



City of Fayetteville

433 Hay Street
Fayetteville, NC
28301-5537
(910) 433-1FAY (1329)

Meeting Agenda - Final City Council Regular Meeting

Monday, January 9, 2023

7:00 PM

Council Chamber

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 PLEDGE OF ALLEGIANCE

4.0 ANNOUNCEMENTS AND RECOGNITIONS

5.0 CITY MANAGER REPORT

6.0 APPROVAL OF AGENDA

7.0 CONSENT AGENDA

7.01 [22-3118](#) Approval of Meeting Minutes:
December 5, 2022 - Work Session
December 12, 2022 - Discussion of Agenda Items
December 12, 2022 - Regular

Attachments: [120522 WKS](#)
 [121222 Discussion of Agenda Items](#)
 [121222 Reg](#)

7.02 [22-3108](#) P22-48. Rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) of 12.23 acres ±, located at 0 Drive off of Rim Road (REID #9487860537000), and being the property of Leisure Living CB LLC, represented by June Cowles of WithersRavenel.

Attachments: [1. Plan Review Application](#)
 [2. P22-48 Aerial Map](#)
 [3. P22-48 Zoning Map](#)
 [4. P22-48 Land Use Map](#)
 [5. Subject Property](#)
 [6. Surrounding Properties](#)
 [7. P22-48 Consistency and Reasonableness Statements](#)

- 7.03** [22-2953](#) Authorization of Condemnation of Easements on the Properties Needed for Sunbury Drive Drainage Project
- Attachments:** [Sunbury Dr Easement 0429-99-6750 Final 2022.02.03](#)
 [Sunbury Dr Easement 0439-09-1025 Final 2021.12.14 - 4055 Deadwtler Dr.](#)
 [Sunbury Dr Easement 0439-09-9137 Final 2021.12.22-4100 Deadwyler Dr.](#)
 [SunburyResolution](#)
 [Flooding Pics](#)
- 7.04** [22-3120](#) Adopt a Resolution Authorizing the Conveyance of a Water and Sanitary Sewer Easement to the City of Fayetteville by and through Fayetteville Public Works Commission on the Murchison Road Catalyst Site
- Attachments:** [BrunerPWCRResolution](#)
 [BrunerPWCMaP](#)
- 7.05** [22-3042](#) Adoption of Budget Ordinance Amendment 2023-9 and Capital Project Ordinance 2023-12 to Purchase a Replacement Aircraft Rescue and Firefighting Vehicle
- Attachments:** [Fw EXTERNALOshkosh Striker 4x4 Quote](#)
 [BOA 2023-9 Airport Fund](#)
 [CPO 2023-12 Airport ARFF](#)
- 7.06** [22-3127](#) Request for Legal Representation of City Employees
- 7.07** [22-3155](#) Request for Legal Representation of City Employee
- 7.08** [22-3133](#) Bid Recommendation - Power Transformers for Multiple Substations
- Attachments:** [Bid Recommendation - Three Transformers Substations](#)
 [Bid Recommendation - Three Transformers Substations - Exhibit A](#)
- 7.09** [22-3134](#) Bid Recommendation - One (1) Generator Step-Up Transformer for BWGP
- Attachments:** [Bid Recommendation - Generator Step-Up Transformer for BWGP](#)
- 7.010** [22-3146](#) Authorization to Accept NC Department of Environmental Quality Recycling Project Grant and Adoption of Special Revenue Fund Project Ordinance 2023-10
- Attachments:** [CW28234 City of Fayetteville agreement revised 7-26-2022 fully executed](#)
 [SRO 2023-10 Recycling Project Grant](#)

7.011 [22-3154](#) Second Amendment to Lease of Suite 102 of R. C. Williams Building

Attachments:

[SOftact Solutions 2nd Amendment to Lease 2023-2024 pe](#)

[Draft City Resolution Softact](#)

8.0 PUBLIC FORUM

9.0 PUBLIC HEARINGS (Public & Legislative Hearings)

For certain issues, the Fayetteville City Council may sit as a quasi-judicial body that has powers resembling those of a court of law or judge. The Council will hold hearings, investigate facts, weigh evidence and draw conclusions which serve as a basis for its decisions. All persons wishing to appear before the Council should be prepared to give sworn testimony on relevant facts.

9.01 [22-3109](#)

P22-45. Rezoning from Agricultural Residential (AR) and Limited Commercial (LC) to Community Commercial (CC) of 4.4 acres ±, located at 0 Hazelwood Drive, 1611, 1620, and 1631 Ferndell Drive, and 7818 Raeford Road (REID #9486360554000, 9486269516000, 9486267506000, 9486266471000, and 94862654449000), being the property of Gillis Development Corp Inc. and Joseph H. Gillis.

Attachments:

- [1. Plan Review Application](#)
- [2. P22-45 Aerial Map](#)
- [3. P22-45 Zoning Map](#)
- [4. P22-45 Land Use Map](#)
- [5. Subject Property](#)
- [6. Surrounding Properties](#)
- [7. P22-45 Consistency and Reasonableness Statements LC](#)

9.02 [22-3119](#)

Public Hearing to Consider Closing a Portion of Butler Street

Attachments:

- [PublicHearingButlerStreetResolution](#)
[Butler Street Closing Map 2022.09.27](#)

9.03 [22-3140](#)

Solid Waste Ordinance Amendments

Attachments:

- [Peer City Comparison](#)
[Solid Waste Ordinance Limits Work Session Presentation 1.9.23](#)
[Solid Waste Ordinance Revisions 11 10 2022_Clean](#)
[Solid Waste Ordinance Revisions 11 10 2022_Redlined](#)

10.0 EVIDENTIARY HEARINGS

- 10.01** [22-3130](#) SUP23-01. Special Use Permit to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment, bars, nightclubs, and a religious institution to be located at 929 Bragg Boulevard (REID # 0437172966000), zoned as Community Commercial (CC), totaling 1.15 acres ± and being the property of Peter Stewart, Paula Stewart, George Stewart III, Richard Gochner, Richard Bleakley Jr, Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, Sandra Kirkman Higgins Trustee.

Attachments:

[Plan Review Application](#)
[SUP23-01 notification Map](#)
[SUP23-01 Zoning Map](#)
[SUP23-01 Land Use Plan](#)
[Subject Property](#)
[Surrounding Properties](#)
[Site Distance Map](#)

- 10.02** [22-3131](#) SUP23-02. Special Use Permit to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district, to be located at 206 Post Ave. (REID # 0439705376000), totaling 0.38 acres ± and being the property of Tammy and Tyrone Lock, represented by Lori Epler of Larry King and Associates.

Attachments:

[Application](#)
[SUP23-02 notification Map](#)
[SUP23-02 Zoning Map](#)
[SUP23-02 Land Use Plan](#)
[Site Plan](#)

11.0 ADJOURNMENT

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Citizens wishing to provide testimony in response to a notice of public hearing or to participate in the public forum can obtain instructions to submit a statement by emailing cityclerk@ci.fay.nc.us or by calling 910-433-1312 for assistance. Individuals desiring to testify on a quasi-judicial public hearing must contact the City Clerk by 5:00 p.m. the day of the meeting to sign up to testify; instructions will be provided on how to appear before Council to provide testimony.

CLOSING REMARKS

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES **SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a nonpublic hearing item may submit written materials to the City Council on the subject matter by providing thirteen (13) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

COUNCIL MEETING WILL BE AIRED

January 9, 2023 - 7:00 p.m.

Cable Channel 7 and streamed "LIVE" at FayTV.net

Notice Under the Americans with Disabilities Act (ADA):

The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Human Relations at yamilenazar@fayettevillenc.gov, 910-433-1696, or the Office of the City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3118

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.01

TO: Mayor and Members of City Council

THRU: Jeffrey Yates, Assistant City Manager

FROM: Pamela J. Megill, MMC, City Clerk

DATE: January 9, 2023

RE:

Approval of Meeting Minutes:

December 5, 2022 - Work Session

December 12, 2022 - Discussion of Agenda Items

December 12, 2022 - Regular

COUNCIL DISTRICT(S):

ALL

Relationship To Strategic Plan:

Develop and maintain strong community connections.

Executive Summary:

The Fayetteville City Council conducted meetings on the referenced date during which they considered items of business as presented in the draft.

Background:

The draft minutes are from the meeting held on the above mentioned date.

Issues/Analysis:

N/A

Budget Impact:

N/A

Options:

1. Approve draft minutes
2. Amend draft minutes and approve draft minutes as amended
3. Do not approve the draft minutes and provide direction to staff.

Recommended Action:

Approve the draft minutes.

Attachments:

Draft minutes

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**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
COUNCIL CHAMBER, CITY HALL
DECEMBER 5, 2022
5:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Kathy Jensen (District 1); Shakeyla Ingram (District 2) (departed at 6:48 p.m.); Mario Benavente (District 3); D. J. Haire (District 4); Derrick Thompson (District 6); Courtney Banks-McLaughlin (District 8); Deno Hondros (District 9)

Absent: Council Members Johnny Dawkins (District 5); Brenda McNair (District 7)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeffrey Yates, Assistant City Manager
Jodi Phelps, Chief of Staff
Jody Picarella, Chief Financial Officer
Sheila Thomas-Ambat, Public Services Director
Daniel Edwards, Assistant Public Services Director
Michael Gibson, Parks, Recreation and Maintenance Director
Brook Redding, Special Projects Manager
Kim Toon, Purchasing Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order at 5:00 p.m.

2.0 INVOCATION

The invocation was offered by Council Member Thompson.

3.0 APPROVAL OF AGENDA

MOTION: Council Member Haire moved to approve the agenda.

SECOND: Council Member Thompson

VOTE: UNANIMOUS (8-0)

4.0 OTHER ITEMS OF BUSINESS

4.01 Public Works Commission Applicant Interviews

Mayor Colvin presented this item and stated each of the four PWC applicants present this evening will be allowed five minutes to address the City Council, and then the City Council will ask each candidate the same three questions. Mayor Colvin announced that candidate Mr. Theodore Mohn informed the City Clerk he would be out of town and unable to attend the interview this evening.

Candidates Mr. Christopher Davis, Mr. William Gothard, Mr. Josef Hallatschek, and Mr. Peter Stewart individually introduced themselves to the City Council and addressed the City Council on why they believe they should be selected to be appointed to the Public Works Commission. The candidates were asked three questions and provided an opportunity to respond to the City Council.

Mayor Colvin thanked the candidates for their participation in the interview process.

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4.02 Solid Waste Ordinance Amendments

Mr. Daniel Edwards, Assistant Public Services Director, presented this item with the aid of a PowerPoint presentation and stated as staff reviews best practices and peer city comparisons, we seek Council input on several recommended changes/updates to the current ordinance. Staff seeks concurrence from the City Council to modify Chapter 22 to include updated definitions and service level changes for carts, yard waste, limbs, and below-standard/unmaintained streets. The options presented to Council will bring consistency, predictability, and enforceability to the solid waste services for the City of Fayetteville.

On October 4, 2020, the Solid Waste Division discussed with Council how the Solid Waste Ordinance, service levels, and other considerations regarding municipal Solid Waste collection operations needed revisions. The Solid Waste Division emphasized how the City of Fayetteville has endured a steady increase of blight and non-compliant code violations, litter, illegal dumping, and other public nuisances regarding blight and trash. Also highlighted was Chapter 22, Municipal Solid Waste, which has not been updated in several years. The ordinance lacks the definition of clearly defined processes and procedures used by the division. Additionally, the ordinance does not clearly describe customer type, services, and code enforcement. The Solid Waste Division recommended to Council to allow us to revise Chapter 22 of the Municipal Ordinance and consider substantive changes in a presentation to Council for discussion and approval.

Staff has previously provided Council peer city comparisons showing the frequency and quantity of the service delivered by our sister cities. The comparisons have shown that solid waste services for the City of Fayetteville are equal to, and in many instances, greater than our peers. Changes included in the ordinance but not in the presentation are updated definitions, authority and designee, ownership of materials, cart size, and updated terminology. On October 4, 2021, Solid Waste presented the first approach to reducing enforcement and providing consistency and predictability by recommending every other week collection of bulky and limb services. This practice has begun and is successful, albeit with periodic challenges on service delivery due to weather and fleet and personnel resource availability. Staff are now presenting recommendations of the completed ordinance including new service limits.

As a core City service of a City of over 200,000 residents, we are proud of the fact that the weekly collection of solid waste and every other week collection of recycling materials is a huge success with very few complaints and uncorrected mistakes. The demands to deliver services, including costs related from human and vehicle capital, continue to rise as do the challenges to overcome the shortages to find and maintain these two critical resources. In short, money alone is not going to fix the challenges. Expectations must be level set and we seek to do that through this discussion and ordinance update. As staff weighs the perceived interests of the Council regarding solid waste we more often hear of the negative experiences. Sometimes, complaints are driven by expectations and practices that are not sustainable when contrasted with the ordinance and peer cities. However, we know how important it is to have policies and practices that enhance and maintain the aesthetics and health and safety of the community. Sometimes, less is more when it comes to providing the extra services, as some large cities limit or do not even provide limb, bulky, and yard debris.

While we are not recommending any drastic reductions in services at this time, our aim is to share with you a few recommended changes to areas within the ordinance that have been topics of complaint or frustration from citizens. The intent is to align the ordinance based on affordable available resources while providing predictable, consistent, and enforceable services.

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These topical areas include (1) rollout carts, (2) yard waste and large limbs, and (3) collection along privately owned and managed streets that have fallen into disrepair. Our intention is to clarify the rules and, while reducing the level of service in some cases, improve the ability to enforce and manage expectations.

We appreciate the support and input from Strategic Performance Analytics, Public Services, Parks and Recreation, and Development Services, as we explored and discussed challenges, inconsistencies, and opportunities to ensure that we can provide a level of service that is acceptable and affordable to Fayetteville.

At this time there is no budget impact from these recommended ordinance changes. However, the demands on our service delivery and the cost to provide these services will need to be discussed in greater detail. Policies related to the service levels and the fees to pay for these service levels are not on a sustainable trajectory.

Staff is seeking consensus from Council to accept recommendations on the proposed ordinance revisions for operations.

Discussion ensued.

Mr. Douglas Hewett, City Manager, recommended the Council meet in small groups with staff to further review and discuss the service levels and the Solid Waste enterprise fund and keeping it solvent.

4.03 Federal Action Plan 2023 (FY 2024)

Mr. Brook Redding, Special Projects Manager, introduced Ms. Leslie Mazingo, Strategies Consulting, LLC, and stated the Federal Lobbyists help define Fayetteville's priorities while facilitating communication and coordination at the Federal level. The City of Fayetteville retained the services of Strategics Consulting, LLC, as its Federal Lobbyist. The Federal Action Plan is the result of input from the staff members, and in the work session with the Mayor and City Council. Once adopted, the document will be shared during visits with members of our congressional delegation to solicit their support for the City's priorities.

Ms. Mazingo stated the City of Fayetteville engages with the federal government and pursues funding assistance for strategic focus areas identified in the City's adopted Strategic Plan. These efforts ensure protection and preservation of essential community assets and resources allowing the City to thrive. Ms. Mazingo presented the following Federal Advocacy Goals:

- Develop and pursue a federal advocacy agenda, unique to the City of Fayetteville and which leads to consistent high-quality results.
- Identify and pursue federal investments to achieve the long-term goals of the City.
- Build and maintain regular communications with Congressional Delegation, Federal Agencies, Council, staff, citizens and stakeholders.

Discussion ensued.

Consensus of Council was to direct staff to bring a revised draft Federal Action Plan forward for adoption at a later meeting date.

4.04 Disparity Study Implementation Plan Update

Ms. Kim Toon, Assistant Chief Financial Officer-Procurement, presented this item with the aid of a PowerPoint presentation and stated Council approved the consultant service contract to Griffin and

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Strong P.C. on April 26, 2021. This presentation is to present the Implementation Plan in response to the Findings and Recommendations from the Disparity Study.

The objective of the Implementation Plan is to recommend modifications and adjustments to the current Small Local Business Enterprise Program (SLBE) to include updates to the current legal guidance relative to not only new legislation, policies, and procedures to meet any constitutional mandates, but also programmatic needs of the City.

Discussion ensued.

Consensus of Council was to accept the Disparity Study Implementation Plan and Recommendations, and to add the threshold of \$499,000.00.

4.05 Small Local Business Enterprise (SLBE) Program Update

Ms. Kim Toon, Assistant Chief Financial Officer-Procurement, presented this item with the aid of a PowerPoint presentation and stated City Council directed that a SLBE policy and program be developed to enhance economic opportunities for small and local business owners. The SLBE policy and program has been established and the SLBE program is managed by the Purchasing Division of the City's Finance Department. Finance/Purchasing has worked diligently to build a solid foundation for implementing the SLBE program. Council has a 40 percent aspirational goal for the City's local Metropolitan Statistical Area total procurement (MSA includes Cumberland, Hoke, and Harnett Counties). Fiscal Year 2023 Quarter 1 ended at 33.96 percent.

The Purchasing Division of the City Finance Department has dedicated itself to establishing a strong foundation for the Small Local Business Enterprise program. Since last reporting to City Council, the following activities have encouraged SLBE vendors to register and participate in the City's business:

- Posted all solicitations (formal and informal) on the City website.
- Worked closely with City departments to increase their awareness of SLBE businesses and their abilities to serve the City's needs.
- Provided one-on-one consultation with SLBE firms to educate and familiarize them with City procurement processes.
- Provided printed and digital educational materials such as the "Doing Business with the City" guide.
- Contractor's College (Samet Construction and Fayetteville State University)

These efforts achieved the following results in Fiscal Year 2023 Quarter 1:

- The First Quarter purchase order encumbrances total \$229,437,550.06 with 33.99 percent (\$77,976,648.81) being spent in the local MSA.
- The First Quarter procurement card expenditures total \$379,864.98 with 31.29 percent (\$118,853.05) being spent in the local MSA.
- The First Quarter construction contracts total \$6,285,793.29 with 86.86 percent identified as assigned to local prime contractors. Of the total contract dollars 13.14 percent (\$826,197.75) is allocated to subcontractors.

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The City SLBE program is aimed at increasing local participation in the City's procurement practices to include businesses and entrepreneurs classified as small, historically-disadvantaged or underutilized, minority, veteran and/or women-owned. Encouraging these groups to participate in the City's business is an important step in achieving a strong, diverse, and viable local economy. The Purchasing Division will continue to track and encourage LSDBE participation in the City's business operations.

Discussion ensued.

This item was for information; no consensus was provided.

4.06 City Council Agenda Item Request - Shotspotter Contract Text Amendment - Council Member Benavente

Council Member Benavente requested Council to direct staff to amend the Shotspotter contract with the language he has provided (attached to this item).

Discussion ensued.

Consensus to move this item forward failed.

4.07 City Council Agenda Item Request - Eccles Park Flooding - Council Member Benavente

Council Member Benavente stated he and some members of the Eccles Park community had recently met with staff and staff had provided great information for the citizens and provided an overview of the Watershed Study. Therefore, there is no reason to present this item.

4.08 City Council Agenda Item Request - Develop an Office of Independent Oversight - Council Member Benavente

Council Member Benavente asked for Council support to direct staff to research amongst our peer cities on developing an office of Independent Oversight of the Police Department.

Discussion ensued.

Consensus to move this item forward failed.

4.09 City Council Agenda Item Request - Move City Council Elections to "On Year" - Council Member Benavente

Council Member Benavente asked for Council support to direct the City Manager and City Attorney to research exactly what it would entail to move the City to even-year elections.

Discussion ensued.

Consensus to move this item forward failed.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:44 p.m.

Respectfully submitted,

PAMELEA J. MEGILL
City Clerk
120522

MITCH COLVIN
Mayor

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**FAYETTEVILLE CITY COUNCIL
DISCUSSION OF AGENDA ITEMS MEETING MINUTES
ST. AVOLD CONFERENCE ROOM, CITY HALL
DECEMBER 12, 2022
6:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Deno Hondros (District 9)

Absent: Council Members Shakeyla Ingram (District 2); Courtney Banks-McLaughlin (District 8)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jodi Phelps, Chief of Staff
Gina Hawkins, Police Chief
Paul Allen, Assistant City Attorney
Jennifer Baptiste, Planning and Zoning Manager
Robert Van Geons, FCEDC CEO
Pamela Megill, City Clerk
Members of the Press

Mayor Colvin called the meeting to order at 6:00 p.m.

CLOSED SESSION

MOTION: Council Member Benavente moved to go into a closed session for attorney-client privileged matters.
SECOND: Council Member Hondros
VOTE: UNANIMOUS (8-0)

The regular session recessed at 6:00 p.m. The regular session reconvened at 6:35 p.m.

MOTION: Council Member Thompson moved to go into open session.
SECOND: Council Member Hondros
VOTE: UNANIMOUS (8-0)

Mayor Colvin asked Council to review the consent and other items of business items for this evening.

Council Member Benavente requested an overview of Item 9.02, Public Hearing on SN22-002. Consideration of Renaming Providence Street to JP Swinson Street. Ms. Jennifer Baptiste, Planning and Zoning Manager, provided an overview of the item.

Mayor Pro Tem Dawkins requested an overview of Item 9.03, Public Hearing on Authorization of the Issuance of Private Activity Bonds not to Exceed \$114,000,000.00 by the Public Finance Authority Relating to Two Mixed Income Housing Developments Located at 1701 Owen Drive and 1944 Cedar Creek Road. Ms. Jeffrey Yates, Assistant City Manager, provided an overview of the item.

Mayor Colvin requested an overview of Item 10.01, Night Circus: A District NYE Spectacular. Mr. Douglas Hewett, City Manager, provided an overview of the item.

Mayor Colvin requested an overview of Item 10.02, Fayetteville Forward Bonds - Next Steps. Mr. Douglas Hewett, City Manager, provided an overview of the item.

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ADJOURNMENT

There being no further business, the meeting adjourned at 6:43 p.m.

Respectfully submitted,

PAMELA J. MEGILL
City Clerk
121222

MITCH COLVIN
Mayor

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**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
DECEMBER 12, 2022
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Courtney Banks-McLaughlin (District 8) (arrived at 7:42 p.m.); Deno Hondros (District 9)

Absent: Council Member Shakeyla Ingram (District 2)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeff Yates, Assistant City Manager
Jodi Phelps, Chief of Staff
Jody Picarella, Chief Financial Officer
Rob Stone, Construction Management Director
Chris Cauley, Economic and Community Development Director
Sheila Thomas-Ambat, Public Services Director
Lee Jernigan, Assistant Public Services Director
Gina Hawkins, Police Chief
Mike Hill, Fire Chief
Jennifer Baptiste, Planning and Zoning Manager
Chester Green, Senior Planner
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Pastor Giles Blankenship, Snyder Memorial Baptist Church.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Council Member Haire announced this is the last Council meeting for 2022, and wished everyone a safe and happy Christmas.

Council Member Thompson thanked the constituents for their trust in local government and thanked the Police Department, Fire Department, and all employees.

5.0 CITY MANAGER REPORT

Mr. Douglas Hewett, City Manager, announced Assistant Police Chief Braden and Assistant Police Chief Nolette have been selected as the top two finalists for the position of Police Chief. There will be a Community Forum on December 13, 2022, to provide the public an opportunity to ask questions of the two candidates.

Mr. Hewett stated the ShotSpotter Forums were attended by approximately 100 citizens. Staff will be providing quarterly updates on the ShotSpotter technology, once implemented and will track if the

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ShotSpotter is assisting with lowering response times, crime reduction strategies and will track complaints.

6.0 APPROVAL OF AGENDA

MOTION: Council Member Thompson moved to approve the agenda.
SECOND: Council Member Hondros
VOTE: UNANIMOUS (8-0)

7.0 CONSENT AGENDA

MOTION: Council Member Haire moved to approve the consent agenda.
SECOND: Mayor Pro Tem Dawkins
VOTE: UNANIMOUS (8-0)

7.01 Approval of Meeting Minutes:

November 14, 2022 - Regular
November 28, 2022 - Discussion of Agenda Items
November 28, 2022 - Regular
November 29, 2022 - Special - Strategic Planning Retreat
November 30, 2022 - Special - Strategic Planning Retreat

7.02 Resolution Declaring the Result of the Bond Referendum Held in the City of Fayetteville, North Carolina, on November 8, 2022, upon the Questions of Approving \$60,000,000 Public Safety Improvement Bonds, \$25,000,000 Streets, Sidewalk, And Connectivity Improvement Bonds, And \$12,000,000 Housing Bonds

RESOLUTION DECLARING THE RESULT OF THE BOND REFERENDUM HELD IN THE CITY OF FAYETTEVILLE, NORTH CAROLINA ON NOVEMBER 8, 2022, UPON THE QUESTIONS OF APPROVING \$60,000,000 PUBLIC SAFETY IMPROVEMENT BONDS, \$25,000,000 STREETS, SIDEWALK, AND CONNECTIVITY IMPROVEMENT BONDS, AND \$12,000,000 HOUSING BONDS. RESOLUTION NO. R2022-043.

