question and answer period ensued regarding the increase in traffic and the number of apartment units. Mr. Clifton stated the traffic count would increase and clarified the 185 units included the entire area, not just the property up for rezoning. He stated he did not have the plans with him for the part being rezoned, but there would be an apartment unit and access from the road.

A discussion period ensued regarding the number of units and the possibility of holding discussions with residents in the area.

Mr. Harmon explained the process for a rezoning as required by ordinance and statute.

**MOTION: Council Member Massey moved to table this item and bring back to the next Council meeting after discussions were held with residents on Autumn and Dowfield**

**Drives.**

Motion died due to lack of a second.

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

**SECOND: Council Member Bates**

Council Member Arp inquired what the denial would accomplish. Mr. Harmon responded the applicant would not be able to come back for a rezoning for one year and could still develop multifamily on the property at the LC Commercial which would allow for multifamily and they could develop at that density.

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

**8.0 ADJOURNMENT**

There being no further business, the meeting adjourned.