7.03 P22-44. Rezoning from Agricultural Residential (AR) to Community Commercial (CC) of 8.68 acres ±, located at 8142 and 8159 Stoney Point Road (REID #s (9485659452000 and 9485655245000), and is the property of Jimmy N. Ray, Judy Epps Click, and Kenny J. Click, and represented by Mark Candler, Candler Development Group LLC.

7.04 Adoption of Budget Ordinance Amendment 2023-8 and Capital Project Ordinance Amendments 2023-15, 2023-16, 2023-17, and 2023-18 to Appropriate Additional Funding for Human Capital Management Module of the Enterprise Resource System Project

Adoption of Budget Ordinance Amendment (BOA) 2023-8 and Capital Project Ordinance Amendments (CPOAs) 2023-15, 2023-16, 2023-17, and 2023-18 to appropriate \$610,000.00 of additional funding for the Human Capital Management Module of the Enterprise Resource System Project. The sources of funding for CPOA 2023-18 (\$610,000.00) are transfers from capital projects that received FY2023 General Fund appropriations and were replaced with ARPA funding: CPOA 2023-15 Parking Lot Maintenance \$55,000.00, CPOA 2023-16 Direct Fiber Connection \$80,000.00, CPOA 2023-17 Internet Domain \$175,000.00, and BOA 2023-8 to re-appropriate Municipal Agreement funding \$300,000.00 due to project schedule change.

The change order of \$610,850.00 reflects mutually agreed upon adjustments to numerous Rollout 1 HCM project schedules, dates, assumptions, and arrangement for the payment of services.

7.05 Addition of Certain Streets to the City of Fayetteville System

The Fayetteville street system includes 749.39 center line miles and is one of the City's largest assets impacting every citizen, employee, emergency service personnel, commuter, and visitor. As new development progresses, new streets are built in accordance with the City's standards and can be designated for private or public ownership

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and maintenance. When streets are constructed to City standards, it requires a Council action to add the streets to the City's system. Streets added to our system qualify for Powell Bill Program allocations, which is a North Carolina funding program for the building and maintenance of major city streets.

Staff has identified six recently constructed streets for subdivisions throughout the City that are now acceptable for addition to the City of Fayetteville system of streets. These streets and drainage systems within the street rights-of-way have been inspected by staff and are now acceptable for addition to the City of Fayetteville system of streets. The 1.11-mile addition will bring the City's street system total to 750.50 miles

7.06 Approval of an Agreement to be used with Transportation Network Companies

Approval of an agreement to be used with various transportation network companies. The agreement shall be used for Uber, Lyft, and all other transportation network companies that may desire to provide pick-ups or drop-offs at the Fayetteville Regional Airport. The term of the agreements with transportation network companies shall be for three years.

8.0 PUBLIC FORUM

Mr. Tommy Harding, 6848 Fern Creek Place, Fayetteville, NC, expressed interest in youth mentoring.

Mr. Samuel Allen, 445 Rollingwood Circle, Fayetteville, NC, expressed concerns regarding local water contamination.

Ms. Angela Tatum Malloy, 404 Pilot Avenue, Fayetteville, NC, expressed concerns regarding the ShotSpotter program.

Mr. Jose Cardona, 233 Addison Street, Fayetteville, NC, expressed concerns regarding the ShotSpotter program.

Mr. Shaun McMillian, 6024 Golden Rain Drive, Fayetteville, NC, spoke regarding a need for the office of community safety.

Mr. Lee Sadler, Sr., 845 Wigwam Drive, Fayetteville, NC, expressed concerns regarding the ShotSpotter program.

Ms. Cynthia Leeks, 715 Topeka Street, Fayetteville, NC, expressed concerns regarding the ShotSpotter program.

Ms. Johnette Henderson, 2072 Seneca Drive, Fayetteville, NC, expressed concerns regarding the ShotSpotter program.

9.0 PUBLIC HEARINGS (Public & Legislative Hearings)

9.01 Public Hearing on the City of Fayetteville Support for Economic Equity Venture Capital Fund with American Rescue Plan Funds

Mr. Robert Van Geons, FCEDC CEO, presented this item and stated during the 2021 Session of the North Carolina General Assembly, the Community Development Foundation (CDF), a local 501c3 nonprofit, was awarded up to \$2.5 million in State funding to develop an Economic Equity Venture Capital Fund. The funding is contingent on the CDF raising matching funds. Mr. Robert Van Geons is the Executive Officer of the CDF as well as the Chief Executive Officer and President of the Fayetteville-Cumberland Economic Development Corporation. Council is requested to hold an Economic Development public hearing and authorize the City Manager to execute a contract with the CDF to support the Economic Equity Venture Capital Fund in the amount of \$1.25 million. City Economic Development and Legal staff will ensure program compliance by reviewing and approving all investments undertaken by the CDF.

DRAFT

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

Discussion ensued.

MOTION: Council Member Hondros moved to authorize the City Manager to execute a contract with the CDF to support the Economic Equity Venture Capital Fund in the amount of \$1.25 million, and direct staff to work with the City Attorney to ensure the contract is compliant with State law.
SECOND: Council Member Thompson
VOTE: UNANIMOUS (9-0)

9.02 Public Hearing on SN22-002. Consideration of Renaming Providence Street to JP Swinson Street

Mr. Chester Green, Senior Planner, presented this item and stated the Cumberland County staff received a request from Vardry Aiken to rename Providence Street to JP Swinson Street. The reason for this street name change request is to honor the legacy of an extraordinary man that contributed so much to his community.

County staff contacted the owners of the parcels that abutted Providence Street. Twenty-eight property owners were contacted, the majority agreed. The County has evaluated the petition and has not found any conflicts or duplications with the proposed name and recommends approval of the name change.

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

Ms. Beverly Smith-Lusane, 5116 Perfection Lane, Hope Mills, NC 28348, appeared in opposition.

Mr. John Hart, 2705 Providence Street, Fayetteville, NC, appeared in opposition.

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

Discussion ensued.

MOTION: Council Member Benavente moved to deny the request to rename Providence Street.
SECOND: Council Member Haire
VOTE: PASSED by a vote of 6 in favor to 3 in opposition (Council Members Dawkins, Hondros, and Banks-McLaughlin)

9.03 Public Hearing on Authorization of the Issuance of Private Activity Bonds not to Exceed \$114,000,000 by the Public Finance Authority Relating to Two Mixed Income Housing Developments Located at 1701 Owen Drive and 1944 Cedar Creek Road

Mr. Chris Cauley, Economic and Community Development Director, presented this item and stated GoodHomes, Inc., acting as the developer, has partnered with the Community Finance Corporation, a non-profit developer and is requesting the City hold a public hearing and adopt a resolution authorizing the issuance of not more than \$114,000,000.00 in Private Activity Bonds issued by the Public Finance Authority (PFA). The project involves redevelopment of properties located at 1701 Owen Drive and 1944 Cedar Creek Road. Additional details of each development are attached. The issuance of bonds is a transaction between the PFA and the Community Finance Corporation and does not expose the City to any financial risk. City Council is asked to hold a public hearing and adopt the resolutions authorizing the issuance of not more than \$114,000,000.00 in Private Activity Bonds issued by the PFA.

DRAFT

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE APPROVING THE ISSUANCE OF ESSENTIAL HOUSING REVENUE BONDS FOR COMMUNITY FINANCE CORPORATION. RESOLUTION NO. R2022-044

MOTION: Mayor Pro Tem Dawkins moved to adopt the authorizing Resolution.
SECOND: Council Member Hondros
VOTE: UNANIMOUS (9-0)

10.0 OTHER ITEMS OF BUSINESS

10.01 Night Circus: A District NYE Spectacular

Ms. Ashanti Bennett and Lauren Falls, Cool Spring Downtown District, presented this item with the aid of a PowerPoint presentation and stated for the second consecutive year, the Cool Spring Downtown District (CSDD) is working to present the City's New Years Eve Celebration.

The Night Circus: A District NYE Spectacular returns for its second year in Festival Park. As with the inaugural event, the Night Circus will be filled with a variety of carnival attractions including stilt walkers, fire dancers, roving magicians, lights and color, popular food trucks, a beer garden, live music, and more.

The night will kick off with the NYE District Vibe stage featuring local vocal talent from our community. There is currently an open call for vocalist submissions that closes on December 5, 2022. After those performances warm the stage, a local DJ will continue to build the party on the ones and twos with a lively set of dance music. The dance party will lead right into this year's headliners taking the stage, R & B group Tony! Toni! Tone!

New this year: We have engaged the artistry of a talented light artist to create an immersive projection project that will be set in the center of the event. Along with this immersive experience, we will have bounce houses and a cigar bar in the beer garden.

Production for the event has been secured with local agency, Draughon Brothers, Inc. Private security for build-out and day-of event has been engaged with Staff-1. Fireworks will be managed through Hale Artificier. Staff continue to secure remaining vendors for the event.

MOTION: Council Member Jensen moved to accept the report.
SECOND: Council Member Haire
VOTE: UNANIMOUS (9-0)

10.02 Fayetteville Forward Bonds - Next Steps

Mr. Adam Lindsay, Assistant City Manager, introduced this item and stated the City Council placed a ballot measure seeking authorization of the issuance of up to \$97 million in General Obligation Bonds to support capital investments in public safety, infrastructure, and affordable housing on the November 8, 2022, ballot. Each bond authorization measure was approved by voters at the following percentages.

- Affordable Housing Bond - 59 percent
- Infrastructure Bond - 67 percent
- Public Safety Bond - 62 percent

The Mayor and City Council can now provide initial direction to staff regarding the desired implementation plan.

DRAFT

The City Manager's Office established three City-staff led working groups to develop a plan to implement the prioritized projects approved by City Council. Each bond working group is tasked to develop the scope, schedule, and cost of the projects funded by the Affordable Housing, Infrastructure, and Public Safety Bonds. The following breakdown provides funding concepts within the individual bonds, as well as a high-level roadmap of the timing and touchpoints with the City Council. Once Council has confirmed the funding structure and priorities, City staff will initiate project planning and follow the high-level roadmap in the attachment.

This item was for information only; no action was taken.

11.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:48 p.m.

Respectfully submitted,

PAMELA J. MEGILL
City Clerk
121222

MITCH COLVIN
Mayor



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3108

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.02

TO: Mayor and Members of City Council

THRU: Kelly Olivera - Assistant City Manager
Dr. Gerald Newton
Jennifer C. Baptiste, CZO - Planning and Zoning Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: January 9, 2023

RE:

P22-48. Rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) of 12.23 acres ±, located at 0 Drive off of Rim Road (REID #9487860537000), and being the property of Leisure Living CB LLC, represented by June Cowles of WithersRavenel.

COUNCIL DISTRICT(S):

7 - Brenda McNair

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base
- Objective 2.4 - To sustain a favorable development climate to encourage business growth.

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

The subject property is currently zoned Single Family Residential 6 (SF-6). The applicant would like to rezone the property to Mixed Residential 5 (MR-5).

The Zoning Commission held a legislative hearing on November 8, 2022. The Zoning

Commission voted to recommend approval of the proposed map amendment in a 3-2 vote. The applicant and proposed developer attended the meeting and spoke in favor of the rezoning. A resident of the Bone Creek Subdivision spoke in opposition due to traffic concerns in the Cliffdale Road and Rim Road area. There was one additional citizen signed up to speak however, they waived their time following the staff presentation.

Background:

Owner: Leisure Living CB LLC

Applicant: June Cowles of WithersRavenel

Requested Action: SF-6 to MR-5

REID: 9487860537000

Council District: 7 - Brenda McNair

Status of Property: Vacant/Undeveloped

Size: 12.23 acres ±

Adjoining Land Use & Zoning:

- North: SF-6 and SF-10 - Single-family subdivision and self-storage
- South: AR - Undeveloped
- East: AR - Undeveloped
- West: SF-6 and MR-5 - Single-family subdivision and undeveloped

Annual Average Daily Traffic: Rim Road: 10,000 (2016)

Letters Mailed: 131

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Medium Density Residential. Medium Density Residential areas are intended to accommodate primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre), duplexes or townhomes, and low-rise apartments.

Issues/Analysis:

History:

The subject property and surrounding area were annexed into the City of Fayetteville in 2005 as part of the Phase 5 annexation project. The five parcels to the southwest of the subject property were previously rezoned from Agricultural Residential (AR) and Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) in 2021, case P21-21.

According to the application in 2021, the rezoning request was made in order to develop the property was an apartment complex. The properties are currently undeveloped.

Surrounding Area:

This area along Rim Road south of Cliffdale Road has a variety of residential zoning districts. Zoning in the area ranges from the medium-density residential districts of Single-Family Residential 6 (SF-6) and Single-Family Residential 10 (SF-10), to the high-density residential Mixed Residential 5 (MR-5) district. Brook Run subdivision, located to the north of the subject property, is zoned SF-10 while the undeveloped land to the south is zoned AR. Colony Village subdivision, located to the west of the subject

property, is zoned SF-6.

To the southwest of the subject property is roughly 19.17 acres ± of undeveloped land which was rezoned from SF-6 to MR-5 in 2021.

Rezoning Request:

The applicant is requesting to rezone 12.23 acres ± from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The applicant has expressed interest in developing this parcel in conjunction with parcels to the southwest as multi-family dwellings (apartments).

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

Straight Zoning:

The request is for a straight zoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5).

The MR-5 zoning district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development.

The proposed zoning district is compatible with the area and this district is in keeping with the City's Future Land Use Plan.

The reclassification of land to a straight zoning district allows all of the uses that are shown on Use Table in the Unified Development Ordinance. The City Council may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to Future Land Use Map & Plan, this area is recommended to be developed as Medium Density Residential (MDR). Medium Density Residential areas are intended to accommodate primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre), duplexes or townhomes, and low-rise apartments.

While the applicant has proposed three-story apartment buildings and the Future Land Use Plan calls for low-rise apartments (1-2 story apartments) as part of the MDR district, three-story apartments would not be incongruous with the surrounding area as there are multiple large apartment complexes in the area.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application looks to follow the City's strategic, compatible growth strategies by meeting the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There is not an immediate budgetary impact, but an economic impact will be associated with this rezoning due to taxes collected in the future.

Options:

1. City Council moves to approve the rezoning to MR-5 as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement.
2. City Council moves to approve the map amendment/rezoning to a more restrictive zoning district based on the evidence submitted and finds that the map amendment/rezoning would be consistent with the Future Land Use Plan and an amended consistency and reasonableness statement.
3. City Council moves to deny the rezoning based on the evidence submitted and finds that the rezoning is inconsistent with the Future Land Use Plan.

Recommended Action:

The Zoning Commission and Professional Planning Staff recommend that the City Council move to APPROVE the map amendment to MR-5 based on the following:

- The proposed zoning map amendment implements the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Medium Density Residential.
- The uses permitted by the proposed change in zoning district classification and standards apply to such use and will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Consistency and Reasonableness Statements

Project Overview**#872011****Project Title:** Rim Road**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:****Zip Code:** 28,314

- 7237 APRIL DR (9487768375000)
- 0 N/A DR (9487860537000)

GIS Verified Data**Property Owner: Parcel**

- 7237 APRIL DR: AQUA NORTH CAROLINA
- 0 N/A DR: LEISURE LIVING CB LLC

Acreage: Parcel

- 7237 APRIL DR: 0.86
- 0 N/A DR: 12.23

Zoning District:**Subdivision Name:****Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:****500 Year Flood:****Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Approval Date:****Previous Amendment Case #:****Proposed Zoning District:** MR-5**Acreage to be Rezoned:** 13.09**Is this application related to an annexation?:** No**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:**

The project includes 2 parcels. The 12.23 acre parcel is mainly undeveloped with mature existing trees. A small creek runs along the eastern property line of this larger parcel. The aerial shows two structures, that appear to be storage units/buildings or the well buildings. The smaller parcel is 0.86 parcel and is listed as a well site. However, the structures are reported as no longer on site. The aerial picture is dated 2021.

B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:

The Proposed Rezoning is to MR-5 from current zoning district SF-6. North of the site is existing single family subdivision zoned SF-10. To the west of the site is existing single family modular home subdivision zoned SF-6 with a stub street to the subject property site and undeveloped land zoned MR-5. To the south the adjacent site is undeveloped land zoned Agricultural Residential (AR).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:

The proposed Amendment to Mixed Residential 5 District is consistent the Medium Density Residential land use designation that is described as primarily single family residential neighborhoods with small lots. Notably Low-rise apartments are considered possible in this designation. The residential suitability map within the 2040 future land use plan shows the subject properties area to be between Medium and High density,

The proposed amendment is consistent with several of the City of Fayetteville 2040 Future Land Use Plan Policies/Goals as follows:

LU-1 Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services. The project site will be rezoned consistent with the adjacent parcels to the west that area along Rim Road. Services, such as roads, utilities, an elementary school, and a recreational center are currently in place. And is consistent with the following LU-1 strategies:

- o I-2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas (Neighborhood Mixed Use).
- o 1-6 Adequate infrastructure to be in place prior to development.
- o 1-7 Encourage a logical progression of housing development.

LU-6 Encourage development standards that result in quality neighborhoods. The subsequent development will be consistent with the City design and development standards.

LU-7 Encourage a mix of housing types for all ages and incomes. The Mixed Residential 5 District is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities.

Goal 5: Preserve and enhance environmental features through open space protection. The subsequent development will provide the required preservation of environmental features and open space.

Goal 6: Compliment and capitalize on the strategic importance of military installations and educational and medical institutions. The military installation is located approximately 5 miles from the project site. Which could provide more housing for military members.

LU 11: Encourage a development pattern and community growth that respects the training and operational mission of the military, while also allowing for reasonable, appropriate uses on properties near Fort Bragg. The project location will not interfere with military operational mission

B) Are there changed conditions that require an amendment? :

The proposed project parcels are currently zoned Single Family Residential 6 District (SF-6), A stub street is located at the adjacent existing single family residential to the subject parcels. A previous map dated 1994 continued the lots within the project parcels. However, the project parcels have not been developed and the project parcels proposed Rezone is to the same zoning district: Mixed Residential 5 District (MR-5), as the adjacent undeveloped properties west of the parcel site.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

The proposed amendment to Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities. All development in the district shall comply with the design standards in [Article 30-5: Development Standards](#)

In addition, the proposed amendment is consistent with several of the City of Fayetteville 2040 Future Land Use Plan Policies/Goals as follows:

LU-1 Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services. The project site will be rezoned consistent with the adjacent parcels to the west that area along Rim Road. Services, such as roads, utilities, an elementary school, and a recreational center are currently in place. And is consistent with the following LU-1 strategies:

- o I-2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas (Neighborhood Mixed Use).
- o 1-6 Adequate infrastructure to be in place prior to development.

o 1-7 Encourage a logical progression of housing development.

LU-6 Encourage development standards that result in quality neighborhoods. The subsequent development will be consistent with the City design and development standards.

LU-7 Encourage a mix of housing types for all ages and incomes. The Mixed Residential 5 District is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities.

Goal 6: Compliment and capitalize on the strategic importance of military installations and educational and medical institutions. The military installation is located approximately 5 miles from the project site. Which could provide more housing for military members.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

The proposed amendment, Mixed Residential 5 District is compatible with the surrounding existing and proposed uses as the surrounding areas include residential, a community recreation center, and an elementary school. Therefore, the proposed amendment residential district is appropriate for the subject site.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

The subject properties are proposed to be rezoned to the same zoning district, Mixed Residential 5 District (MR-5) as the adjacent undeveloped properties to the west and will provide an infill type development as the surrounding area includes existing developments.

F) State the extent to which the proposed amendment might encourage premature development.:

As stated earlier, the subject properties proposed amendment is to the same zoning district (MR-5), as the adjacent undeveloped properties to the west and will provide infill development. Infrastructure is already in place. Therefore, the proposed amendment will not encourage premature development

G) State the extent to which the proposed amendment results in strip-style commercial development.:

The proposed amendment is a residential zoning district and will not be a commercial development.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

As stated earlier, the subject properties proposed amendment is to the same zoning district, Mixed Residential 5 District (MR-5) as the adjacent undeveloped properties to the west and will not create an isolated zoning district unrelated to the surrounding zoning districts.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

The proposed amendment, (MR-5) will not result in significant adverse impacts on the property values of surrounding lands. Subsequent development of the properties will be consistent with the City development standards and high quality design guidelines to include preservation of environmental features and open space protection.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

The proposed amendment will be zoned consistent with the properties to the west and subsequent development of the properties will be consistent with the City of Fayetteville development standards to include protection of environmental features (requirements for open space and stream and landscape buffers).

Primary Contact Information

Contractor's NC ID#:

Project Owner

Casey King
Caviness and Cates
639 Executive Place, 400
Fayetteville, NC 28305
P:910-481-0503

Project Contact - Agent/Representative

June Cowles
WithersRavenel
115 MacKenan Drive, Cary
Cary, NC 27511
P:(919) 469-3340
jcowles@withersravenel.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

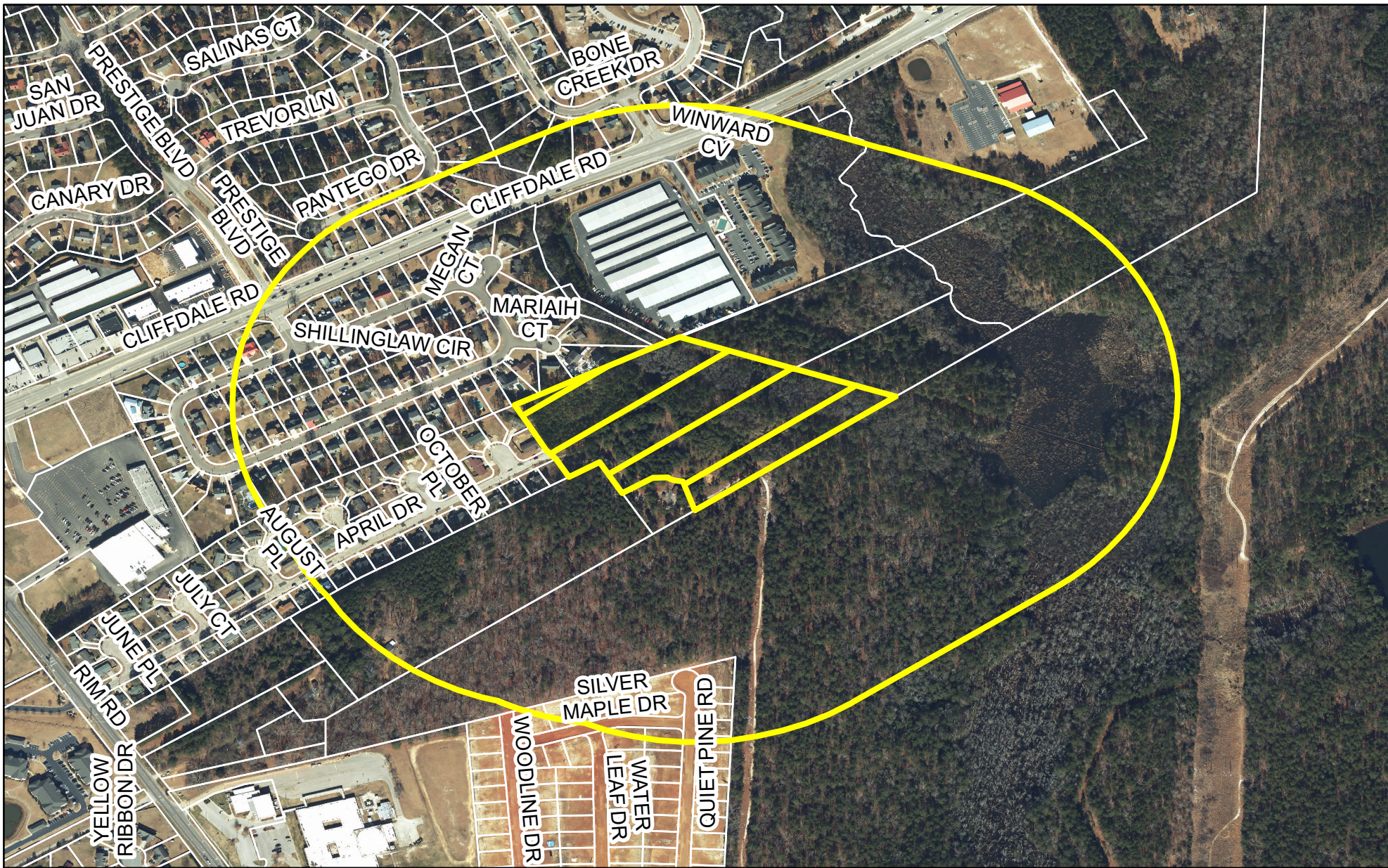
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project:





Aerial Notification Map

Case #: P22-48

Request: Rezoning
SF-6 to MR-5

Location: 0 Drive (9487860537000)

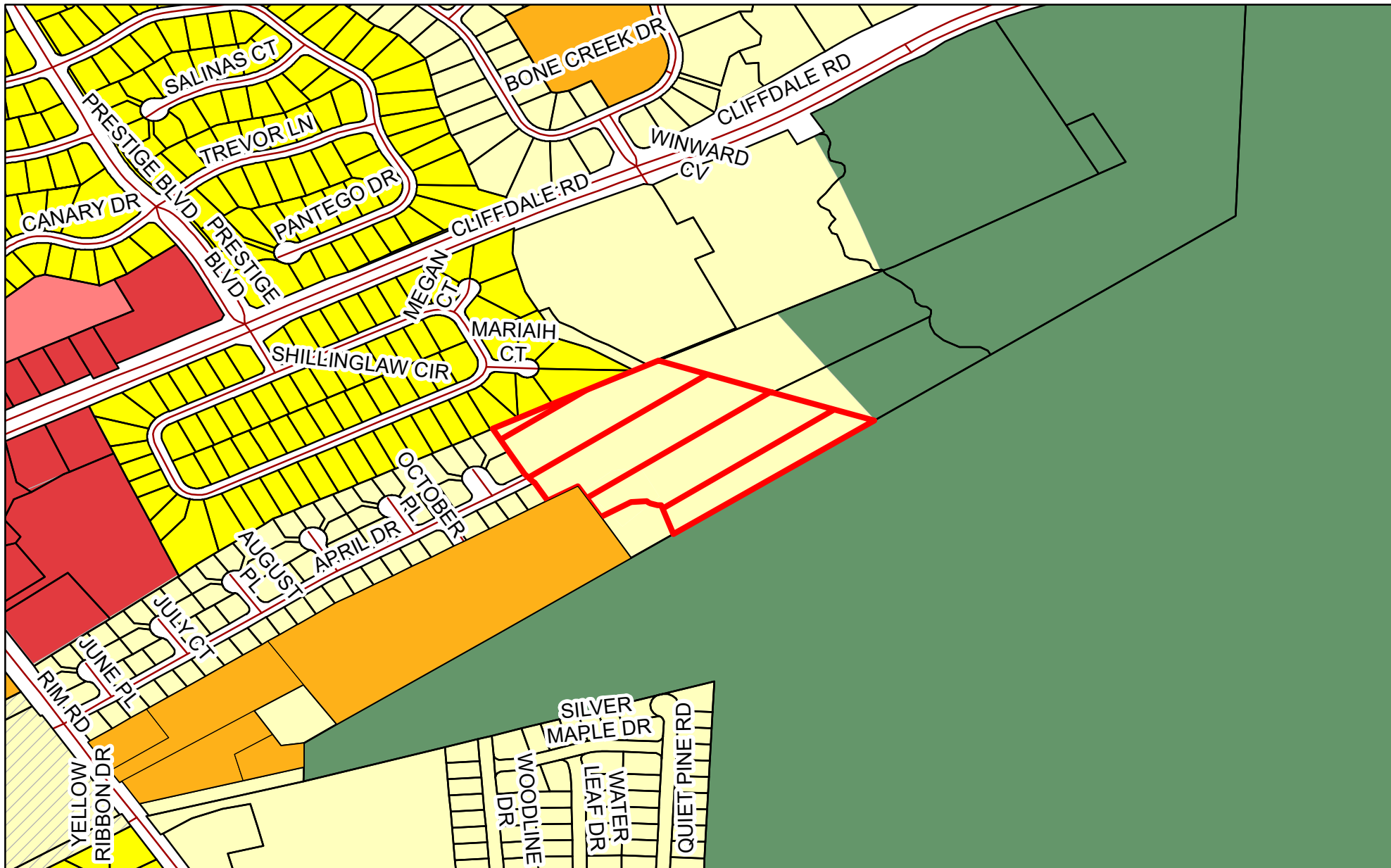
Legend

-  P22-48 Buffer
-  P22-48



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.













Zoning Map

Case #: P22-48

Request: Rezoning
SF-6 to MR-5

Location: 0 Drive (9487860537000)

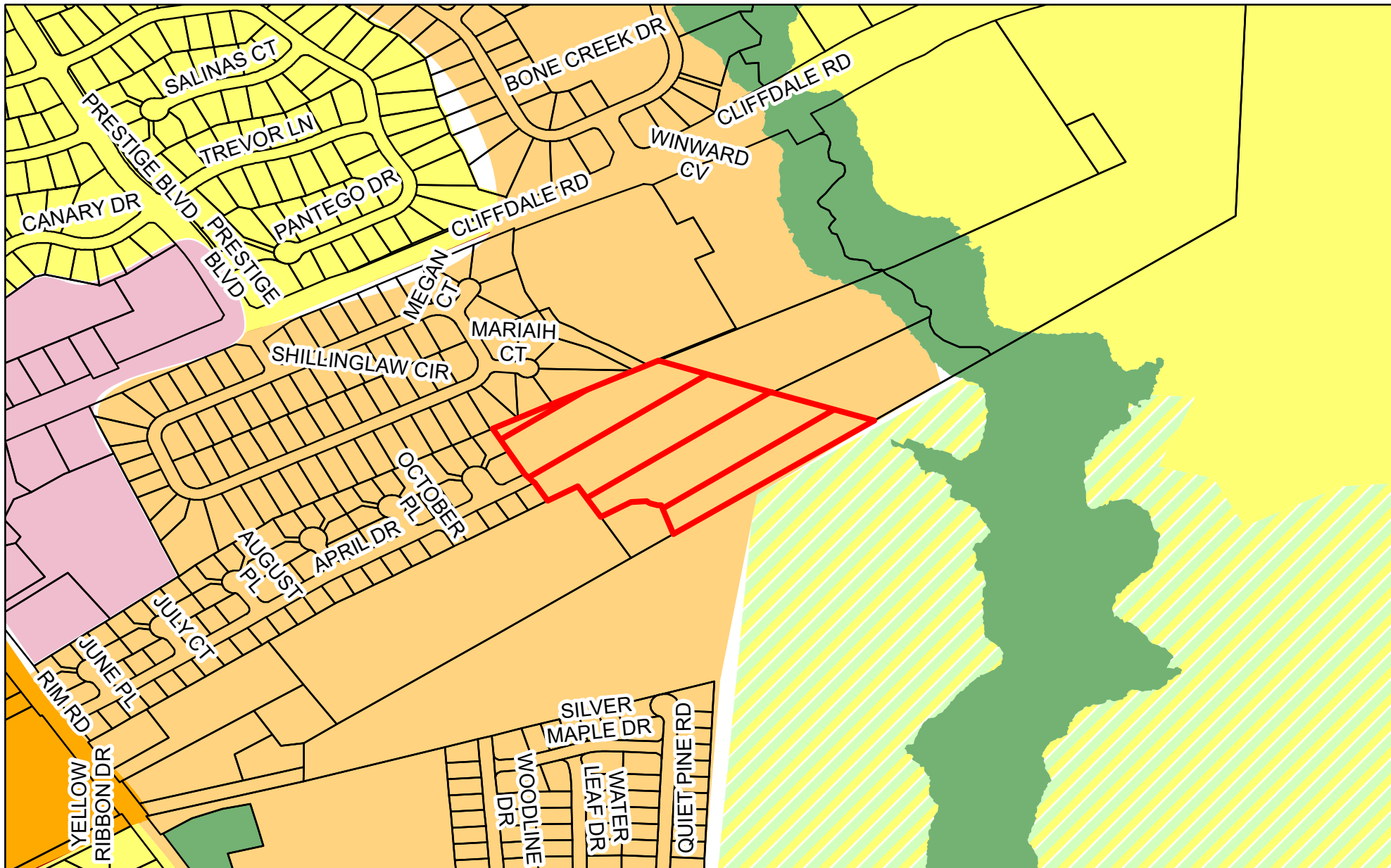
Legend

	P22-48		NC - Neighborhood Commercial
	AR - Agricultural-Residential		SF-6 - Single-Family Residential 6
	LC - Limited Commercial		SF-6/CZ - Conditional Single-Family Residential 6
	MR-5 - Mixed Residential 5		SF-10 - Single-Family Residential 10



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Land Use Map

Case #: P22-48

Request: Rezoning
SF-6 to MR-5

Location: 0 Drive (9487860537000)

Legend

 P22-48

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

OSS - OPEN SPACE SUBDIVISIONS

LDR - LOW DENSITY

MDR - MEDIUM DENSITY

HDR - HIGH DENSITY RESIDENTIAL

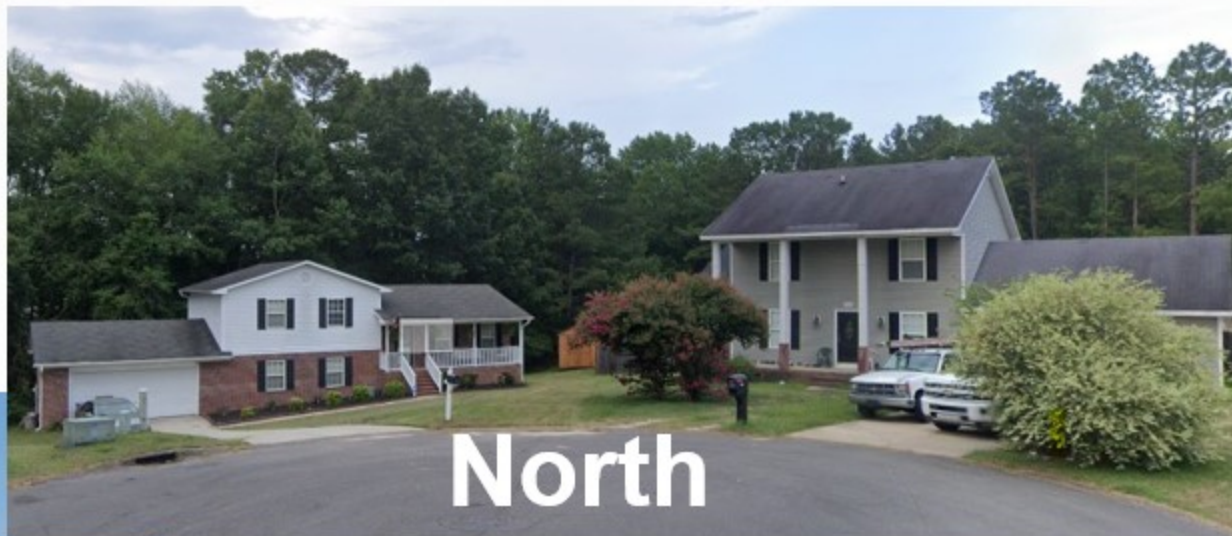
NMU - NEIGHBORHOOD MIXED USE



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P22-48 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investment around infrastructure and strategic nodes	X	
GOAL #4: Foster safe, stable, and attractive neighborhoods	X	
GOAL #5: Preserve and enhance environmental features through open space protection	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.	X	
1.6: Require adequate infrastructure to be in place prior to or in tandem with new development	X	
1.7: Encourage a logical progression of housing development and discourage "leapfrog" development	X	
LUP 6: Encourage development standards that result in quality neighborhoods	X	
6.1 Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, storm water, and open space.	X	
LUP 7: Encourage a mix of housing types for all ages and incomes.	X	

7.1: Allow a mix of housing, including attached and multi-family homes, to create diverse neighborhoods, especially within and near Downtown and designated Regional, Community, and Neighborhood Centers.	X	
LUP 8: Require the reservation of open space and unique natural features in new developments.	X	
8.1: Evaluate open space requirements for residential development and consider increasing requirements to be competitive with or exceed peer communities.	X	

3. The proposed amendment is consistent with the Future Land Use Map as follows:

X	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR		The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
X	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR		The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts.

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

X The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.

 The amendment includes conditions that limit potential negative impacts on neighboring uses.

X The proposed uses address the needs of the area and/or City.

X The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

 improves consistency with the long-range plan.

 improves the tax base.

 preserves environmental and/or cultural resources.

X

facilitates a desired kind of development.


X

provides needed housing/commercial area.

Additional comments, if any (write-in):

11/8/2022

Date


Signature

Parvan D. Patel
Print



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-2953

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.03

TO: Mayor and Members of City Council

THRU: Karen M. McDonald, City Attorney

FROM: Kecia N. Parker, NCCP, Real Estate Manager

DATE: January 9, 2023

RE:

**Authorization of Condemnation of Easements on the Properties Needed for
Sunbury Drive Drainage Project**

COUNCIL DISTRICT(S):

3

Relationship To Strategic Plan:

Desirable Place to Live, Work and Recreate

Executive Summary:

On April 25, 2002, Council appropriated \$3,053,718 of anticipated state and federal funding for the Sunbury Drive Drainage Project. Fourteen easements (some temporary and some permanent) are required to complete the project as designed. To date staff has acquired easements from six of the nine property owners. The contractor will soon be ready to begin the project. Staff is requesting authority to begin the condemnation process in order to start the notice period and reduce any potential project delay.

Background:

The City of Fayetteville has received \$3,053,718 from the American Rescue Plan Funding from the State Fiscal Recovery Fund established in SL2021-180. The funding requires a strict acquisition process that must be followed in order to receive the funds.

The project the City has proposed involves a stormwater infrastructure improvement project along Sunbury Drive, Needham Drive, Rose Hill Road, and Pleasant Loop, in the Warrenwood Estates & Rosewood Terrace neighborhoods, to increase the capacity and capability to provide drainage to the area, and an appropriate level of flood protection.

The pictures attached depict the level of flooding that is currently present in the neighborhoods above mentioned. The proposed improvements will increase the capacity of the local storm drainage system and allow it to meet the City's 10-year level of service for closed systems, and the 25-year level of service for open channel flow. The project will eliminate flooding within the City's rights of way for the designed level of service, mitigate flooded residential structures, and stabilize the outfall to lessen the sediment load on the downstream channel and pond. Scope of the project consists of removal of the existing, failing, undersized storm sewer system and replacing it with approximately 60 linear feet of 15" reinforced concrete pipe, 90 linear feet of 18" reinforced concrete pipe, 929 linear feet of 24" reinforced concrete pipe, 277 linear feet of 30" reinforced concrete pipe, 37 linear feet of 36" reinforced concrete pipe, 152 linear feet of 42" reinforced concrete pipe, 1385 linear feet of 48" reinforced concrete pipe, 12 linear feet of 60" reinforced concrete pipe and appurtenances. A riffle grade control dissipater pad will be constructed at the outfall with some channel modifications to reduce velocity and scour potential.

Easements were required from 9 property owners. There are 3 remaining property owners left to acquire from due to stalled negotiations.

The first owner has 674.78 square feet of temporary easement and 810.23 square feet of permanent easement needed from a parcel containing 3,456,486 square feet. The City did an in house appraisal based on tax value offered \$151.21 for the requested easements. The property owner countered with \$21,210.20. Due to federal guidelines an appraisal was ordered and is forthcoming. Once the appraisal is received the guidelines require a 30-day Notice letter to be sent as one last attempt for acquisition. If no agreement is reached the condemnation process would begin.

The second property owner has 221.17 square feet of permanent easement needed on an 89,298 square feet property. The in house appraisal value based on the tax value of the property came out to be \$29.86 which the City rounded up to \$100.00. The property owner countered with \$5,789.79. Due to federal guidelines an appraisal was ordered and is forthcoming. Once the appraisal is received the guidelines require a 30-day Notice letter to be sent as one last attempt for acquisition. If no agreement is reached the condemnation process would begin.

The third property owner has accepted our offer but has not sent the documents back yet. Due to the funding source and the federal requirements for acquisition, the City cannot accept the counter offers. Due to federal guidelines and the acceptance of our offer an appraisal is not required. A 30-day Notice letter will be sent as an attempt to move these negotiations forward. If documents are still not received the condemnation process would begin.

At this juncture the City will need to authorize eminent domain to move the project forward to allow for the federal funds to be received following the procedure as outlined above.

Issues/Analysis:

- One of the remaining property owners was offered \$151.21 for 1485.01 square

feet of a temporary and permanent easement. They countered with a price of \$21,210.20. Due to the federal guidelines staff has requested an outside appraisal but has not received the appraisal back yet.

- The second of the remaining property owners was offered \$100.00 for 221.17 square feet of a permanent easement. They countered with a price of \$5,789.79. Due to the federal guidelines staff has requested an outside appraisal but has not received the appraisal back yet.
- The third property owner has agreed to the price offered but has not sent the paperwork back.

Budget Impact:

The budget has been allocated for this project through the American Rescue Plan Funding from the State Fiscal Recovery Fund established in SL2021-180.

Options:

- Approve the Resolution for the Authorization of Condemnation of Easements on the Properties Needed for Sunbury Drive Drainage Project
- Reject the Resolution for the Authorization of Condemnation of Easements on the Properties Needed for Sunbury Drive Drainage Project

Recommended Action:

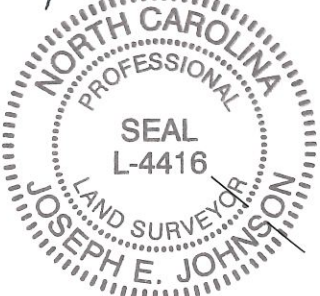
Staff recommends approval of the Resolution for the Authorization of Condemnation of Easements on the Properties Needed for Sunbury Drive Drainage Project.

Attachments:

Maps
Resolution
Pictures of Flooding

I, JOSEPH E. JOHNSON, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SHOWN, PAGE HEREON OR OTHER REFERENCE SOURCE _____); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN DEED BOOK 7505, PAGE 774 OR OTHER REFERENCE SOURCE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000±, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56, 1600). WITNESS MY HAND AND SEAL THIS 3RD DAY OF FEBRUARY, 2022.


PROFESSIONAL LAND SURVEYOR - L-4416



0429-99-2864
DB: 10887, PG: 514

20' PERMANENT
UTILITY EASEMENT
DB: 5461, PG: 29

8' PERMANENT EASEMENT
DB: 7564, PG: 746



TEMPORARY
CONSTRUCTION
EASEMENT
18,103 SF

0429-99-6906
DB: 3082, PG: 205

0429-99-6750
SOUTH ATLANTIC CONFERENCE ASSOCIATION
OF SEVENTH-DAY ADVENTISTS, INC.
DB: 7505, PG: 774

ECM
N=499,619.06
E=2,029,644.21

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

LEGEND	
SF - SQUARE FEET	FWG - FLUSH WITH GROUND
LEN - LENGTH	BG - BELOW GROUND
RAD - RADIUS	CHB - CHORD BEARING
ERB - EXISTING REBAR	CHL - CHORD LENGTH
ECM - EXISTING CONCRETE MONUMENT	CTY - COUNTY
--- - EXISTING PARCEL LINE	
--- - EXISTING RIGHT OF WAY (R/W) LINE	
--- - EXISTING SANITARY SEWER LINE	
 - PERMANENT DRAINAGE EASEMENT	
 - TEMPORARY CONSTRUCTION EASEMENT	

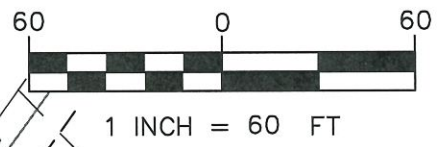
SHEET 1 OF 1

EXHIBIT A

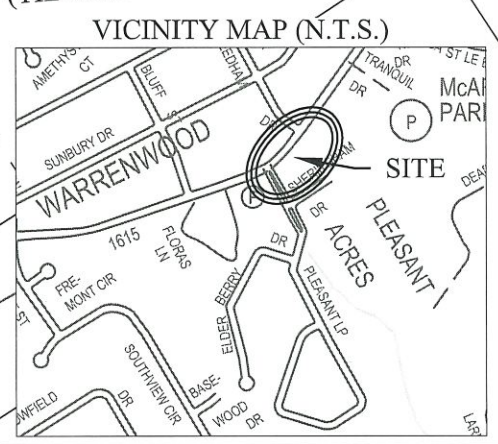
NC GRID NAD 83 (2011)

REFERENCES:
DEED BOOK 7505 PAGE 774
DEED BOOK 5461 PAGE 29

NOTES:
1. THIS MAP WAS PREPARED FROM RECORDED MAPS, DEEDS, AND A PARTIAL FIELD SURVEY.
2. THIS MAP HAS BEEN PREPARED FOR EASEMENT ACQUISITION ONLY.



A	N35° 56' 17"E	5.71'
B	S53° 20' 06"E	33.34'
C	S39° 34' 37"W	326.99'
D	S40° 26' 22"W	125.60'



 **FAYETTEVILLE**
AMERICA'S CAN DO CITY
PUBLIC SERVICES DEPARTMENT
ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1656

PROPOSED DRAINAGE EASEMENTS
0429-99-6750 S ATLANTIC CONF ASSOC
±0.24 ACRE PERMANENT STORMWATER
±0.42 ACRE TEMPORARY CONSTRUCTION
CARVERS CREEK TOWNSHIP CUMBERLAND CTY
FAYETTEVILLE NORTH CAROLINA

DATE 2/03/2022 DRAWN BY RSJ
SCALE 1" = 60' CK'D BY JEJ

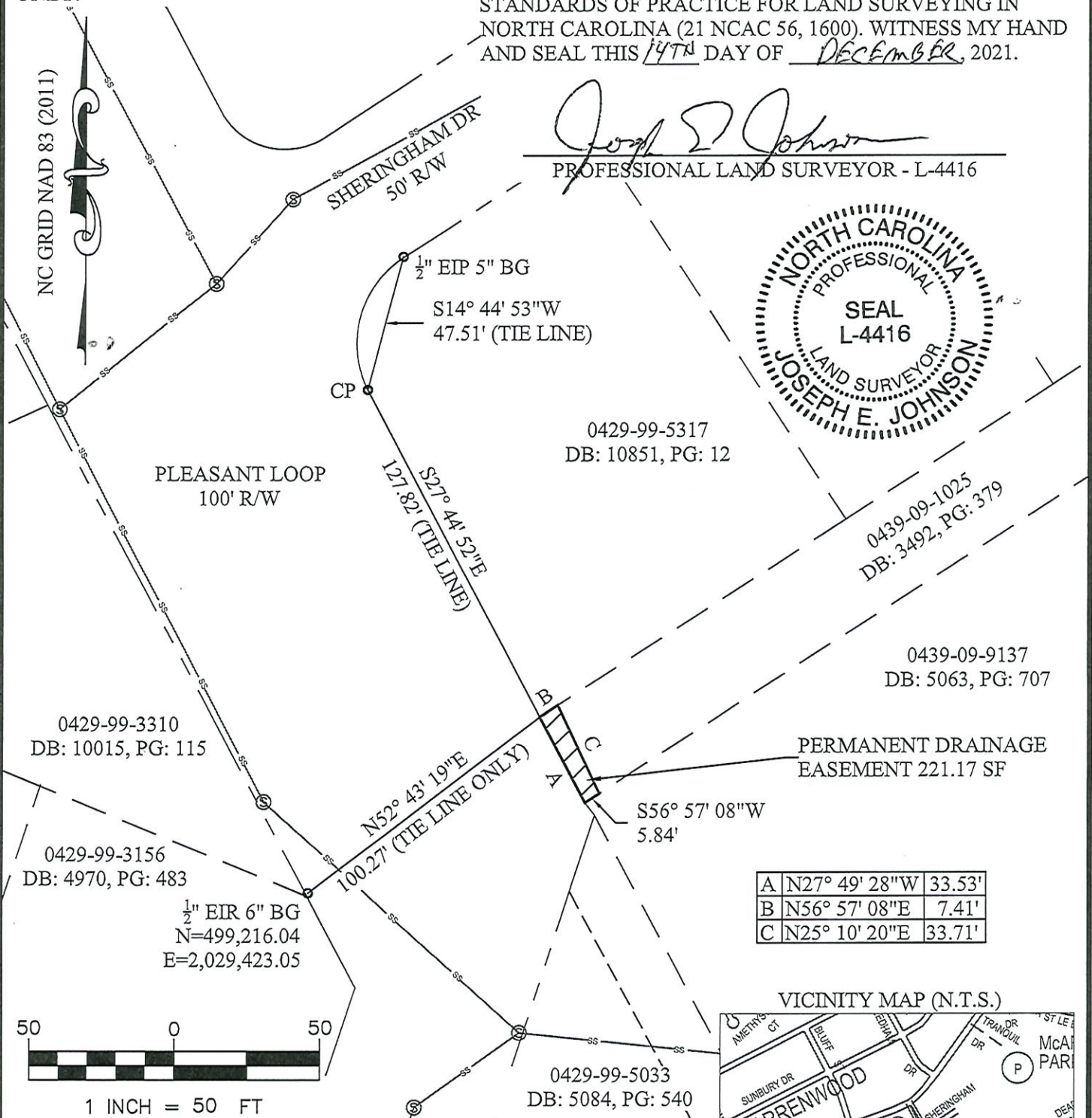
REFERENCES:
DEED BOOK 3492 PAGE 379
PLAT BOOK 91 PAGE 5

NOTES:

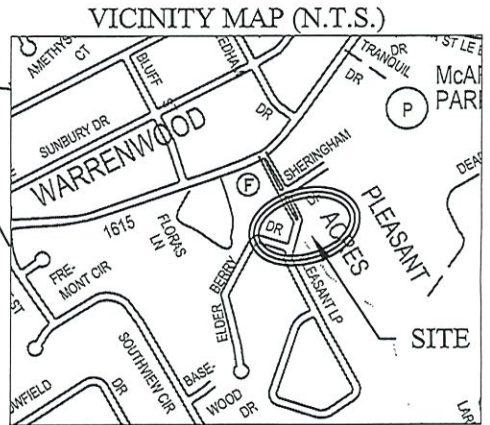
1. THIS MAP WAS PREPARED FROM RECORDED MAPS, DEEDS, AND A PARTIAL FIELD SURVEY.
2. THIS MAP HAS BEEN PREPARED FOR EASEMENT ACQUISITION ONLY.

I, JOSEPH E. JOHNSON, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SHOWN, PAGE HEREON OR OTHER REFERENCE SOURCE); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN PLAT BOOK 91, PAGE 5 OR OTHER REFERENCE SOURCE ; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000±, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56, 1600). WITNESS MY HAND AND SEAL THIS 14TH DAY OF DECEMBER, 2021.

PROFESSIONAL LAND SURVEYOR - L-4416



A	N27° 49' 28" W	33.53'
B	N56° 57' 08" E	7.41'
C	N25° 10' 20" E	33.71'



THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

LEGEND

- EIP - EXISTING IRON PIPE SF - SQUARE FEET
EIR - EXISTING IRON ROD CTY - COUNTY
N.T.S. - NOT TO SCALE DB - DEED BOOK
CP - COMPUTED POINT BG - BELOW GROUND
--- - EXISTING PARCEL LINE
---- - EXISTING RIGHT OF WAY (R/W) LINE
--- - EXISTING SANITARY SEWER LINE
/// - PERMANENT DRAINAGE EASEMENT



FAYETTEVILLE
AMERICA'S CAN DO CITY

PUBLIC SERVICES DEPARTMENT
ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1656

PROPOSED PERMANENT DRAINAGE EASEMENT

0439-09-1025

SCOTT, CLAUDE W. III & SHARON B.

±0.005 ACRE ±221.17 SF

CARVERS CREEK TOWNSHIP
FAYETTEVILLE

CUMBERLAND CTY
NORTH CAROLINA

SHEET 1 OF 1

EXHIBIT A

DATE 12/02/2021

DRAWN BY RSH

SCALE 1" = 50'

CK'D BY JEJ

I, JOSEPH E. JOHNSON, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SHOWN, PAGE HEREON OR OTHER REFERENCE SOURCE _____); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN DEED BOOK 5063, PAGE 707 OR OTHER REFERENCE SOURCE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000±, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56, 1600). WITNESS MY HAND AND SEAL THIS 22 DAY OF DECEMBER, 2021.

REFERENCES:
DEED BOOK 5063 PAGE 707

NOTES:
1. THIS MAP WAS PREPARED FROM RECORDED MAPS, DEEDS, AND A PARTIAL FIELD SURVEY.
2. THIS MAP HAS BEEN PREPARED FOR EASEMENT ACQUISITION ONLY.

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

PROFESSIONAL LAND SURVEYOR - L-4416



1/2" EIR 6" BG
N=499,216.04
E=2,029,423.05

0429-99-3156
DB: 4970, PG: 483

PERMANENT DRAINAGE
EASEMENT 810.23 SF

ELDERBERRY DR
50' R/W

0429-98-3916
DB: 5278, PG: 263

PLEASANT LOOP
60' R/W

N12° 58' 22"E
304.11' (TIE LINE)

1" CIP FWG
N=498,946.56
E=2,029,453.50



1 INCH = 50 FT

N56° 57' 08"E
5.84'

N37° 49' 56"W
5.34'

N74° 46' 30"E
102.31' (TIE LINE ONLY)

0439-09-9137
DB: 5063, PG: 707

TEMPORARY
CONSTRUCTION
EASEMENT
674.78 SF

S32° 08' 03"E
50.45'

S39° 55' 24"W
24.22'

SUBJECT TO
SANITARY SEWER
EASEMENT

0429-99-5033
DB: 5084, PG: 540

A	S25° 10' 20"E	4.53'
B	S25° 10' 20"E	13.36'
C	S62° 46' 41"E	12.98'
D	S31° 08' 39"E	50.42'
E	S58° 51' 21"W	14.11'
F	N28° 04' 56"W	73.88'
G	N28° 04' 56"W	11.38'

20' DRAINAGE EASEMENT
PB: 27, PG: 39

NC GRID NAD 83 (2011)

VICINITY MAP (N.T.S.)



LEGEND

EIR - EXISTING IRON ROD SF - SQUARE FEET
CIP - CRIMPED IRON PIPE CTY - COUNTY
FWG - FLUSH W/ GROUND BG - BELOW GROUND
--- - EXISTING PARCEL LINE
---- - EXISTING RIGHT OF WAY (R/W) LINE
- - - - EXISTING SANITARY SEWER LINE
[Hatched Box] - PERMANENT DRAINAGE EASEMENT
[Diagonal Lines Box] - TEMPORARY CONSTRUCTION EASEMENT



FAYETTEVILLE
AMERICA'S CAN DO CITY

PUBLIC SERVICES DEPARTMENT
ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1656

PROPOSED DRAINAGE EASEMENTS

0439-09-9137 BILL, ELLEN OAKES
±0.02 ACRE PERMANENT DRAINAGE
±0.02 ACRE TEMPORARY CONSTRUCTION
CARVERS CREEK TOWNSHIP CUMBERLAND CTY
FAYETTEVILLE NORTH CAROLINA

SHEET 1 OF 1

EXHIBIT A

DATE 12/21/2021

DRAWN BY RSH

SCALE 1" = 50'

CK'D BY JEJ

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE CONDEMNATION ACTION ON REMAINING PARCELS FOR NEEDED STORMWATER EASEMENTS FOR SUNBURY DRAINAGE PROJECT

WHEREAS, the City of Fayetteville, NC, is a municipal corporation existing under and by virtue of the Constitution, statutes and laws of the State of North Carolina; and

WHEREAS, the governing body of the City of Fayetteville hereby determines that it is necessary and in the public interest to acquire easements on certain properties for the following public purpose:

Easement Interest for Stormwater Drainage for the Sunbury Drainage Project

WHEREAS, North Carolina General Statute §160A-240.1 authorizes the City to acquire property by condemnation procedures; and

WHEREAS, the acquisition of easements in said parcels is consistent with strategic planning goal of a Diverse and Viable Economy and Desirable Place to Live, Work and Recreate; and

WHEREAS, the acquisition of the easements in said properties is consistent with the City's commitments; and

WHEREAS, the City of Fayetteville shall acquire by condemnation, for the purpose stated above, the property and easement interests as listed below:

0429-99-6750 Permanent Drainage Easement:

BEGINNING at an existing rebar being the northwestern corner of Lot 24 of the subdivision known as "PLEASANT ACRES, SECTION TWO" as depicted in Plat Book 58, Page 44 of the Cumberland County Registry, said point also being in the eastern right-of-way margin of Pleasant Loop and continuing thence North 27 degrees 44 minutes 52 seconds West 21.83 feet thence North 27 degrees 44 minutes 52 seconds West 28.74 feet to a point to the **TRUE POINT AND PLACE OF BEGINNING**, thence North 27 degrees 44 minutes 52 seconds West 45.77 feet to a point, thence North 46 degrees 29 minutes 24 seconds East 74.19 feet to a point, thence, North 41 degrees 02 minutes 55 seconds East 131.63 feet to a point, thence North 37 degrees 47 minutes 43 seconds East 96.76 feet to a point, thence North 35 degrees 56 minutes 17 seconds East 5.71 feet to a point, thence South 53 degrees 20 minutes 06 seconds East 33.34 feet to a point, thence South 39 degrees 34 minutes 37 seconds West 326.99 feet to the **TRUE POINT AND PLACE OF BEGINNING**, containing 10,571.08 square feet more or less.

Temporary Construction Easement:

BEGINNING at an existing iron rebar being the northwestern corner of Lot 24 of the subdivision known as "PLEASANT ACRES, SECTION TWO" as depicted in Plat Book 58, Page 44 of the Cumberland County Registry, said point also being in the eastern right-of-way margin of Pleasant Loop and continuing thence North 27 degrees 44 minutes 52 seconds West 21.83 feet to the **TRUE POINT AND PLACE OF BEGINNING**, thence North 27 degrees 44 minutes 52 seconds West 28.74 feet to a point, thence North 39

degrees 34 minutes 37 seconds East 326.99 feet to a point, thence North 53 degrees 20 minutes 06 seconds West 33.34 feet to a point, thence North 35 degrees 56 minutes 17 seconds East 55.99 feet to a point, thence South 50 degrees 10 minutes 35 seconds East 136.53 feet to a point, thence South 39 degrees 17 minutes 54 seconds West 105.12 feet to a point, thence North 51 degrees 27 minutes 07 seconds West 92.04 feet to a point, thence South 40 degrees 26 minutes 22 seconds West 125.60 feet to a point, thence South 50 degrees 19 minutes 51 seconds East 27.45 feet to a point, South 42 degrees 10 minutes 10 seconds West 159.42 feet to the **TRUE POINT AND PLACE OF BEGINNING**, containing 18,103 square feet more or less.

0439-09-1025 Permanent Drainage Easement:

BEGINNING at a point in the eastern right-of-way margin of Pleasant Loop said point also being the southeast corner of Lot 21 in a subdivision known as PLEASANT ACRES, SECTION TWO as depicted in Plat Book 58, Page 44 the Cumberland County Registry and running thence North 56 degrees 57 minutes 08 seconds East 7.41 feet to point, thence South 25 degrees 10 minutes 20 seconds East 33.71 feet to point, thence South 56 degrees 57 minutes 08 seconds West 5.84 feet to a point, thence North 27 degrees 49 minutes 28 seconds West 33.53 feet, to the **TRUE POINT AND PLACE OF BEGINNING**, containing 221.17 square feet more or less.

0439-09-9137 Permanent Drainage Easement:

BEGINNING at a point in the eastern right-of-way of Pleasant Loop said point being the northernmost corner of Lot 28 of the subdivision known as "Plesant Acres" as depicted in Plat Book 27, Page 39 of the Cumberland County Registry and running thence North 37 degrees 49 minutes 56 seconds West 5.34 feet to a point, thence North 56 degrees 57 minutes 08 seconds East 5.84 feet to a point, thence South 25 degrees 10 minutes 20 seconds East 4.53 feet to a point, thence South 25 degrees 10 minutes 20 seconds East 13.36 feet to a point, thence South 62 degrees 46 minutes 41 seconds East 12.98 feet to a point, thence South 31 degrees 08 minutes 39 seconds East 50.42 feet to a point, thence South 58 degrees 51 minutes 21 seconds West 14.11 feet to a point, thence North 28 degrees 04 minutes 56 seconds West 73.88 feet to the point of **BEGINNING**, containing 810.23 square feet more or less.

Temporary Construction Easement:

BEGINNING at a point in the eastern right-of-way of Pleasant Loop said point being the northernmost corner of Lot 28 of the subdivision known as "Plesant Acres" as depicted in Plat Book 27, Page 39 of the Cumberland County Registry and running thence North 37 degrees 49 minutes 56 seconds West 5.34 feet to a point thence North 56 degrees 57 minutes 08 seconds East 5.84 feet to the **TRUE POINT AND PLACE OF BEGINNING** and running thence South 55 degrees 44 minutes 40 seconds East 30.61 feet to a point thence South 32 degrees 08 minutes 03 seconds East 50.45 feet to a point thence South 39 degrees 55 minutes 24 seconds West 24.22 feet to a point, thence North 28 degrees 04 minutes 56 seconds West 11.38 feet to a point, thence North 58 degrees 51 minutes 21 seconds East 14.11 feet to a point, thence North 31 degrees 08 minutes 39 seconds West 50.42 feet to a point, thence North 62 degrees 46 minutes 41 seconds West 12.98 feet to a point thence North 25 degrees 10 minutes 20 seconds West 13.36 feet to the **TRUE POINT AND PLACE OF BEGINNING**, containing 674.78 square feet more or less.

NOW THEREFORE, BE IT RESOLVED on behalf of the people of Fayetteville, the City Council directs the City Attorney to institute the necessary proceeding under Article 1 of Chapter 40A of the North Carolina General Statutes.

IN WITNESS WHEREOF, the City of Fayetteville has caused this instrument to be signed in its name by its Mayor, attested by its City Clerk, and its corporate seal hereto affixed, all by order of its City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, on this, the 9th day of January, 2023; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

CITY OF FAYETTEVILLE

(SEAL)

By: _____
MITCH COLVIN, Mayor

ATTEST:

PAMELA MEGILL, City Clerk











City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3120

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.04

TO: Mayor and Members of City Council

THRU: Karen M. McDonald, City Attorney

FROM: Kecia N. Parker, NCCP, Real Estate Manager

DATE: January 9, 2023

RE:

Adopt a Resolution Authorizing the Conveyance of a Water and Sanitary Sewer Easement to the City of Fayetteville by and through Fayetteville Public Works Commission on the Murchison Road Catalyst Site

COUNCIL DISTRICT(S):

2

Relationship To Strategic Plan:

Desirable Place to Live, Work and Recreate

Executive Summary:

The Public Works Commission has asked the City of Fayetteville to grant to the City of Fayetteville by and through Fayetteville Public Works Commission, a public authority an added portion to a Water and Sanitary Sewer Easement within the Murchison Road Catalyst Site area that was granted previously to avoid a power pole from having to be relocated.

Background:

The City purchased the property on Bruner Street as a part of the Murchison Road Catalyst Site in 2014/2015. The Fayetteville Public Works Commission is completing a Water Main Encasement Project in the Bruner Street/Moore Street area. To complete the project, PWC needs to acquire 3 permanent utility easements and 1 temporary construction easement on the north and south sides of Bruner Street. The City granted these easements on September 28, 2020. The project consisted of encasing the water

line going under the railroad to ensure the vibration of the railroad does not cause any negative impacts to the water line. As the project has progressed, PWC has found a need to extend the original easement to allow a current power pole to remain in place and not have to be relocated. The extension will require approximately 15 more feet of the parcel.

Issues/Analysis:

None

Budget Impact:

There is no significant impact to the budget.

Options:

- Approve the Resolution Authorizing the Conveyance of an Easement to the City of Fayetteville by and through the Fayetteville Public Works Commission.
- Reject the Resolution Authorizing the Conveyance of an Easement to the City of Fayetteville by and through the Fayetteville Public Works Commission.

Recommended Action:

- Staff recommends approval of the easement for the Bruner Street/Moore Street Water Main Encasement Project.

Attachments:

Resolution

Easement Map

A RESOLUTION AUTHORIZING THE CONVEYANCE OF AN EASEMENT TO THE CITY OF FAYETTEVILLE BY AND THROUGH THE FAYETTEVILLE PUBLIC WORKS COMMISSION FOR THE WATER MAIN ENCASUREMENT PROJECT ON BRUNER STREET AND MOORE STREET

WHEREAS, the City of Fayetteville owns property being identified by the Tax Parcel Number 0437-47-0865; portion of said parcels described as follows;

BEING all that tract of land containing a gross area of +/- 0.007 acres (326 square feet) located in Cross Creek Township, Cumberland County, North Carolina; said tract being a portion of the land owned by City of Fayetteville as described in Deed Book 9436, Page 842 of the Cumberland County Registry and being more particularly described by courses based on North Carolina Grid Coordinate System (NAD83/2011) and distances according to a survey entitled "Permanent Utility Easement Water Main Encasement at Bruner St. – CSX Railroad on the Lands of the City of Fayetteville" for Fayetteville Public Works Commission prepared by McKim & Creed, Inc. dated November 10, 2022, and being more particularly described as follows: COMMENCING at M&C Control Point #1, a Rebar/Cap having NC Grid (NAD83/11) coordinates of Northing = 471,778.64 feet, Easting = 2,043,503.97 feet; thence as a tie line north 57 deg. 18 min. 31 sec. west 11,161.88 feet to a computed point in the western right-of-way line (allowing 100 feet) of the CSX Railroad, said computed point being the POINT OF BEGINNING; thence running with new lines of lands of the City of Fayetteville (Deed Book 9436, Page 842) the following three (3) calls: (1) south 66 deg. 46 min. 21 sec. west 16.36 feet to a computed point, (2) north 22 deg. 55 min. 29 sec. west 20.00 feet to a computed point, and (3) north 66 deg. 46 min. 21 sec. east 16.26 feet to a computed point in the western right-of-way line (allowing 100 feet) of the CSX Railroad; thence with the western right-of-way line (allowing 100 feet) of the CSX Railroad south 23 deg. 12 min. 35 sec. 20.00 feet to a computed point, the Beginning computed point and containing +/- 0.007 acres (326 square feet).

AND WHEREAS, The City of Fayetteville by and through the Fayetteville Public Works Commission has requested that the above portion of the City-owned lot be set aside to be utilized as a Water and Sanitary Sewer easement to continue with the completion of the Water Main Encasement Project for the Bruner Street/Moore Street area;

WHEREAS, North Carolina General Statute § 160A-273 permits the City to establish an easement in said property; and

NOW THEREFORE, BE IT RESOLVED on behalf of the people of Fayetteville, the City Council declares that the City Manager is authorized to execute all necessary documents to establish an easement in the above described property.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, on this, the 9th day of January 2023; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

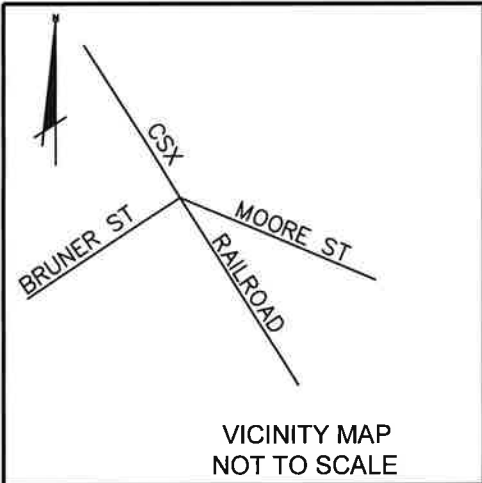
CITY OF FAYETTEVILLE

(SEAL)

By: _____
MITCH COLVIN, Mayor

ATTEST:

PAMELA MEGILL, City Clerk



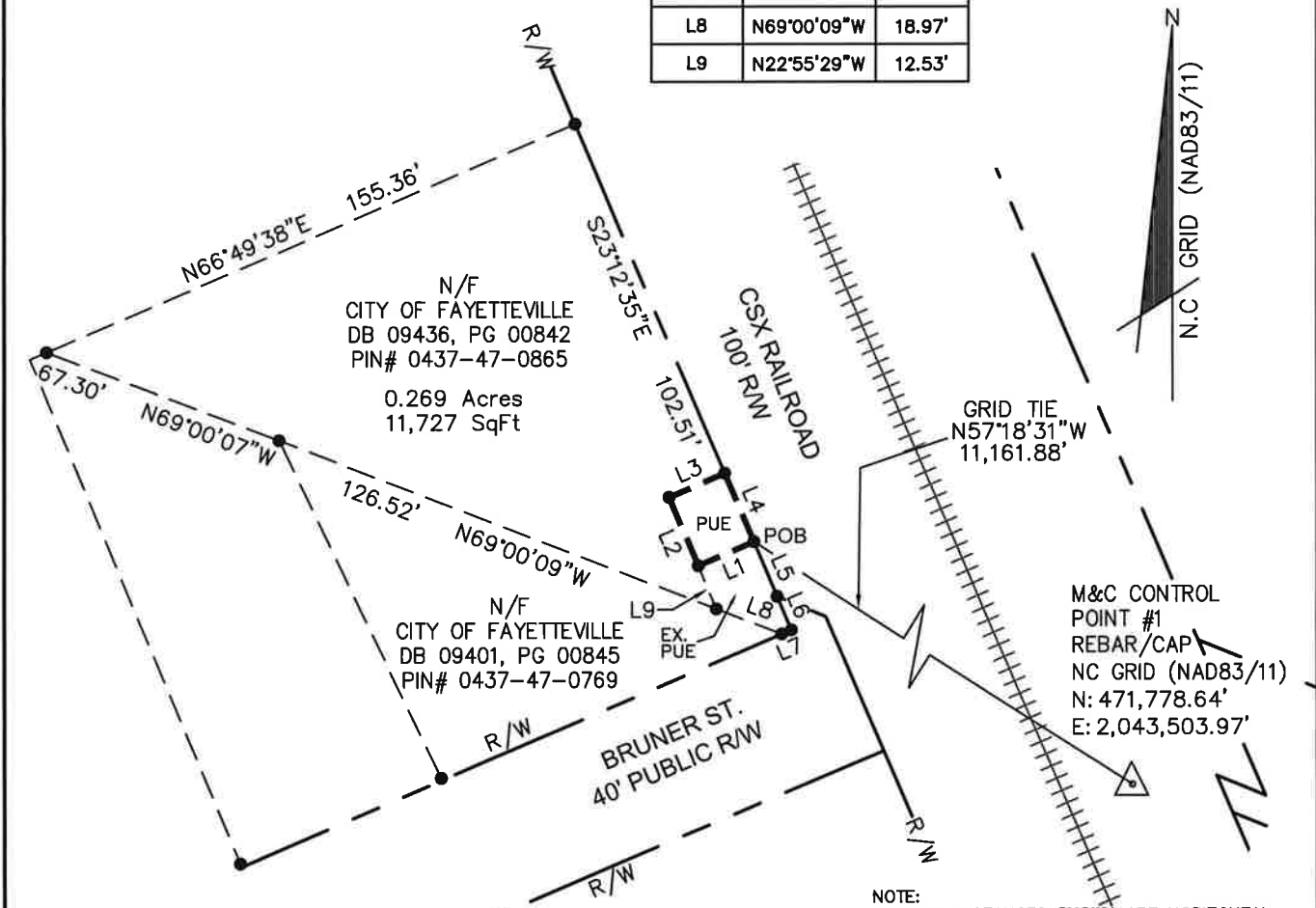
I, ROBIN L. LEE, PLS L-3759, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FROM INFORMATION SHOWN IN DEED BOOKS REFERENCED ON MAP AND MAP BOOKS REFERENCED ON MAP; THAT ANY LINES NOT ACTUALLY SURVEYED APPEAR AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS NOTED ON THE PLAT; THAT THE RATIO OF PRECISION AS CALCULATED IS BETTER THAN 1:10,000; THAT THE AREA IS COMPUTED BY COORDINATE METHOD; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30(m) AS AMENDED. THE CONTROL FOR THIS SURVEY WAS MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORMED THE SURVEY.

CLASS OF SURVEY: AA
TYPE OF GPS FIELD PROCEDURE: VRS DATES OF SURVEY: JUNE 2015 & 04/01/2019
DATUM/EPOCH: NAD83/2011 PUBLISHED/FIXED CONTROL USE: FIXED CONTROL
GEOID MODEL: GEOID 12B COMBINED GRID FACTOR: 0.999880181
UNITS: US SURVEY FEET TYPE AND MODEL OF GPS RECEIVER USED: TRIMBLE R8
PROPERTY CORNERS WERE LOCATED USING CONVENTIONAL SURVEYING METHODS. ALL CONTROL POINTS AND OTHER POINTS LOCATED WITH VRS WERE LOCALIZED AROUND POINT #1 WITH GRID COORDINATES AS FOLLOWS: . WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER, AND SEAL THIS THE

21ST DAY OF November A.D., 2022. *Robin L. Lee*
ROBIN L. LEE L-3759
PROFESSIONAL LAND SURVEYOR

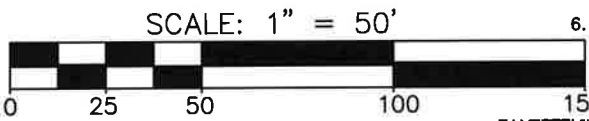
AREA TABLE	
N/F CITY OF FAYETTEVILLE DB 9436, PG 842 PIN# 0437-47-0865	
TOTAL (GIS)	+/-0.269 AC (11,727 SF)
PUE	+/-0.007 AC (326 SF)
EX. PUE	+/-0.007 AC (322 SF)
REMAINDER	+/-0.255 AC (11,079 SF)

Line Table		
Line #	Direction	Length
L1	S66°46'21"W	16.36'
L2	N22°55'29"W	20.00'
L3	N66°46'21"E	16.26'
L4	S23°12'35"E	20.00'
L5	S23°12'35"E	15.95'
L6	S23°12'35"E	9.82'
L7	S67°04'31"W	2.83'
L8	N69°00'09"W	18.97'
L9	N22°55'29"W	12.53'



LEGEND	
AC	ACRES
BC	BACK OF CURB
●	COMPUTED POINT
DB	DEED BOOK
EP	EDGE OF PAVEMENT
GRID	GRID DISTANCE
GRND	GROUND DISTANCE
IPF	IRON PIPE FOUND
IRF	IRON ROD FOUND
N/F	NOW OR FORMERLY
PB	PLAT BOOK
POB	POINT OF BEGINNING
PUE	PERMANENT UTILITY EASEMENT
R/W	RIGHT OF WAY
SF	SQUARE FEET
TCE	TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "A"
PERMANENT UTILITY EASEMENT
WATER MAIN ENCASEMENT AT
BRUNER ST. - CSX RAILROAD
ON THE LANDS OF THE
CITY OF FAYETTEVILLE
PIN# 0437-47-0865



- NOTE:
- ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET. (UNLESS OTHERWISE STATED)
 - ALL BEARINGS ARE BASED ON THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM (NAD 1983/11).
 - THERE ARE NO BURIAL GROUNDS OR CEMETERIES VISIBLE.
 - THERE ARE NO NCGS MONUMENTS WITHIN 2000' OF SURVEYED TRACT
 - COORDINATES SHOWN AS GROUND COORDINATES HAVE BEEN LOCALIZED AROUND POINT #1 WITH NC GRID COORDINATES OF N: 471,778.64' AND E: 2,043,503.97' (NAD 83/2011)
 - THE AREA SHOWN IS DETERMINED TO BE WITHIN THE FEMA 500 YEAR FLOOD PLAIN ACCORDING TO FLOOD INSURANCE RATE MAP 3720043600J WITH AN EFFECTIVE DATE OF 01/05/2007.

FAYETTEVILLE PUBLIC WORKS COMMISSION
WATER RESOURCES ENGINEERING
955 OLD WILMINGTON RD.
FAYETTEVILLE, N.C. 28301
(910) 223-4730

SURVEY/GPS BY: McKim & Creed	DATE: 11/10/22	DATE	REVISIONS	BY
LAYOUT BY: RLI				
PLAN/PROF. BY: RLM				
DESIGN REVIEW BY: W/R ENGR. DEPT.				
APPROVED BY:				
SCALE: HOR: 1"=50' VERT: 1"=		SHT: 1	AW-15356E	



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3042

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.05

TO: Mayor and Members of City Council

THRU: Kelly Olivera, Assistant City Manager
Jeffrey Yates, Assistant City Manager

FROM: Alvester T. (Toney) Coleman, PhD, A.A.E., Airport Director
Birgit Sexton, Assistant Budget & Evaluation Director

DATE: January 09, 2023

RE:

Adoption of Budget Ordinance Amendment 2023-9 and Capital Project Ordinance 2023-12 to Purchase a Replacement Aircraft Rescue and Firefighting Vehicle

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal IV - Desirable Place to Live, Work and Recreate

4.1 - To maintain public transportation investments with high quality transit and airport services.

Executive Summary:

City Council is asked to adopt Budget Ordinance Amendment (BOA) 2023-9 and Capital Project Ordinance (CPO) 2023-12 for the purchase of a replacement Aircraft Rescue & Firefighting (ARFF) vehicle for Station 10 at the Fayetteville Regional Airport. CPO 2023-12 will appropriate \$1,071,326, funded by \$371,326 of Airport Operating Fund net assets provided through BOA 2023-8 and \$700,000 of current Passenger Facility Charge (PFC) revenues.

Background:

Airport firefighters require unique apparatuses to arrive and perform their initial mission to secure aircraft against all hazards, particularly fire, and increase the survivability of the passengers and crew on board. This special category of firefighting is called Aircraft

Rescue and Firefighting. The requested appropriations will support the purchase of a new ARFF vehicle to replace the 22-year-old (1998) Emergency One ARFF vehicle, which requires constant maintenance with limited replacement parts.

Fayetteville Regional Airport's Passenger Facility Charge program has received approval from the Federal Aviation Administration (FAA) to collect and utilize \$900,000 of PFC revenues to support the purchase of the ARFF vehicle. Current PFC revenues available for this purpose total \$700,000. The remaining funds needed for this purchase (\$371,326) will be provided by Airport Operating Fund net assets at this time. The FAA has authorized PFC collections for the ARFF vehicle to begin on August 1, 2022 at a \$4.50 cost per enplanement and end on December 1, 2023. Once the additional \$200,000 of PFC revenues have been collected, a project ordinance will be presented for Council's consideration to return that same amount of net assets to the Airport Operating Fund, reducing the contribution of Airport Fund net assets for the purchase of the ARFF vehicle to \$171,326.

Issues/Analysis:

None

Budget Impact:

There is no impact to the General Fund as the \$1,071,326 will be funded by a transfer from the Airport Operating Fund through an appropriation of Airport Fund net assets (\$371,326) and the appropriation of Passenger Facility Charges (\$700,000). The FAA has approved \$900,000 of PFC revenues for this purpose; and once the additionally approved PFC's are collected, Council will be asked to consider the appropriation of those revenues for this purchase and the return of the same amount of appropriated net assets to the Airport Operating Fund.

Options:

1. Adopt Budget Ordinance Amendment 2023-9 and Capital Project Ordinance 2023-12 to purchase a replacement Aircraft Rescue and Firefighting vehicle.
2. Do not adopt Budget Ordinance Amendment 2023-9 or Capital Project Ordinance 2023-12 and provide further direction to staff.

Recommended Action:

Staff recommends that Council move to adopt Budget Ordinance Amendment 2023-9 and Capital Project Ordinance 2023-12 as presented to purchase a replacement Aircraft Rescue and Firefighting vehicle.

Attachments:

- Budget Ordinance Amendment 2023-9
- Capital Project Ordinance 2023-12
- Oshkosh Striker Proposal

**2022-2023 BUDGET ORDINANCE AMENDMENT
CHANGE 2023-9**

January 9, 2023

BE IT ORDAINED BY THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA:

That the City of Fayetteville Budget Ordinance adopted June 13, 2022 is hereby amended as follows:

Section 1. It is estimated that the following revenues and other financing sources will be available during the fiscal year beginning July 1, 2022, and ending June 30, 2023, to meet the appropriations listed in Section 2.

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule G: Airport Fund</u>			
Net Assets Appropriation	\$ 1,216,664	\$ 371,326	\$ 1,587,990
All Other Airport Fund Revenues and Financing Sources	4,549,263	-	4,549,263
Total Estimated Airport Fund Revenues and Other Financing Sources	<u>\$ 5,765,927</u>	<u>\$ 371,326</u>	<u>\$ 6,137,253</u>

Section 2. The following amounts are hereby appropriated for the operations of the City Government and its activities for the fiscal year beginning July 1, 2022, and ending June 30, 2023, according to the following schedules:

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule G: Airport Fund</u>			
Total Estimated Airport Fund Expenditures and Other Financing Uses	<u>\$ 5,765,927</u>	<u>\$ 371,326</u>	<u>\$ 6,137,253</u>

Adopted this 9th day of January, 2023.

**CAPITAL PROJECT ORDINANCE
ORD 2023-12**

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The authorized project is for the replacement of the Aircraft Rescue and Firefighting (ARFF) Vehicle for Station 10 at the Fayetteville Regional Airport.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Passenger Facility Charges	\$ 700,000
Airport Operating Fund Transfer	371,326
	<u>\$ 1,071,326</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 1,071,326</u>
----------------------	---------------------

Section 5. Copies of this capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out the project.

Section 6. The City Manager is hereby authorized and directed to take such action as he may deem necessary or appropriate to execute this ordinance.

Adopted this 9th day of January, 2023.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3127

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.06

TO: Mayor and Members of City Council

THRU: Karen M. McDonald, City Attorney

FROM: Michael R. Whyte, Police Attorney

DATE: January 9, 2023

RE:

Request for Legal Representation of City Employees

COUNCIL DISTRICT(S):

All Districts

Relationship To Strategic Plan:

Goal V: Financially Sound City Providing Exemplary City Services

Executive Summary:

The purpose of this agenda item is to receive authorization from the City Council to provide legal representation for City employees Amanda Bell and Ryan Haddock in the matter of *Ja'Lana Dunlap-Banks v. Fayetteville Police Department, City of Fayetteville, Officer Ryan Haddock, Detective Amanda Bell and John and Jane Doe's 1-100, City of Fayetteville employees and police officers*. The employees were acting within the scope and course of their employment with the City when the alleged incident(s) occurred.

Background:

Ryan Haddock and Amanda Bell are employed by the City of Fayetteville Police Department as Detectives. They have been named as defendants in a lawsuit filed by Ja'Lana Dunlap-Banks, who alleges various 42 U.S.C. § 1983 claims arising from an encounter with Ms. Dunlap-Banks on or about September 6, 2022. Detectives Bell and Haddock were acting within the scope and course of their employment with the City when the incident occurred. They have requested legal representation pursuant to N.C.G.S. § 160A-167, which provides for the defense of an employee based on acts done within the

course and scope of employment.

Issues/Analysis:

No known issues.

Budget Impact:

Unknown at this time.

Options:

1. Authorize the request for legal representation.
2. Reject the request for legal representation.
3. Provide additional direction to staff.

Recommended Action:

Staff recommends that Council move to authorize the City to provide legal representation for Detective Amanda Bell and Detective Ryan Haddock in the matter of *Ja'Lana Dunlap-Banks v. Fayetteville Police Department, City of Fayetteville, Officer Ryan Haddock, Detective Amanda Bell and John and Jane Doe's 1-100*.

Attachments:

No attachments.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3155

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.07

TO: Mayor and Members of City Council

THRU: Karen M. McDonald, City Attorney

FROM: Lisa Y. Harper, Assistant City Attorney

DATE: January 9, 2023

RE:

Request for Legal Representation of City Employee

COUNCIL DISTRICT(S):

All Districts

Relationship To Strategic Plan:

Goal V: Sustainable Organizational Capacity

Executive Summary:

The purpose of this agenda item is to receive authorization from the City Council to provide legal representation for Ms. Tawanda Murphy in the matter of *Geraldine Sheffield v. Tawanda Murphy, City of Fayetteville, d/b/a Fayetteville Area System of Transit, and Fayetteville Area System of Transit d/b/a FAST*. When the alleged incident occurred, Ms. Murphy was acting within the scope and course of her employment with the City.

Background:

Ms. Tawanda Murphy was operating a FAST bus on February 25, 2019, when she collided with another vehicle. As a result of the collision, Ms. Murphy was issued a citation. Pursuant to N.C.G.S. § 160A 167, which provides for the defense of an employee based on acts done within the course and scope of employment, Ms. Murphy has requested legal representation.

Issues/Analysis:

No known issues.

Budget Impact:

Unknown at this time.

Options:

1. Authorize the request for legal representation.
2. Reject the request for legal representation.
3. Provide additional direction to staff.

Recommended Action:

Staff recommends that Council move to authorize the City to provide legal representation for Tawanda Murphy in the matter of *Geraldine Sheffield v. Tawanda Murphy, City of Fayetteville, d/b/a Fayetteville Area System of Transit, and Fayetteville Area System of Transit d/b/a FAST*.

Attachments:

No attachments.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3133

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.08

TO: Mayor and Members of City Council

THRU: Marion J. Noland, Interim CEO/General Manager
Fayetteville Public Works Commission

FROM: Fayetteville Public Works Commission

DATE: January 9, 2023

RE:

Bid Recommendation - Power Transformers for Multiple Substations

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

High Quality Built Environment

Executive Summary:

Bids were received for the three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35 8/44.8MVA Power Transformers for Multiple Substations. The recommended lowest responsive, responsible bidder is Virginia Transformer Corp., Roanoke, VA in the total amount of \$4,596,699.00.

Background:

The Fayetteville Public Works Commission, during their meeting on December 14, 2022, approved the bid recommendation to award the bid for the purchase of three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35.8/44.8MVA Power Transformers for Multiple Substations to Virginia Transformer Corp., Roanoke, VA, the lowest responsive, responsible bidder in the total amount of \$4,596,699.00, and to forward the recommendation to the City Council for approval.

Bids were received on October 20, 2022, as follows:

BIDDERS

TOTAL COST

* Transformer & Rectifiers (India) Limited, Gujarat, India	\$3,192,355.00
** Fleming Electric, Inc., Redwood City, CA	\$4,576,950.00
Virginia Transformer Corp., Roanoke, VA	\$4,596,699.00
Niagara Power Transformer, Buffalo, NY	\$4,721,547.00
Pennsylvania Transformer Technology, Inc., Canonsburg, PA	\$5,497,011.00
WEG Transformer USA, Washington, MO	\$6,227,663.00

Issues/Analysis:

Notice of the bid was advertised through PWC's normal channels on August 26, 2022, with an initial bid submission deadline of October 6, 2022. PWC staff issued Addendum Nos. 1 and 2 to extend the bid submission deadline to October 20, 2022, and to clarify the exact time of the deadline. The Electric Systems Support Department has reviewed the bid submissions and agrees with the recommendation to award the bid to Virginia Transformer Corp.

* The Instructions to Bidders for this purchase specifically required bidders to submit with any bid "a cash deposit, cashier's check, or certified check drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation or Savings Association Insurance Fund, or a Bid Bond in an amount not less than five percent (5%) of the quoted bid price, not submit alternate bids unless specifically called for on the bid proposal form." Transformer & Rectifiers (India) Limited did not submit the requisite deposit or bid bond. As such, PWC staff determined that the bid submitted by Transformer & Rectifiers (India) Limited is non-responsive.

** PWC staff determined based on a multitude of factors that the bid submitted by Fleming Electric, Inc., is not in the best interest of PWC as set forth in Exhibit A to this action request form

Budget Impact:

Cumberland Substation	058.0000.0802.2207988-02.690161.CPR1000471
Hoffer Substation	058.0000.0802.2102564-03.690161.CPR1000421
Yadkin Substation Replacement	058.0000.0802.2306582-03.CPR1000384

Options:

N/A

Recommended Action:

The Fayetteville Public Works Commission recommends the Fayetteville City Council

approve the bid recommendation to award the purchase of the three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35.8/44.8MVA Power Transformers for Multiple Substations to Virginia Transformer Corp., Roanoke, VA, the lowest responsive, responsible bidder in the total amount of \$4,596,699.00

Attachments:

Bid Recommendation - Three Transformers Substations; Bid Recommendation - Three Transformers Substations - Exhibit A

**FAYETTEVILLE PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Marion J. Noland, Interim CEO/General Manager

DATE: December 7, 2022

FROM: Trent K. Ensley, Procurement Manager

.....

ACTION REQUESTED: Approve contract award for the purchase of three (3) 67KV Delta to 13.09Y/7.56KV WYE with LTC rated 24/35.8/44.8 MVA power transformers to the lowest responsive, responsible bidder in the best interest of PWC, being Virginia Transformers Corp. of Roanoke, VA.

.....

BID/PROJECT NAME: PWC2223010 – Three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35.8/44.8MVA Power Transformers For Multiple Substations.

BID DATE: October 20, 2022

DEPARTMENT: Electric Systems Support

BUDGET INFORMATION: The Power Transformers for Multiple Substations will be funded from the following account strings:

Cumberland Substation	058.0000.0802.2207988-02.690161.CPR1000471
Hoffer Substation	058.0000.0802.2102564-03.690161.CPR1000421
Yadkin Substation Replacement	058.0000.0802.2306582-03.CPR1000384

.....

BIDDERS	TOTAL COST
*Transformer & Rectifiers (India) Limited, Gujarat, India	\$ 3,192,355.00
**Fleming Electric, Inc., Redwood City, CA	\$ 4,576,950.00
Virginia Transformer Corp., Roanoke, VA	\$ 4,596,699.00
Niagara Power Transformer, Buffalo, NY	\$ 4,721,547.00
Pennsylvania Transformer Technology, Inc., Canonsburg, PA	\$ 5,497,011.00
WEG Transformers USA, Washington, MO	\$ 6,227,663.00

.....

AWARD RECOMMENDED TO: Virginia Transformer Corp.

BASIS OF AWARD: The lowest responsive, responsible bidder that is in the best interest of PWC.

.....

COMMENTS: The Commission is asked to approve award for the purchase of inventory of three (3) transformers more specifically described above to the lowest responsive, responsible bidder that is in the best interest of PWC, being Virginia Transformer Corp. of Roanoke, Virginia. Notice of the bid was advertised through PWC's normal channels on August 26, 2022, with an initial bid submission deadline of October 6, 2022. PWC staff issued Addendum Nos. 1 and 2 to extend the bid submission deadline to October 20, 2022, and to clarify the exact time of

the deadline. The Electric Systems Support Department has reviewed the bid submissions and agrees with the recommendation to award the bid to Virginia Transformer Corp.

*The Instructions to Bidders for this purchase specifically required bidders to submit with any bid “a cash deposit, cashier's check, or certified check drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation or Savings Association Insurance Fund, or a Bid Bond in an amount not less than five percent (5%)” of the quoted bid price. not submit alternate bids unless specifically called for on the bid proposal form.” Transformer & Rectifiers (India) Limited did not submit the requisite deposit or bid bond. As such, PWC staff determined that the bid submitted by Transformer & Rectifiers (India) Limited is non-responsive.

**PWC staff determined based on a multitude of factors that the bid submitted by Fleming Electric, Inc. is not in the best interest of PWC as set forth in Exhibit A to this action request form.

ACTION BY COMMISSION

APPROVED _____ **REJECTED** _____

DATE _____

ACTION BY COUNCIL

APPROVED _____ **REJECTED** _____

DATE _____

BID HISTORY
PWC2223010 – Three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35.8/44.8MVA
Power Transformers For Multiple Substations

BID ISSUE DATE: August 26, 2022

Advertisement

- | | | |
|----|------------------------|-------------------------------|
| 1. | PWC Website | 08/26/2022 through 06/16/2022 |
| 2. | Addendum 1 | 09/09/2022 through 10/20/2022 |
| 3. | Addendum 2 | 09/15/2022 through 10/20/2022 |
| 2. | The Fayetteville Press | General Monthly Ad |

List of Prospective Bidders

1. Lekson and Associates, Raleigh, NC
2. W. R. Daniel and Associates, Mooresville, NC
3. National Transformer Sales, Inc, Raleigh, NC
4. Power Tech, LLC, Waxhaw, NC
5. Niagara Power Transformer, Buffalo, NY
6. WEG Transformers USA, Washington, MO
7. Ensales LLC, Beulaville, NC
8. Pennsylvania Transformer Technology, Inc., Canonsburg, PA

PWC Procurement Mailing List- Registered vendors via the PWC website and BBR registrants. (approximately 2000+ contacts)

Small Business Administration Programs:

Small Business Administration Regional Office (SBA)
NC Procurement & Technical Assistance Center (NCPTAC)
Veterans Business Outreach Center (VBOC)
Small Business Technology Center (SBTDC)
Women's Business Center of Fayetteville (WBC)

Local Business and Community Programs

FSU Construction Resource Office (FSUCRO)
FSU Economic Development Administration Program (FSUEDA)
FSU Career Pathways Initiative
NAACP, Fayetteville Branch
FTCC Small Business Center (SBC)
Greater Fayetteville Chamber, RFP posting submitted
Hope Mills Chamber
Spring Lake Chamber
Hoke Chamber
Fayetteville Business & Professional League (FBPL)

State Business and Community Programs

NC Institute of Minority Economic Development (The Institute) Durham, NC

NAACP, State Branch Raleigh, NC

National Utility Contracting Association- NC Chapter (NUCA)

Durham Chapter of the National Association of Women in Construction (NAWIC)

South Atlantic Region of National Association of Women in Construction (NAWIC)

The Hispanic Contractors Association of the Carolinas (HCAC)

United Minority Contractors of North Carolina

International Women in Transportation- Triangle Chapter

Media

Fayetteville Observer

WIDU, AM1600

IBronco Radio at FSU

Fayetteville Press News

Up & Coming Weekly

Bladen Journal

Greater Fayetteville Business Journal

SDBE/Local Participation

Virginia Transformer Corp. is not local and is not classified as a SDBE, minority or woman-owned business.

EXHIBIT A

FAYETTEVILLE PUBLIC WORKS COMMISSION ANALYSIS OF RECOMMENDATION

TO: Marion J. Noland, Interim CEO/General Manager

DATE: December 6, 2022

FROM: Trent K. Ensley, Procurement Manager

.....

This bid is for the purchase of three (3) transformers. The initial lowest apparent bid submitted by Transformer & Rectifiers (India) Limited should be rejected as non-responsive due to the bidder's failure to provide a bid bond as required by the bid documents. It is further recommended that the Commission reject the bid submitted by the next lowest apparent bidder, being Fleming Electric, Inc., as not being in the best interest of PWC based on the location of its manufacturing facility, the differences between failure rates between it and the next bidder, and the anticipated delivery time. PWC reserved the right to reject any bid for any reason determined by the Commissioners to be in the best interest of PWC, as permitted by North Carolina law. (Provision 6.1 of bidding documents). Therefore, it is recommended that the Commission reject Fleming Electric, Inc.'s bid and award the bid to Virginia Transformer Corp.

The bidding documents included the following provision and notice to prospective bidders:

- 6.7. While PWC will evaluate bids from manufacturers located outside of North America, in the event that PWC has not made a previous purchase from a manufacturer that submits a bid, PWC may need to take appropriate actions it deems necessary to verify the bidder's manufacturing process, factory facility conditions, and assess any logistical issues before proceeding with any purchase, which may be considered in the evaluation process.

The bidding documents also advised bidders that "Equipment delivery date" was PWC's foremost evaluated criteria in addition to the prices quoted in a bid.

Fleming Electric, Inc.'s bid provides that the transformers will be manufactured at a facility located in Cordoba, Argentina. PWC has not made any purchases from the facility and the Electric Support Services Department, which is the purchasing department for this bid, is not otherwise familiar with the facility. The Department confirmed that it does not have the current resources, including personnel availability issues, to travel to Argentina in order to inspect the facility, observe its processes, and determine whether the facility can provide transformers that meet PWC's standards. Compounding the concern to be able to thoroughly

investigate and approve the facility and its processes at a reasonable cost is that the manufacturing facility has a 2% failure rate of its last 100 power transformers at the factor testing. While not a determining factor alone, the failure does present a concern as PWC is not able to evaluate the manufacturing facility.

The next lowest bidder, Virginia Transformer Corp., has its manufacturing facility located in Roanoke, Virginia and reported a 0% failure rate of its last 100 power transformers at factory testing. PWC has made past purchases from Virginia Transformer Corp. without issue and has purchased a similar model transformer from the company as the one quoted for in this bid. Virginia Transformer Corp.'s quoted price is for the 3 transformers is \$4,596,699.00, which is just \$19,749.00 more than Fleming Electric, Inc.'s quoted price of \$4,576,950.00. The price difference is .4% of Fleming Electric, Inc.'s total bid price.

Lastly, Fleming Electric, Inc. provided estimated delivery dates of 68-77 weeks from the date of order, while Virginia Transformer Corp. estimated 50-55 weeks. PWC staff views the difference in delivery times of 18-27 weeks as significant in view of current market conditions, supply chain delays and disruptions, and PWC's need for the transformers.

Given the aforementioned differences in failure rates, production risks, and delivery times, which are not sufficiently offset by the nominal price difference between the bids, PWC staff recommends that the Commission reject Fleming Electric, Inc.'s bid and award the contract to Virginia Transformer Corp. because such action is in the best interest of PWC.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3134

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.09

TO: Mayor and Members of City Council

THRU: Marion J. Noland, Interim CEO/General Manager
Fayetteville Public Works Commission

FROM: Fayetteville Public Works Commission

DATE: January 9, 2023

RE:

Bid Recommendation - One (1) Generator Step-Up Transformer for BWGP

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

High Quality Built Environment

Executive Summary:

Bids were received for the Generator Step-Up (GSU) Transformer for the Butler Warner Generation Plant. The recommended lowest responsive, responsible bidder is Pennsylvania Transformer Technology, Canonsburg, PA, in the total amount of \$2,055,305.00.

Background:

The Fayetteville Public Works Commission, during their meeting on December 14, 2022, approved the bid recommendation to award the bid for the purchase of One (1) Generator Step-Up Transformer for the Butler Warner Generation Plant to Pennsylvania Transformer Technology, Inc., Canonsburg, PA, the lowest responsive, responsible bidder in the total amount of \$2,055,305.00, and to forward the recommendation to the City Council for approval.

Bids were received on October 20, 2022, as follows:

BIDDERS	TOTAL COST
Pennsylvania Transformer Technology, Inc., Canonsburg, PA	\$2,055,305.00

Issues/Analysis:

The bid opportunity was advertised through PWC's normal channels on August 26, 2022, with an original bid submission date scheduled for September 22, 2022. PWC staff issued Addendum No. 1 on August 30, 2022, which extended the bid submission date to October 6, 2022, and Addendum No. 2 on September 9, 2022, which further extended the bid submission date to October 20, 2022. Addendum No. 3 was issued on September 13, 2022, to provide clarifications to the specifications and Addendum No. 4 was issued on September 30, 2022, to publish answers to questions received from a prospective bidder. PWC's Procurement Department directly solicited eight (8) firms for this opportunity, and PWC received one (1) submission for the bid. PWC's Electric Support Systems Department has reviewed the bid submission and agrees with the recommendation to award the bid to Pennsylvania Transformer Technology Inc. as the lowest responsive, responsible bidder.

Budget Impact:

The Generator Step-Up (GSU) Transformer for BWGP is funded from the Electric Systems (001.0170.0802.0000000-00.350000.CPR1000516).

Options:

N/A

Recommended Action:

The Fayetteville Public Works Commission recommends the Fayetteville City Council approve the bid recommendation to award the purchase of one (1) Generator Step-Up (GSU) Transformer for Butler Warner Generation Plant to Pennsylvania Transformer Technology, Inc., Canonsburg, PA, the lowest responsive, responsible bidder in the total amount of \$2,055,305.00.

Attachments:

Bid Recommendation - Generator Step-Up Transformer for BWGP

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Marion J Noland, Interim CEO/General Manager

DATE: December 7, 2022

FROM: Trent Ensley, Procurement Manager

.....

ACTION REQUESTED: Approve award to Pennsylvania Transformer Technology, Inc. for the purchase of one (1) Generator Step-Up (GSU) Transformer for Butler Warner Generation Plant.

BID/PROJECT NAME: PWC2223002 – 67,000V WYE with High Voltage LTC to 13,800V Delta Full Load Continuously at 37.34 MVA AT 65C Generator Step-Up (GSU) Transformer.

BID DATE: October 20, 2022

DEPARTMENT: Electric Systems

BUDGET INFORMATION: Project will be funded from 001.0170.0802.0000000-00.350000.CPR1000516.

.....

BIDDERS

PRICE

Pennsylvania Transformer Technology, Inc., Canonsburg, PA

\$2,055,305.00

.....

AWARD RECOMMENDED TO: Pennsylvania Transformer Technology, Inc., Canonsburg, PA

BASIS OF AWARD: Lowest Responsive, Responsible Bidder

.....

COMMENTS: The Commission is asked to approve the award for the purchase of one (1) 67,000V WYE with High Voltage LTC to 13,800V Delta Continuous 37.34 MVA at 65°C Generator Step-Up Transformer to the lowest responsive, responsible bidder, being Pennsylvania Transformer Technology Inc. of Canonsburg, PA. The bid opportunity was advertised through PWC's normal channels on August 26, 2022, with an original bid submission date scheduled for September 22, 2022. PWC staff issued Addendum No. 1 on August 30, 2022, which extended the bid submission date to October 6, 2022, and Addendum No. 2 on September 9, 2022, which further extended the bid submission date to October 20, 2022. Addendum No. 3 was issued on September 13, 2022, to provide clarifications to the specifications and Addendum No. 4 was issued on September 30, 2022, to publish answers to questions received from a prospective bidder. PWC's Procurement Department directly solicited eight (8) firms for this opportunity, and PWC received one (1) submission for the bid. PWC's Electric Support Systems Department has reviewed the bid submission and agrees with the recommendation to award the bid to Pennsylvania Transformer Technology Inc. as the lowest responsive, responsible bidder.

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ACTION BY COMMISSION

APPROVED _____ **REJECTED** _____

DATE _____

ACTION BY COUNCIL

APPROVED _____ **REJECTED** _____

DATE _____

BID HISTORY

PWC2223002 - 67,000 WYE with High Voltage LTC to 13,800V Delta Full Load
Continuously at 37.34 MVA at 65C Generator Step up Transformer

BID DATE: October 20, 2022

Advertisement

1.	PWC Website	8/26/2022 through 10/20/2022
2.	Addendum No. 1	8/30/2022 through 10/20/2022
3.	Addendum No. 2	9/9/2022 through 10/20/2022
4.	Addendum No. 3	9/13/2022 through 10/20/2022
5.	Addendum No. 4	9/30/2022 through 10/20/2022
6.	The Fayetteville Press	General Monthly Advertisement

List of Prospective Bidders Notified of Bid

1. Lekson and Associates, Raleigh, NC
2. W. R. Daniel and Associates, Mooresville, NC
3. National Transformer Sales, Inc, Raleigh, NC
4. Power Tech, LLC, Waxhaw, NC
5. WESCO Raleigh Utility, Raleigh, NC
6. R. W. Chapman, Charlotte, NC
7. Ensales LLC, Beulaville, NC
8. Pennsylvania Transformer Technology, Inc., Canonsburg, PA

**PWC Procurement Mailing List- Registered vendors via the PWC website and BBR registrants.
(approximately 2000+ contacts)**

Small Business Administration Programs:

Small Business Administration Regional Office (SBA)
NC Procurement & Technical Assistance Center (NCPTAC)
Veterans Business Outreach Center (VBOC)
Small Business Technology Center (SBTDC)
Women's Business Center of Fayetteville (WBC)

Local Business and Community Programs

FSU Construction Resource Office (FSUCRO)
FSU Economic Development Administration Program (FSUEDA)
FSU Career Pathways Initiative
NAACP, Fayetteville Branch
FTCC Small Business Center (SBC)
Greater Fayetteville Chamber, RFP posting submitted
Hope Mills Chamber
Spring Lake Chamber
Hoke Chamber
Fayetteville Business & Professional League (FBPL)

State Business and Community Programs

NC Institute of Minority Economic Development (The Institute) Durham, NC

NAACP, State Branch Raleigh, NC

National Utility Contracting Association- NC Chapter (NUCA)

Durham Chapter of the National Association of Women in Construction (NAWIC)

South Atlantic Region of National Association of Women in Construction (NAWIC)

The Hispanic Contractors Association of the Carolinas (HCAC)

United Minority Contractors of North Carolina

International Women in Transportation- Triangle Chapter

Media

Fayetteville Observer

WIDU, AM1600

IBronco Radio at FSU

Fayetteville Press News

Up & Coming Weekly

Bladen Journal

Greater Fayetteville Business Journal

SDBE / Local Participation

Pennsylvania Transformer Technology, Inc., Canonsburg, PA is not a local business and is not classified as a SDBE Minority or Women-Owned business.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3146

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.010

TO: Mayor and Members of City Council

THRU: Adam Lindsay, Assistant City Manager

FROM: Sheila Thomas-Ambat, PE, CCM, CFM, Director of Public Services
Daniel Edwards, Assistant Director of Solid Waste
Michael Gibson, Parks, Recreation and Maintenance Director
Birgit Sexton, Assistant Budget and Evaluation Director

DATE: January 9, 2023

RE:

Authorization to Accept NC Department of Environmental Quality Recycling
Project Grant and Adoption of Special Revenue Fund Project Ordinance 2023-10

COUNCIL DISTRICT(S):

2

Relationship To Strategic Plan:

Goal II: Responsive City Government supporting a diverse and viable economy

Goal IV: Desirable Place to Live, Work and Recreate

Executive Summary:

Council is asked to authorize the acceptance of the NC Department of Environmental Quality Recycling Project Grant and adopt Special Revenue Fund Project Ordinance 2023-10. The award provides \$11,500 of state grant for outdoor recycling bins installed in the downtown area, as awarded by the NC Carolina Department of Environmental Quality. The grant requires a local match of \$2,300 to be provided by a General Fund transfer (\$1,150) and a Solid Waste Fund transfer (\$1,150).

The total recycling project is estimated to cost \$15,210 with grant funds and local match providing \$13,800 and a General Fund transfer and Solid Waste Fund transfer of each \$705 providing the remaining \$1,410.

Background:

This project is designed to address the need for an away-from-home recycling program in the Cool Springs Downtown district. Residents have expressed a desire for outdoor recycling bins and additional educational materials about recyclable items. With funds from the Community Waste Reduction and Recycling Grant, the City of Fayetteville will install recycling bins next to trash cans already located in Cool Springs Downtown District. The recycling bins will have a custom lid with a slit and a larger hole in the center, allowing only paper, cardboard, cans, and bottles to pass through easily.

Issues/Analysis:

N/A

Budget Impact:

The City's local match and additional funding need is included in the adopted fiscal year 2023 General Fund and Solid Waste Fund annual operating budget.

Options:

1. Authorize the acceptance of the Environmental Quality Recycling Project Grant and adopt Special Revenue Fund Project Ordinance 2023-10.
2. Do not authorize the acceptance of the Environmental Quality Recycling Project Grant and adopt Special Revenue Fund Project Ordinance 2023-10 and provide further guidance to staff.

Recommended Action:

Staff recommends that Council move to accept the grant and adopt Special Revenue Fund Project Ordinance 2023-10 as presented.

Attachments:

- NC Department of Environmental Quality Financial Assistance Agreement
- Special Revenue Fund Project Ordinance 2023-10

**SPECIAL REVENUE FUND PROJECT ORDINANCE
ORD 2023-10**

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The project authorized is for the funding of the Recycling Project Grant for Outdoor Recycling Bins, as awarded by North Carolina Department of Environmental Quality.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various contract agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

N.C. Department of Environmental Quality	\$ 11,500
Local Match - Solid Waste Operating Fund Transfer	1,150
Solid Waste Operating Fund Transfer	705
Local Match - City of Fayetteville General Fund Operating Transfer	1,150
General Fund Operating Transfer	705
	<hr/>
	\$ 15,210
	<hr/>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<hr/>
	\$ 15,210
	<hr/>

Section 5. Copies of this special revenue fund project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Section 6. The City Manager is hereby authorized and directed to take such action as he may deem necessary or appropriate to execute this ordinance.

Adopted this 9th day of January, 2023.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3154

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 7.011

TO: Mayor and Members of City Council

THRU: Marion J. Noland, Interim CEO/General Manager
Fayetteville Public Works Commission

FROM: Fayetteville Public Works Commission

DATE: January 9, 2023

RE:

Second Amendment to Lease of Suite 102 of R. C. Williams Building

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

High Quality Built Environment

Executive Summary:

The Fayetteville Public Works Commission (PWC) negotiated a Second Amendment to Lease with Softact Solutions, LLC for Suite 102 of the R.C. Williams Building for an annual rent of \$35,909.52.

Background:

The terms of the proposed lease amendment with Softact Solutions, LLC are acceptable to PWC and reflect the market value for the commercial office space designated as Suite 102 of the R.C. Williams Building. The term of the lease amendment is one (1) year and the proposed annual rent will be \$35,909.52.

Issues/Analysis:

N/A

Budget Impact:

N/A

Options:

N/A

Recommended Action:

PWC recommends the Fayetteville City Council approve the lease amendment, to be executed by PWC's CEO/GM upon City Council approval.

Attachments:

Proposed Lease with Softact Solutions, LLC; Draft City Resolution Softact

NORTH CAROLINA

**SECOND AMENDMENT TO
COMMERCIAL LEASE AGREEMENT**

CUMBERLAND COUNTY

THIS SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT ("Agreement") is made and entered into as of the ____ day of November, 2022, by and between THE CITY OF FAYETTEVILLE ("Landlord"), by and through the FAYETTEVILLE PUBLIC WORKS COMMISSION ("Landlord"), a North Carolina public authority, and SOFTACT SOLUTIONS, LLC, a Florida limited liability company ("Tenant").

RECITALS:

A. Landlord, as "Landlord", and Tenant, as "Tenant", entered into that certain Commercial Lease Agreement dated as of March 1, 2021, as the same has been amended by that certain First Amendment to Commercial Lease Agreement dated January 31, 2022 (as amended, the "Lease"), under the terms of which Landlord leased to Tenant certain premises commonly known as 201 Hay Street, Suite 102, Fayetteville, North Carolina.

B. The parties hereto desire to so amend certain provisions of the Lease as set forth herein.

NOW, THEREFORE, in consideration of the promises and conditions provided for herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The parties agree that the term of the Lease shall be extended through February 29, 2024 (such that the term expiration date as set forth in Section 2 is hereby amended to read February 29, 2024).

2. The base rent, as such term is defined in Section 3 of the Lease, as it pertains to the period beginning March 1, 2023 and ending on February 29, 2024, is hereby amended as follows:

RENT SCHEDULE:	Monthly Rent
March 2023 – February, 2024	\$2,992.46

3. Tenant acknowledges and agrees that Tenant is the "Tenant" under the Lease; the Lease is in full force and effect and has not been modified or amended except as provided herein; Tenant has no lien and claims no lien against, charge, claim of offset or deduction from the rentals and other sums due and becoming due under the Lease; and, to the best of Tenant's knowledge, there exist no uncured defaults by Landlord under the Lease, nor event that with the passage of time or giving of notice or both would be a default under the Lease.

4. Terms not defined herein shall have the meanings set forth in the Lease.

5. This Agreement shall be binding upon, and shall inure to the benefit of Landlord, Tenant and their respective successors and assigns. Each party represents and warrants that all consents or approvals required of third parties for the execution, delivery and performance of this Agreement have been obtained and each party has the right and authority to enter into and perform its covenants contained in this Agreement.

6. This Agreement represents the final agreement between Landlord and Tenant regarding the subject matter hereof and may not be contradicted by evidence of prior, subsequent or contemporaneous oral agreements of the parties. No amendment or modification hereto shall be valid and binding unless expressed in writing and executed by both parties hereto.

7. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all such counterparts shall constitute one and the same instrument.

8. The Recitals are deemed to be an integral part of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed the foregoing Agreement the day and year first above written.

LANDLORD:

**THE CITY OF FAYETTEVILLE
BY AND THROUGH THE
FAYETTEVILLE PUBLIC WORKS COMMISSION**

BY: _____ [Seal]
Marion J. Noland, Interim CEO/General Manager

TENANT:

SOFTACT SOLUTIONS, LLC


By: ~~Daron Long~~
Its: Director of Business Operations

**RESOLUTION OF THE CITY COUNCIL TO
APPROVE LEASE AMENDMENT FOR R.C. WILLIAMS BUILDING**

WHEREAS, the Fayetteville Public Works Commission (PWC) has negotiated a one-year lease amendment with Softact Solutions, LLC for Suite 102 of the R.C. Williams Building; and

WHEREAS, Suite 102 comprises 1,709 square feet of space in the building and the annual rent will be \$35,909.52.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fayetteville that the lease amendment with Softact Solutions, LLC should be and is hereby approved.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, NORTH CAROLINA**, on this the 9th day of January, 2023; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

CITY OF FAYETTEVILLE

Mitch Colvin, Mayor

ATTEST:

Pamela Megill, City Clerk



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3109

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 9.01

TO: Mayor and Members of City Council

THRU: Kelly Olivera - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director
Jennifer C. Baptiste, CZO - Planning and Zoning Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: January 9, 2023

RE:

P22-45. Rezoning from Agricultural Residential (AR) and Limited Commercial (LC) to Community Commercial (CC) of 4.4 acres \pm , located at 0 Hazelwood Drive, 1611, 1620, and 1631 Ferndell Drive, and 7818 Raeford Road (REID #9486360554000, 9486269516000, 9486267506000, 9486266471000, and 94862654449000), being the property of Gillis Development Corp Inc. and Joseph H. Gillis.

COUNCIL DISTRICT(S):

7 - Brenda McNair

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base
- Objective 2.4 - To sustain a favorable development climate to encourage business growth.

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

The majority of the subject properties are currently zoned Agricultural Residential (AR); however, the property at 7818 Raeford Road is currently zoned Limited Commercial (LC).

The property owner is requesting to rezone all properties to Community Commercial (CC). Due to the surrounding zoning and uses, Planning Staff recommends the more restrictive Limited Commercial (LC) zoning district.

The Zoning Commission held a legislative hearing on November 8, 2022. Two motions were made; however, both motions failed due to a tied vote. Hence, this request is being forwarded to City Council as a Public Hearing for a decision to be rendered.

Background:

Owner/Applicant: Joseph H. Gillis & Gillis Development Corp. Inc.

Requested Action: AR & LC to CC

REID: 9486360554000, 9486269516000, 9486267506000, 9486266471000, and 94862654449000

Council District: 7 - Brenda McNair

Status of Property: One single-family house, multiple vacant lots

Size: 4.40 acres ±

Adjoining Land Use & Zoning:

- North: AR - Single-family residential
- South: CC - Restaurants, auto parts store, and bank
- East: OI - Church
- West: LC - Offices

Letters Mailed: 184

Traffic Counts: Raeford Road - 7,600 annual average daily traffic

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Community Center (CC).

Community Center is defined as supporting developments with buildings consisting of 150,000 - 400,000 square foot; nonresidential leasable space with vertically mixed uses; and high-density residential and multi-family intermixed.

Issues/Analysis:

History:

The subject properties and the surrounding area were annexed into the City of Fayetteville in 2005 as part of the Phase 5 annexation. The properties are primarily wooded with one single-family house located on the property addressed as 7818 Raeford Road. The property located at 7818 Raeford Road was previously rezoned in 2021. The property was rezoned from Agricultural Residential (AR) to Limited Commercial (LC). At the time of the rezoning, the applicant had a tenant who was interested in having an office at this location. The rezoning request was approved but the tenant did not occupy the space. A neighboring property, located at 7758 Raeford Road, was partially rezoned in 2014. Half of the parcel was rezoned from Agricultural Residential (AR) to Office & Institutional (OI). The OI portion of this parcel is immediately adjacent to 1631 Ferndell Drive and 0

Hazelwood Avenue which are part of this rezoning request.

Surrounding Area:

The area to the north consists of several different single-family subdivisions such as Holly Chase, Raeford Road Estates, and Newton Place. Immediately south of the subject property is a large North Carolina Department of Transportation right-of-way. Beyond this NCDOT right-of-way is the Cotton Square commercial development which includes Applebee's and Truist Bank. A daycare, Fort Bragg Federal Credit Union, and Walgreens are located to the west of the subject properties. To the east is a church, Lake Rim Baptist Church, and a medical facility, Carolina Skin Care.

Rezoning Request:

The applicant is requesting to rezone 0.94 acres ± from Limited Commercial (LC) and 3.46 acres ± from Agricultural Residential (AR) to Community Commercial (CC). Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

Straight Zoning:

The request is for a straight zoning from Agricultural Residential (AR) and Limited Commercial (LC) to Community Commercial (CC).

The CC District is established and intended to accommodate a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large-e.g., shopping centers, convenience stores, retail sales establishments, and heavier commercial uses. The district is typically located along major arterials, at the intersection of arterials, and along growth corridors identified in City plans.

The reclassification of land to a straight zoning district allows all of the uses that are shown on Use Table in the Unified Development Ordinance. The City Council may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to Future Land Use Map & Plan, this area is recommended to be developed as Community Center (CC).

Community Center is defined as supporting developments with buildings consisting of 150,000 - 400,000 square foot; nonresidential leasable space with vertically mixed uses; and high-density residential and multi-family intermixed.

Based on an analysis of the area, the Unified Development Ordinance, and the Future Land Use Plan, the proposed zoning district is not compatible with the area. While the Future Land Use Plan does support a commercial zoning district, the surrounding area is primarily residential in nature with limited lower-intensity commercial uses to the west. In addition, based on the Unified Development Ordinance, the Community Commercial zoning district is defined and reserved for parcels located along major arterials. These properties, although addressed off of Raeford Road, are served by a local connector road and do not have direct access to Raeford Road.

For these reasons, staff supports a lower intensity commercial zoning district - Limited Commercial (LC). This is in keeping with the Future Land Use Plan and the commercial zoning that is located near the corner of Raeford Road and Cliffdale Road.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. A

rezoning to Limited Commercial would follow the City's strategic, compatible growth strategies by meeting the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. City Council moves to approve the rezoning to CC as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement.
2. City Council moves to approve the map amendment/rezoning to a more restrictive zoning district based on the evidence submitted and finds that the map amendment/rezoning would be consistent with the Future Land Use Plan and an amended consistency and reasonableness statement. **(LC recommended by Staff)**
3. City Council moves to deny the rezoning based on the evidence submitted and finds that the rezoning is inconsistent with the Future Land Use Plan.

Recommended Action:

The Zoning Commission and Professional Planning Staff recommends that the City Council move to APPROVE the map amendment to a more restrictive LC district based on the following:

- The proposed zoning map amendment implements the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Community Center.
- The uses permitted by the recommended change to the LC zoning district and the standards that apply to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map

5. Subject Property
6. Surrounding Property Photos
7. Consistency and Reasonableness Statements - LC
8. Consistency and Reasonableness Statements - CC

Project Overview**#876288****Project Title:** Old Raeford Rd Estates**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:****Zip Code:** 28,304

- 1631 FERNDOLL DR (9486266471000)
- 7818 RAEFORD RD (9486265449000)
- 1620 FERNDOLL DR (9486267506000)
- 1611 FERNDOLL DR (9486269516000)
- 0 HAZELWOOD AVE (9486360554000)

GIS Verified Data**Property Owner: Parcel****Acreage: Parcel**

- 1631 FERNDOLL DR: GILLIS DEVELOPMENT CORP INC
 - 7818 RAEFORD RD: GILLIS, JOSEPH
 - 1620 FERNDOLL DR: GILLIS, JOSEPH H
 - 1611 FERNDOLL DR: GILLIS, JOSEPH H; GILLIS, BETTY H
 - 0 HAZELWOOD AVE: GILLIS, JOSEPH H; GILLIS, BETTY H
- 1631 FERNDOLL DR: 2.1
 - 7818 RAEFORD RD: 0.94
 - 1620 FERNDOLL DR: 0.3
 - 1611 FERNDOLL DR: 0.58
 - 0 HAZELWOOD AVE: 0.48

Zoning District:**Subdivision Name:****Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:****500 Year Flood:****Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** Yes**Previous Amendment Approval Date:** 06/29/2021**Previous Amendment Case #:** P21-34**Proposed Zoning District:** COMMUNITY COMMERCIAL**Acreage to be Rezoned:** 4.40**Is this application related to an annexation?:** No**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:****B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:**

Parcel 9486265449000 has a vacant home, all other parcels are

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).**A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:**

It is consistent with commercial development all around.

B) Are there changed conditions that require an amendment? :

We request to rezone all 5 parcels to CC.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

We feel a great need of commercial land which will serve all citizens around and nearby.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

All the surrounding next and across from this parcel are various commercial uses.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

The proposed amendment is much needed to accommodate the services needed and lacking in this area.

F) State the extent to which the proposed amendment might encourage premature development.:

Most of all other surrounding properties are developed commercially.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

Proposed amendment is in keeping with surrounding properties.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

Proposed amendment does not create an isolated zoning district.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

Proposed amendment will enhance the values of all surrounding properties.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

Proposed amendment will not have an adverse impact on environment.

Primary Contact Information**Contractor's NC ID#:****Project Owner**

Joseph Gillis

7818 Raeford road
Fayetteville, NC 28304
P:910-309-2001
mr.jhgillis@gmail.com

Project Contact - Agent/Representative

Joseph Gillis

7818 Raeford road
Fayetteville, NC 28304
P:910-309-2001

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

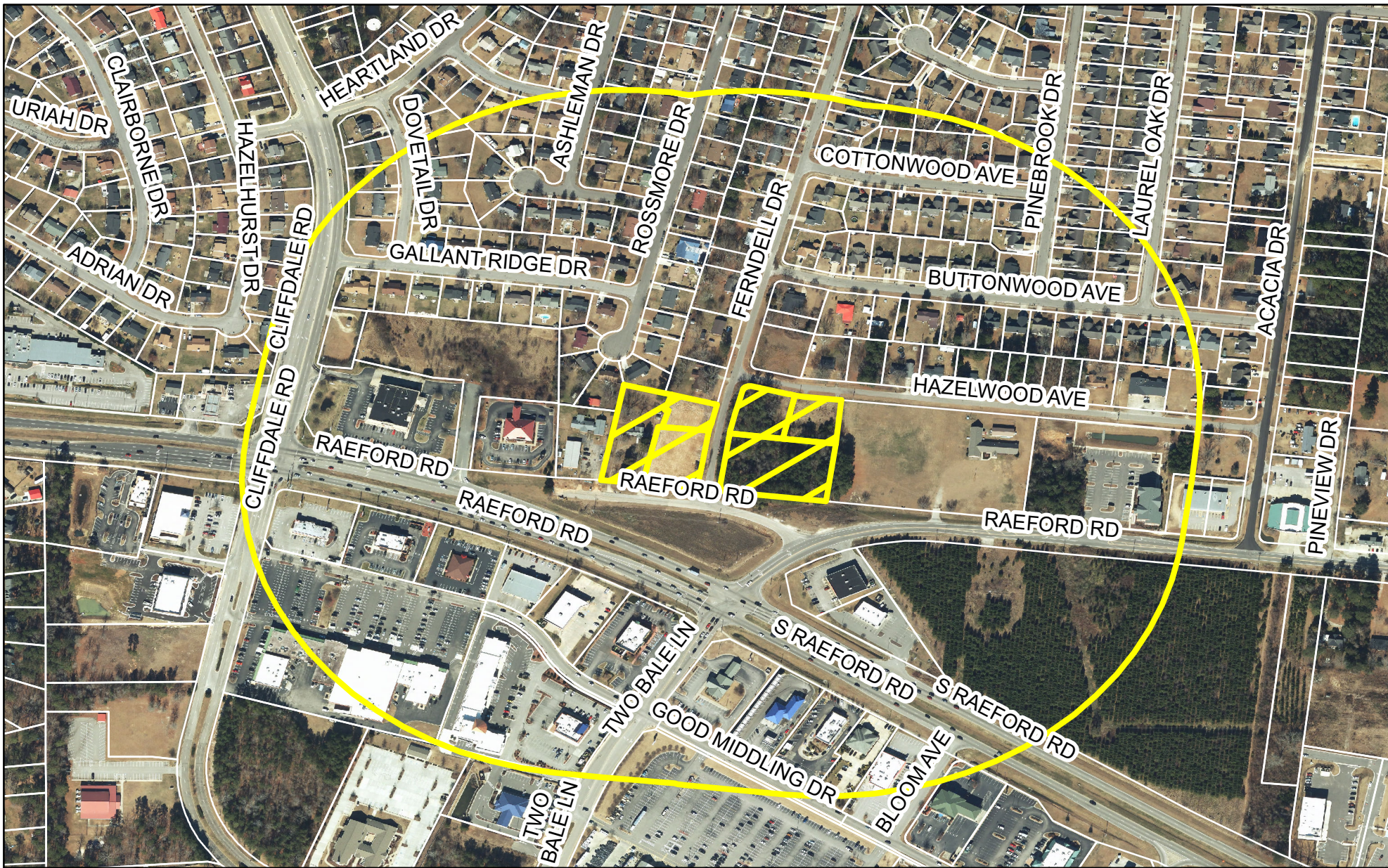
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project:





Aerial Notification Map

Case #: P22-45

Request: Rezoning
AR and LC to CC

Location: 7818 Raeform Road
1611 Ferndell Drive
1620 Ferndell Drive
1631 Ferndell Drive
0 Hazelwood Avenue

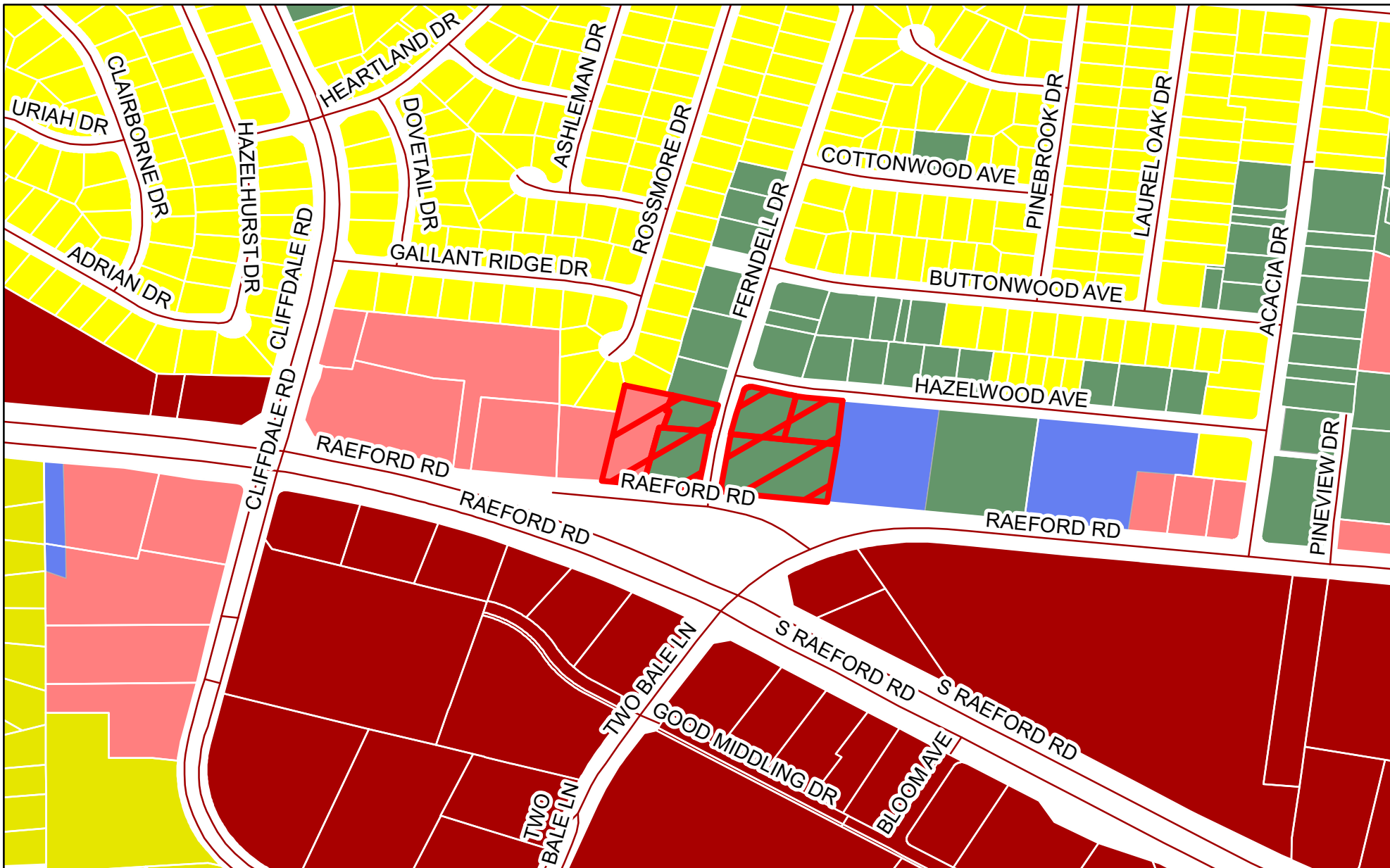
Legend

-  P22-45 Notification Buffer
-  P22-45



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.












Zoning Map

Case #: P22-45

Request: Rezoning
AR and LC to CC

Location: 7818 Raeford Road
1611 Ferndell Drive
1620 Ferndell Drive
1631 Ferndell Drive
0 Hazelwood Avenue

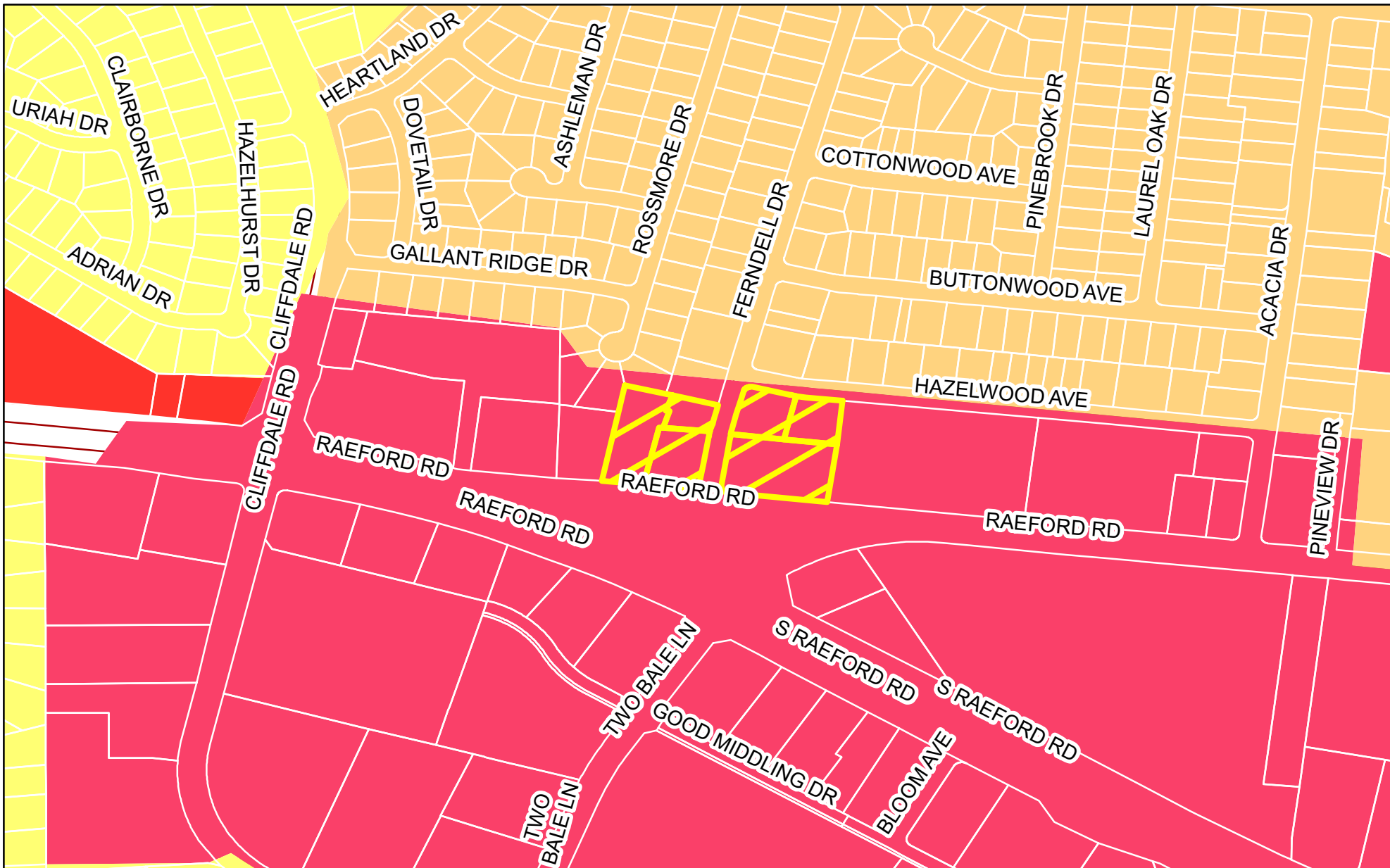
Legend

-  P22-45
-  AR - Agricultural-Residential
-  CC - Community Commercial
-  LC - Limited Commercial
-  OI - Office & Institutional
-  SF-10 - Single-Family Residential 10
-  SF-15 - Single-Family Residential 15



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Land Use Map

Case #: P22-45

Request: Rezoning
AR and LC to CC





Location: 7818 Rae Ford Road
1611 Ferndell Drive
1620 Ferndell Drive
1631 Ferndell Drive
0 Hazelwood Avenue

Legend

 P22-45

Land Use Plan 2040

Character Areas

-  LDR - LOW DENSITY
-  MDR - MEDIUM DENSITY
-  CC - COMMUNITY CENTER
-  HC - HIGHWAY COMMERCIAL



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.







North



West



South



East



Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P22-45 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investment around infrastructure and strategic nodes	X	
GOAL #2: Promote compatible economic and commercial development in key identified areas	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.	X	
LUP 2: Encourage strategic economic development.	X	
2.1: Encourage economic development in designated areas.	X	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city.	X	
LUP 4: Create well-designed and walkable commercial and mixed use districts.	X	
4.1: Ensure new development meets basic site design standards.	X	

3. The proposed amendment is consistent with the Future Land Use Map as follows:

<input checked="" type="checkbox"/>	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR		The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
<input checked="" type="checkbox"/>	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR		The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts.

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

☐ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.

☐ The amendment includes conditions that limit potential negative impacts on neighboring uses.

☐ The proposed uses address the needs of the area and/or City.

☒ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

☒ improves consistency with the long-range plan.

☒ improves the tax base.

☐ preserves environmental and/or cultural resources.

☒ facilitates a desired kind of development.

☐ provides needed housing/commercial area.

Additional comments, if any (write-in):

Date

Signature

Print



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3119

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 9.02

TO: Mayor and Members of City Council

THRU: Karen M. McDonald, City Attorney

FROM: Kecia N. Parker, NCCP, Real Estate Manager

DATE: January 9, 2023

RE:

Public Hearing to Consider Closing a Portion of Butler Street

COUNCIL DISTRICT(S):

2

Relationship To Strategic Plan:

Desirable Place to Live, Work and Recreate

Executive Summary:

NCGS §160A-299 gives authority and procedures for the City to be able to close a city street or alley. The City received a petition to close an approximately 11,354.78 square feet portion of an unopened portion of Butler Street from an adjacent property owner. The property owner owns both sides of the unopened portion and would like to combine his parcels.

Background:

The Petitioner/adjacent property owner is requesting the closure of an unopened portion of Butler Street. Closing the street will not deny access to any property owner as the petitioner owns both sides of the portion requesting to be closed. The first step in the process dictated by NCGS§160A-299 is to have a resolution signed granting the public hearing to consider the closing and as such, City Council set the public hearing for January 9, 2023 at the Council meeting held on November 28, 2022. Staff has followed all of the statutory procedures to include posting the property and mailing out certified notice

letters to adjacent property owners. The property has also been posted on both ends with notice and the notice of this hearing was published for 4 consecutive weeks in the local newspaper. Staff also consulted with the public utility companies to ensure any needed easements would be reserved. The Traffic Engineer researched the property and determined no Traffic Analysis study of the area was needed due to the fact the proposed closure is an unopened portion of the street and even if opened there would be no significant impact to traffic flow by the closure. Fire and EMS were also contacted and relayed no impacts to their response times.

- Petitioner who is also an adjacent property owner is requesting to close an unopened portion of Butler Street to enhance development of the property.
- NCGS §160A-299 gives authority and procedures required for the City to close a city street or alley.
- This closure will not land lock any abutting property owners.
- The public utility companies were contacted and easements will be reserved as requested for the City and the Fayetteville Public Works Commission.

Issues/Analysis:

- No access will be denied to anyone as a result of the proposed closing.
- The Emergency Response times will not be significantly affected.
- There will be no significant impacts to traffic per the City Traffic Engineer.
- The City will be reserving an above ground and underground utility easement over a portion of said alley for city utilities and for PWC.

Budget Impact:

There is no significant impact to the budget as a result of the proposed closing.

Options:

- Adopt the Resolution and Order Closing an Unopened Portion of Butler Street.
- Deny the request.

Recommended Action:

Staff recommends adopting the Resolution and Order Closing an Unopened Portion of Butler Street

Attachments:

- Resolution
- Map

Resolution No. R2023-_____

A RESOLUTION AND ORDER CLOSING AN UNOPENED PORTION OF BUTLER STREET

WHEREAS, under authority of NCGS 160A-299, a public hearing before the City Council of the City of Fayetteville, North Carolina was advertised as required by law, and duly held on the 9th day of January, 2023, in accordance with the notice calling for said public hearing, and all adjoining property owners having been notified by certified mail of the time, place and purpose of said meeting, the purpose of which was to determine whether that certain street portion in the City of Fayetteville, North Carolina, known as an unopened portion of Butler Street, should be closed as a public street; and a notice of said hearing having been posted on said street for four weeks prior to the holding of said hearing;

WHEREAS, during the said public hearing all interested citizens were invited to comment and state any objections they may have to the closing of that unopened portion of Butler Street as a public street; and

WHEREAS, the City Council, following such public hearing, after considering all of the facts, has determined that the closing of that unopened portion of Butler Street is not contrary to the public interest and that no individual owning property in the vicinity of said street portion will thereby be deprived of reasonable means of ingress and egress to his or her property;

NOW THEREFORE, BE IT RESOLVED on behalf of the people of Fayetteville, the City Council orders and directs that the unopened portion of Butler Street, within the limits covered by the following description only, be closed as a public street under the following terms and conditions:

1. Description of area closed as a public street

BEGINNING in the northern right of way margin of Cook Street, a 50 foot public right of way where it intersects with the southwestern right of way margin of a portion of Butler Street that runs in between said Cook Street and Robeson Street, and continues thence for a first call North 04 degrees 54 minutes 52 seconds East 213.12 feet to a point in the southern right of way margin of Robeson Street, thence continuing with said southern right of way margin, North 74 degrees 43 minutes 16 seconds East 63.74 feet to a point, thence leaving said southern right of way margin of Robeson Street and continuing thence South 05 degrees 23 minutes 29 seconds West 172.10 feet to a point in the northern right of way margin of Cook Street and continuing thence along said northern right of way margin South 47 degrees 43 minutes 37 seconds West 85.92 feet to the BEGINNING, and containing approximately 11,354.78 square feet more or less.

2. That a copy of this order be recorded in the office of the Register of Deeds of Cumberland County.

3. The City reserves an easement over and under the below described area for any public utilities for the City's benefit and use to include the Public Works Commission

BEGINNING in the northern right of way margin of Cook Street, a 50 foot public right of way where it intersects with the southwestern right of way margin of a portion of Butler Street that runs in between said Cook Street and Robeson Street, and continues thence for a first call North 04 degrees 54 minutes 52 seconds East 213.12 feet to a point in the southern right of way margin of Robeson Street, thence

continuing with said southern right of way margin, North 74 degrees 43 minutes 16 seconds East 63.74 feet to a point, thence leaving said southern right of way margin of Robeson Street and continuing thence South 05 degrees 23 minutes 29 seconds West 172.10 feet to a point in the northern right of way margin of Cook Street and continuing thence along said northern right of way margin South 47 degrees 43 minutes 37 seconds West 85.92 feet to the BEGINNING, and containing approximately 11,354.78 square feet more or less.

IN WITNESS WHEREOF, the City of Fayetteville has caused this instrument to be signed in its name by its Mayor, attested by its City Clerk, and its corporate seal hereto affixed, all by order of its City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, on this, the 9th day of January, 2023; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

CITY OF FAYETTEVILLE

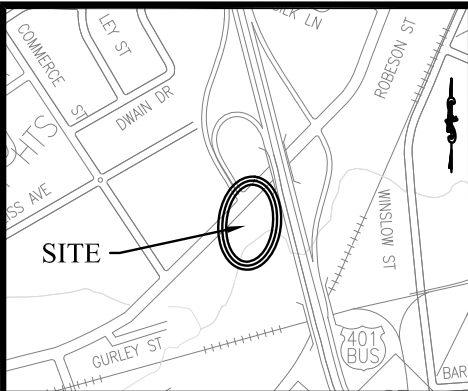
(SEAL)

By: _____
MITCH COLVIN, Mayor

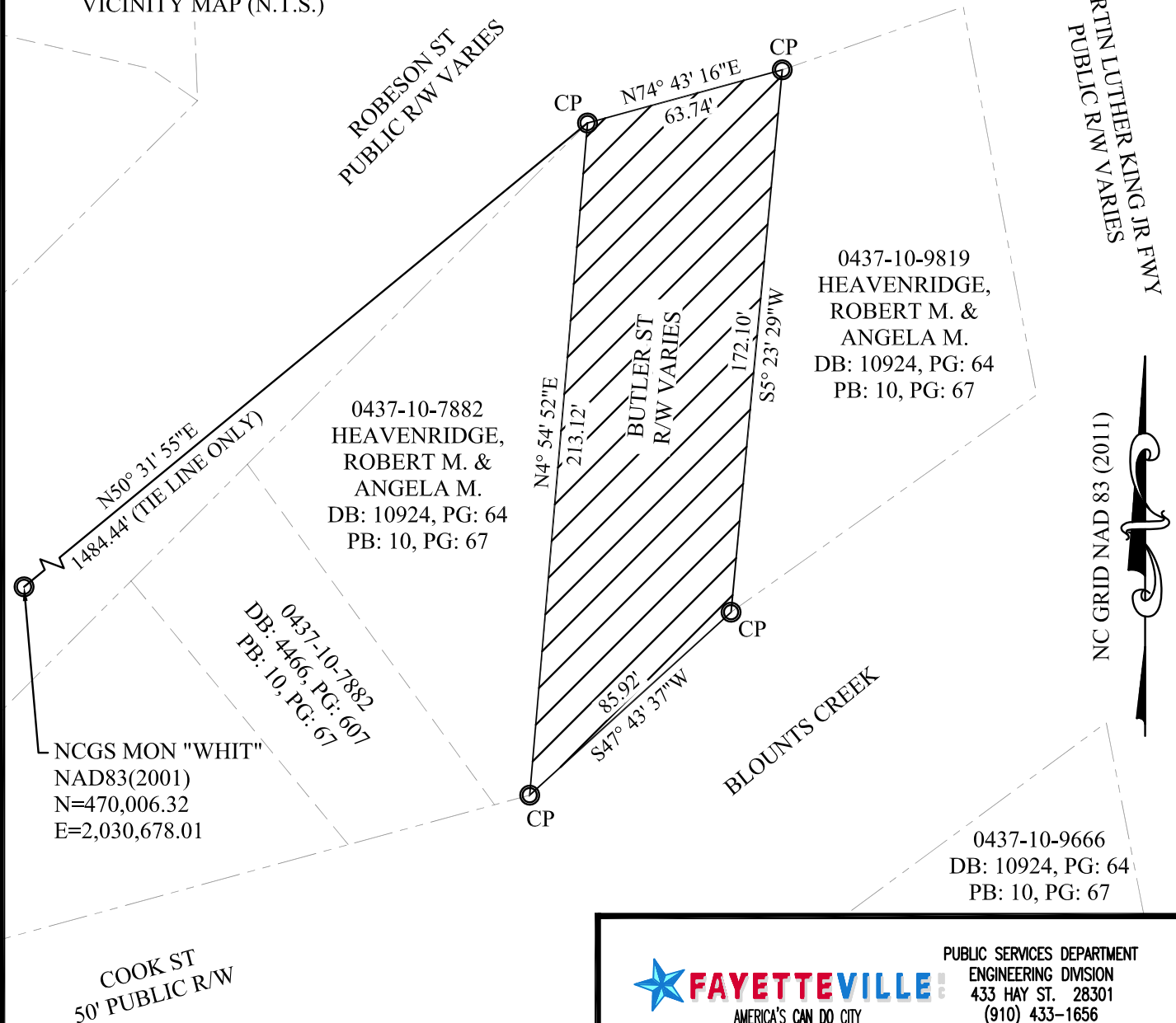
ATTEST:

PAMELA MEGILL, City Clerk

EXHIBIT A



VICINITY MAP (N.T.S.)



FAYETTEVILLE

AMERICA'S CAN DO CITY

PUBLIC SERVICES DEPARTMENT
ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1656

REFERENCES:

DEED BOOK 10924 PAGE 64
PLAT BOOK 10 PAGE 67

THIS MAP IS NOT BE A CERTIFIED SURVEY AND NO RELIANCE MAY BE PLACED IN ITS ACCURACY.

PROPOSED STREET CLOSING

BUTLER STREET
±11,354.78 SQ FT
±0.26 ACRES

DATE **9/27/2022** DRAWN BY **RSH**
SCALE **1" = 50'** CK'D BY **RSH**



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3140

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 9.03

TO: Mayor and Members of City Council

THRU: Adam Lindsay, Assistant City Manager

FROM: Daniel Edwards, Assistant Director of Public Services,
Sheila Thomas-Ambat, PE, CCM, CFM, Director of Public Services

DATE: January 9, 2023

RE:

Solid Waste Ordinance Amendments

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal 4: Desirable Place to Live, Work and Recreate

Goal 5: Financially Sound City Providing Exemplary City Services

Executive Summary:

As staff reviews best practices and peer city comparisons, we seek Council and Public input on several recommended changes/updates to the current ordinance. Staff seeks concurrence to modify Chapter 22 to include updated definitions and service level changes for carts, yard waste, limbs, and below-standard/unmaintained streets. The options presented will bring consistency, predictability, and enforceability to the solid waste services for the City of Fayetteville.

Background:

On October 4, 2020, SW Division discussed with Council how the Solid Waste Ordinance, service levels, and other considerations regarding municipal Solid Waste collection operations needed revisions. The SW Division emphasized how the City of

Fayetteville has endured a steady increase of blight and non-compliant code violations; litter; illegal dumping; and other public nuisances regarding blight and trash. Also highlighted was Chapter 22, Municipal Solid Waste, which has not been updated in several years. The ordinance lacks the definition of clearly defined processes and procedures used by the division. Additionally, the ordinance does not clearly describe customer type, services, and code enforcement. The SW Division recommended to Council to allow us to revise Chapter 22 of the Municipal Ordinance and consider substantive changes in a presentation to Council for discussion and approval.

Staff has previously provided Council Peer City comparisons showing the frequency and quantity of the service delivered by our sister Cities. The comparisons have shown that Solid Waste Services for the City of Fayetteville are equal to, and in many instances, greater than our peers.

Changes included in the ordinance but not in the presentation are updated definitions, authority and designee, ownership of materials, cart size, and updated terminology.

On October 4, 2021, Solid Waste presented the first approach to reducing enforcement and providing consistency and predictability by recommending every other week collection of Bulky and Limb services. This practice has begun and is successful, albeit with periodic challenges on service delivery due to weather, and fleet and personnel resource availability.

Staff are now presenting recommendations of the completed ordinance including new service limits.

Issues/Analysis:

As a core city service of a city of over 200,000 residents, we are proud of the fact that the weekly collection of solid waste and every other week collection of recycling materials is a huge success with very few complaints and uncorrected mistakes. The demands to deliver services, including costs related from human and vehicle capital, continue to rise as do the challenges to overcome the shortages to find and maintain these two critical resources. In short, money alone is not going to fix the challenges. Expectations must be level set and we seek to do that through this discussion and ordinance update. As staff weighs the perceived interests of the Council regarding solid waste we more often hear of the negative experiences. Sometimes, complaints are driven by expectations and practices that are not sustainable when contrasted with the ordinance and peer cities. However, we know how important it is to have policies and practices that enhance and maintain the aesthetics and health and safety of the community. Sometimes, less is more when it comes to providing the extra services, as some large cities limit or do not even provide limb, bulky, and yard debris.

While we are not recommending any drastic reductions in services at this time, our aim is to share with you a few recommended changes to areas within the ordinance that have been topics of complaint or frustration from citizens. The intent is to align the ordinance

based on affordable available resources while providing predictable, consistent, and enforceable services.

These topical areas include: 1) rollout carts, 2) yard waste and large limbs, and 3) collection along privately owned and managed streets that have fallen into disrepair. Our intention is to clarify the rules and, while reducing the level of service in some cases, improve the ability to enforce and manage expectations.

We appreciate the support and input from SPA, Public Services, Parks & Rec, and Developmental Services, as we explored and discussed challenges, inconsistencies, and opportunities to ensure that we can provide a level of service that is acceptable and affordable to Fayetteville.

Budget Impact:

At this time there is no budget impact from these recommended ordinance changes. However, the demands on our service delivery and the cost to provide these services will need to be discussed in greater detail. Policies related to the service levels and the fees to pay for these service levels are not on a sustainable trajectory.

Options:

Staff is seeking consensus from Council for the following:

1. Accept recommendations on the proposed ordinance revisions for operations.
2. Do not provide consensus to move forward the proposed ordinance revisions for operations and provide further direction.

Recommended Action:

1. Staff recommends that Council move to accept recommendations on the proposed ordinance revisions for operations.

Attachments:

Solid Waste Ordinance Limits Work Session Presentation 1.9.23
Peer City Comparison
Solid Waste Ordinance Revisions Clean
Solid Waste Ordinance Revisions Redline

	Fayetteville	Winston-Salem	Greenboro	Durham	Raleigh
Household Waste	Weekly	Weekly	Weekly	Weekly	Weekly
Yard Waste	Weekly	\$60 Yearly Fee/Weekly	Weekly	\$90 Yearly Fee/Weekly	Biweekly
Recycling	Biweekly	Biweekly	Biweekly	Biweekly	Biweekly
Bulky	Scheduled	Once a year	Biweekly	Scheduled weekly	Scheduled – 1 per quarter
Limbs	Scheduled	By Quadrants once a year	Scheduled/Fee	Scheduled (if YW subscriber)	Scheduled/Fee

	Fayetteville	Winston-Salem	Greenboro	Durham	Raleigh
Household Waste	1 st Cart Free, collect up to 2 – no fee for cart collections	1 Free cart, up to 2 addition carts \$40 per cart/year	2 Carts no additional fees	1 st cart free. Additional carts are \$18 per year or \$1.50 per month. Will collect up to 4 carts	1 cart for free – collect up to 2 – no fee for cart collections
Yard Waste	No YW limits in ordinance	Up to 3 carts per residence - \$60 Yearly Fee	10 bags, bundles and/or cans	1 cart with monthly fee, additional carts for fee	Up to 20 YW items
Recycling	No recycling Info in ordinance	1 free cart, 2 nd 30 per year	2 Carts no additional fees	1 cart given but will give up to 4 for free	1 cart for free – collect up to 2 – no fee for cart collections
Bulky	5 Pieces per collection	Annual neighborhood area cleanups	No cost, no limit, collected biweekly with RL. For move outs must call ahead for KB	3 items free – Charged for items over three	Up to 4 CY - equivalent to the bed of a standard-sized pickup truck
Limbs	Up to 20 CY	Up to 10 CY	Paid collection Minimum \$100	2 free bulky brush pickups per year (IF YW SUBSCRIBER) Non-YW subscribers pay for YW collection	Paid YW collection Minimum \$50



SW Ordinance Presentation

January 9, 2023



 **FAYETTEVILLE**^{NC}

Purpose

- Purpose: To discuss, recommend and receive direction from CMO on recommended 1) solid waste service limits, (2) related SW Ordinance Revisions, and, (3) enforcement activities.
 - Direction Needed:
 - Option 1 – New service limits
 - Option 2 - Accept some revisions and give direction
- [Corrected ordinance ambiguity, updated definitions, and updated operation language (specifically sec 22-10)]
- Goal: Deliver consistent, predictable, financially responsible solid waste services that promote a safe, affordable, healthy, and resilient community.



Ordinance Changes

Corrected
Ambiguity

Updated
Definitions

Updated
Operation
Language



Service Level Limits

Item	Current Ordinance Limits	New Ordinance Limits Per Fee Schedule
Household Carts	Not Consistent in ordinance	2 carts
Recycling Carts	Not included	1* cart (*some residents have two ~4000)
Yard Waste	Not Included	10 combination of containerized items
Limbs	20 CY	10 CY 8'x12'x4'
Private Streets	Not included	The determination of whether a private street or driveway creates a safety and operational hazard will be made by the Solid Waste Division

Some New Limits located in Fee Schedule not Ordinance

Overview & Recommendation

Corrected
Ambiguity

Updated
Definitions

Updated
Operation
Language

- Provide consensus on the proposed preliminary ordinance revisions, including corrected ordinance ambiguity, updated definitions, and updated operation language (specifically sec 22-10),
- Accept Option 1 – New Limits
Accept Option 2 – Accept some revisions and give direction

Thank you



FayettevilleNC.gov



Peer City Comparison Frequency

	Fayetteville	Winston-Salem	Greenboro	Durham	Raleigh
Household Waste	Weekly	Weekly	Weekly	Weekly	Weekly
Yard Waste	Weekly	\$60 Yearly Fee/Weekly	Weekly	\$90 Yearly Fee/Weekly	Biweekly
Recycling	Biweekly	Biweekly	Biweekly	Biweekly	Biweekly
Bulky	Scheduled	Once a year	Biweekly	Scheduled weekly	Scheduled – 1 per quarter
Limbs	Scheduled	By Quadrants once a year	Scheduled/Fee	Scheduled (if YW subscriber)	Scheduled/Fee



Peer City Comparison Quantity

	Fayetteville	Winston-Salem	Greenboro	Durham	Raleigh
Household Waste	1 st Cart Free, collect up to 2 – no fee for cart collections	1 Free cart, up to 2 addition carts \$40 per cart/year	2 Carts no additional fees	1 st cart free. Additional carts are \$18 per year or \$1.50 per month. Will collect up to 4 carts	1 cart for free – collect up to 2 – no fee for cart collections
Yard Waste	No YW limits in ordinance	Up to 3 carts per residence - \$60 Yearly Fee	10 bags, bundles and/or cans	1 cart with monthly fee, additional carts for fee	Up to 20 YW items
Recycling	No recycling Info in ordinance	1 free cart, 2 nd 30 per year	2 Carts no additional fees	1 cart given but will give up to 4 for free	1 cart for free – collect up to 2 – no fee for cart collections
Bulky	5 Pieces per collection	Annual neighborhood area cleanups	No cost, no limit, collected biweekly with RL. For move outs must call ahead for KB	3 items free – Charged for items over three	Up to 4 CY - equivalent to the bed of a standard-sized pickup truck
Limbs	Up to 20 CY	Up to 10 CY	Paid collection Minimum \$100	2 free bulky brush pickups per year (IF YW SUBSCRIBER) Non-YW subscribers pay for YW collection	Paid YW collection Minimum \$50

PART II - CODE OF ORDINANCES

CHAPTER 22 - SOLID WASTE

Article I. - In General

Sec. 22-1. General Policy of City.

It is the policy of the City to provide efficient, equitable, safe, and sanitary removal of Solid Waste, Bulk Waste, Yard Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris, and Recyclables, as defined herein, from all areas of the City within the corporate limits, to afford the service to all users on as nearly an equitable basis as possible and to charge a fair and reasonable fee to those service users who require extra and disproportionately large amounts of waste removal service. The City shall further promote, protect, and preserve the general welfare of the people of the City, through enforcement of this Chapter and shall perform this service in such a manner as to protect the environment and preserve our natural resources.

(Code 1961, § 14-1)

Sec. 22-2. Authority.

- a. The City Manager or designee may make such rules and regulations not inconsistent with this Chapter as she/he deems advisable to safeguard the health and welfare of the citizens of the City in the removal Waste and Recyclables.
- b. It is the intention of this Chapter that the City Manager or designee, shall be primarily responsible for the enforcement of the provisions of this Chapter. However, the County health officer shall, in any case where she/he deems it advisable to act, have all the authority conferred by this Chapter upon the City Manager or designee, and any notice served for the purpose of this Chapter by, or by authority of, the County health officer and any charge made by the County health officer in accordance with the provisions of this Chapter shall be as valid as if made by the City Manager or designee.

(Code 1961, § 14-2, 14-21)

Sec. 22-3. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed in this Section, except where the context clearly indicates a different meaning:

Ashes means residue resulting from the burning of wood, coal, coke, or other combustible material.

Backdoor Service means the Collection of Household Waste and Recyclables at Units from a location next to or near outside the user's backdoor as a result of qualifying for such services due to Physical Disability.

Bulk Waste means items too large to fit into a Rollout Cart, such as large household furnishings, mattresses, box springs, dismantled swing sets with concrete removed, clothesline poles with concrete removed, lawn equipment (e.g., mowers, wheelbarrows), appliances and similar large household items.

City means the political subdivision of the City of Fayetteville, North Carolina.

City Manager means the person designated by the City Council to perform duties and responsibilities as chief executive officer for the City.

Collection means the act of removing Household Waste, Recyclables, Yard Waste, Bulk Waste, Household Construction Debris, Small Limb Waste and/or Large Limb Waste from an acceptable Curbside set out or Backdoor Service to an approved processing and/or disposal site.

Collection on Private Property means the act of removing Waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the City Manager or designee for manual and/or automated collection.

Compliant Load means a load of collectable items or materials that is in accordance with this Chapter and the standards for collection as determined by the City or contracted vendor.

Curbside means the area between the street and the private property line.

Fee Schedule means the list of fees approved by the City Council.

Foul Odors means offensive odors emanating from, but not limited to Waste.

Household Waste means the accumulation of any non-recyclable articles from households such as garbage, trash, discarded clothing, toys, small appliances, sweepings, rags, packaging materials, animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto. Household Waste does not mean waste that is associated with the production, distribution, warehousing, construction or manufacturing of a product. Household Waste may be collected from Residential Units and Single Business Units.

Hazardous Waste means potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes, but is not limited to, ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal) and explosives. For the purposes of this Chapter, this definition has been condensed from the definition as published in the North Carolina Hazardous Waste Management Law, adopted for the Federal Environmental Protection Agency (EPA). The terms defined are not inclusive of all items specified by Environmental Protection Agency regulations.

Household Construction Debris means lumber, carpet, plumbing materials, floor coverings, pool liners, roofing material, gutters, and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing residential structures or accessory structures, or demolition of such.

Industrial Waste means all waste, including solids, semisolids, sludge and liquids created by factories, processing plants or other manufacturing enterprises.

Large Limb Waste means limbs longer than three (3) feet in length, greater than three (3) inches in diameter, or greater than 50 pounds in weight but less than five (5) feet in length, less than six (6) inches in diameter and does not exceed 20 cubic yards.

Litter means any discarded materials not properly containerized or prepared for Collection and disposal.

Multifamily Community means any community that is not subject to a Solid Waste User Fee and that is not designated by the Cumberland County Tax Office as a single-family residence, including but not limited to, apartments, townhouses, condominiums, public housing communities and mobile home parks with more than seven (7) units per parcel.

Non-Compliant Load means a load of materials that is not properly set out for Collection in accordance with Section 22-10 of this Chapter.

Physical Disability means a medical condition, hardship or age, verified by a registered physician, that makes an individual physically unable to bring the Rollout Cart to the Curbside for Collection, and there is no one else residing in the household capable of taking the Rollout Cart to the Curbside.

Private Street means a street not open to public use, on private property, not accepted by the City, and not maintained by any governmental agency.

Private Property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, Curbside or rights-of-way up to the edge of the pavement of any public street or body of water.

Properly Containerized means stored in accordance with the provisions of this Chapter.

Properly Disposed means disposed of in accordance with the provisions of this Chapter.

Public Right-of-Way means land that is dedicated or otherwise legally established for public use.

Public Services Department means the department and personnel responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, and Household Construction Debris, and may include other materials that result from a Non-Compliant Load.

Recyclables means items included in the City's approved recycling programs including but not limited to, selected glass, newsprint and accompanying inserts, magazines, aluminum, corrugated cardboard boxes, plastic containers with recycle triangle markings 1 through 5 (or other approved recycling based on the Material Recovery Facility (MRF) and other items determined to be recyclable by the City Manager or designee.

Residential Unit means a parcel of land with seven (7) or less residential properties, that is subject to the Solid Waste User Fee.

Rollout Cart means any City-provided green, brown or blue cart with wheels, of an approximate capacity of 96 gallons, and constructed so that the cart can be emptied mechanically by means of an automated loading device as equipped on a Solid Waste Division Collection vehicles for the purpose of Collection of Household Waste, Recyclables and/or Yard Waste.

Single Business Unit means a Residential Unit in which a business is operated, that generates no more Household Waste per week than can be placed or stored in a maximum of two Rollout Carts totaling a combined capacity of no more than 192 gallons when accumulated between Collections such as a dental office, medical office, insurance office or any other business in which the major activity is providing a

service or is clerical in nature and does not in itself produce a product.

Small Limb Waste means limbs that can fit into a City-issued brown or green Rollout Cart, a 32 gallon trash can, plastic bag or any bundled small limbs that, when combined in a pile or stack, is not longer than three (3) feet in length, not greater than three (3) feet in width, not greater than three (3) inches in diameter, and not greater than 50 pounds in weight.

Solid Waste Division means the Division and personnel within the Public Services Department responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, Recyclables, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris and other materials as provided in this Chapter, on behalf of the City.

Solid Waste Fee Schedule means the current list of Solid Waste Division fees and penalties as adopted by the City Council.

Solid Waste User Fee means the fee that the City includes on tax bills for the services the Solid Waste Division provides to Residential Units and Single Business Units.

Stationary Waste Container means any City-approved non-moving dumpster of a minimum capacity of two (2) cubic yards and having a maximum capacity of eight (8) cubic yards, made of watertight construction, and constructed so that the container can be emptied mechanically by means of a front loading vehicle used for the purpose of collection.

Stationary Recycling Container means any City-approved non-moving dumpster, which may contain a packing mechanism and an internal or external power unit used for the purpose of collection of Recyclables as defined in the local approved recycling program.

Undeveloped Lot means a lot with no buildings or not otherwise developed for residential, commercial, recreational or governmental use.

Unit means a Residential Unit and a Single Business Unit.

Verified Violation means a violation of any section of this Chapter as determined by the City Manager or designee.

Waste means all useless, unwanted or discarded materials resulting from industrial, commercial, agricultural and residential activities.

Yard Waste means grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, Small Limb Waste and such other similar materials which are generated in the maintenance of yards and gardens, and which are collected separately from other Household Waste and Recyclables, and placed at the Curbside for Collection.

(Code 1961, § 14-3; Ord. No. S2007-011, § 1, 2-12-2007; Ord. No. S2010-002, § 1, 3-8-2010)

Cross reference— Definitions generally, § 1-2.

Sec. 22-4. Ownership of Materials.

All Household Waste, Recyclables, Yard Waste, Bulk Waste, Large Limb Waste, Small Limb Waste, Household Construction Debris and similar items, that are properly containerized and placed by an owner

or occupant of a property at Curbside for Collection, are deemed to be the property of such person until such time that the City or its authorized agent collects the materials.

(Code 1961, § 14-4)

State law reference— Regulation of the placing of trash, waste and garbage within municipal limits, [G.S. 160A-303.1](#) et seq.

Sec. 22-5. Rollout Carts, Cans and Containers Generally.

- a. Requirements.* All Rollout Carts must meet all design and capacity requirements as defined in this Section. Any variations of Rollout Carts or Stationary Containers, in types, styles, designs, etc., must be reviewed and approved by the City Manager or designee. All eligible Residential Units and Single Business Units shall use only City-provided Rollout Carts for all Household Waste removal by the City. Recyclables shall be collected only from City-provided approximately 96-gallon Rollout Cart for Collection of Recyclables. No Recyclables shall be collected from Rollout Carts designated for the disposal of Household Waste or Yard Waste. The following provision shall be complied with:
1. *Automated Rollout Cart Collection system.* The City shall provide two (2) 96-gallon (approximate) Rollout Carts, one for Household Waste and one for Recyclables, where the automated system is in use for the Collection. Should this not be sufficient storage between Collections, the user may purchase two (2) additional Household Waste Rollout Carts from the City. Until such time as the City obtains and delivers such Rollout Carts, such persons shall cause all Household Waste, to be placed in watertight containers manufactured for Household Waste containerization. Household Waste cans shall not weigh more than 50 pounds.
 2. *Excess amounts.* Single Business Units generating in excess of 192 gallons per week of Household Waste, must provide a Stationary Waste Container for service by a private hauler. Variations must be approved by the Public Services Department Director or designee. Rollout Carts for Yard Waste may be purchased by the user from the Solid Waste Division.
 3. *Yard Waste Non-automated Collection system.* All Residential Units and Single Business Units that have not purchased a City-issued Yard Waste Rollout Cart shall provide an alternative City-approved can for all Yard Waste for removal by the City. The can shall have a capacity of no more than 32 gallons. The following provisions apply:
 - a. Cans shall be made substantially of metal or plastic. Cans shall have tight-fitting covers and strong handles, and the covers shall be kept on at all times except when cans are being filled or emptied.
 - b. Plastic bags to be used to containerize Yard Waste shall be constructed from film made from high quality polyethylene or similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.
 - c. Cans provided by the user for Yard Waste shall not weigh more than 50 pounds.
 - b. *Identification.* Where Rollout Carts have been provided, the Rollout Cart shall be numbered by the Solid Waste Division so as to indicate the assigned dwelling using the particular Rollout Cart. When the Rollout Cart is so identified, it may be used only by the person whose assigned dwelling is shown thereon.
 - c. *Ownership of Rollout Carts.* The City shall retain ownership of Rollout Carts which are initially provided for Collection services to the user. Such Rollout Carts shall not be removed from the original assigned property. Rollout Carts which require replacement as a result of user abuse and/or negligence will result in the user being charged a replacement fee as set forth in the Solid Waste Fee Schedule. Any Rollout Carts purchased by a user, for purposes other than replacement of the City-issued container, shall become the property of the City.
 - d. *Lost, stolen or Rollout Carts.* Any Rollout Cart provided by the City which becomes lost or stolen

through no fault of the user, or which is damaged through no fault of the user, shall be replaced by the City at no cost to the user. Any Rollout Cart damaged by the placing of hot ashes or other toxic chemicals therein by the user, shall be replaced at the cost of the user, and ownership shall be retained by the City.

- e. *Unserviceable Rollout Carts.* Any Rollout Cart provided to the user at the City's expense that becomes unserviceable due to normal usage shall be replaced at the expense of the City, and ownership shall be retained by the City.
- f. *City-owned waste receptacles.* City-owned waste receptacles placed adjacent to City streets and in public places are for the exclusive use of the transient public, pedestrians and motorists, and City Solid Waste Division sweeper collectors. City-owned receptacles shall not be used by adjacent business enterprises or other privately owned establishments in lieu of the privately owned Stationary Containers they are required to furnish in accordance with this Chapter.
- g. *Missing or damaged carts.* The City is not responsible for replacing missing or damaged non-City-owned and provided Rollout Carts. The City will repair no more than two (2) Rollout Carts per Unit.
- h. *Cart cleaning.* No Rollout Cart or Stationary Container shall be cleaned on public property except under the supervision of the City Manager or designee, and no residual materials or Waste from the cleaning of Rollout Carts or Stationary Containers shall be allowed to drain into a public gutter, street, sidewalk, storm sewer, or into a constant flowing or intermittent flowing stream or stream bed.

Code 1961, § 14-5; Ord. No. S2004-008, § 1, 6-28-2004)

Sec. 22-5.1. Public or Private Cans/Receptacles.

No person shall cause or permit the contents of a public or private receptacle designed for the deposit of Waste, Litter or Recyclables, to be deposited or strewn in or upon public or private property.

(Ord. No. S2007-020, § 1, 5-29-2007)

Sec. 22-6. Containers Used for Apartment Buildings, Public Housing Complexes and Multi-Story Condominiums.

- a. In any Multifamily Community where the total number of living units is eight (8) or more per parcel, each building and/or group of buildings shall be furnished by the developer with a sufficient number of commercial centralized Stationary Containers to adequately contain the Waste disposal at such locations. The City Manager or designee shall review and approve the type of centralized Stationary Container and the locations of those containers where overhead or lateral restrictions may pose collection service problems.
- b. The location of such containers shall be subject to the approval of the City Manager or designee, and in no case shall a centralized Stationary Container be located closer than 25 feet to a structure, automobile parking space, or any other permanent fixture on the property. In addition, a 15-foot overhead clearance for the centralized Stationary Container shall be provided and maintained at all times.
- c. In any Multifamily Community where the total number of living units is more than 16 within the development, each building and/or group of buildings shall have a centralized Stationary Container system. This type of Waste collection system shall be provided and maintained by the developer. Screens or other devices with the intended purpose of blocking the view of Stationary Containers shall be aesthetically pleasing. The type of centralized Stationary Container and, where applicable, the design of the enclosures to screen the Containers, is subject to the approval of the City Manager or designee. Where centralized Stationary Containers are used, locations to permit safe and convenient access are required. The location of the Stationary Container shall be placed in a manner as to allow the service vehicle operator to service the container, backup, and depart without having to exit the vehicle or make unnecessary maneuvers, or require disproportionate time. Excessive walking distances for tenants and occupants should be reasonably minimized. If safe and reasonable access is denied due to gates, fixed objects, low hanging wires or other obstructions, the Stationary Container will not be approved.
- d. In the case of any Multifamily Community, as previously described, where the total number of living units is 16 or fewer within the development and each living unit has a separate ground level entrance, each living unit shall be provided, by the private hauler, a can/receptacle similar to a Rollout Cart for Waste collection service.
- e. Any variations from the above standards requires approval from the City Manager or designee.
- f. Any Stationary Containers, placed into service after the effective date of the ordinance from which this Chapter is derived, which have side openings shall be equipped at the property owner's expense with locking devices for such side openings.

(Code 1961, § 14-6; Ord. No. S2004-008, § 1, 6-28-2004)

Effective on: 11/18/2013

Sec. 22-7. Commercial, Industrial, Professional and Governmental Establishments.

The owner, operator, proprietor, on-site supervisor of any buildings, structures or areas in the City used or occupied as commercial, industrial, professional, governmental or private establishments to include, but not necessarily limited to, restaurants, hotels, motels, trailers, shopping centers, stores, shops, drive-in facilities, theaters, recreation or amusement enterprises and multiple or single dwelling places of all types and any governmental buildings or offices, yards, grounds or industrial type sites wherein Waste accumulates, shall provide and maintain Stationary Containers, as required by the Solid Waste Division, of sufficient capacity, to accommodate the user in some convenient place so as to be easily and readily emptied or removed. The location of such Containers shall be subject to the approval of the City Manager or designee. Stationary Containers shall be located in such a manner as to be available for pickup at any time during the 24-hour day. All Waste accumulated on the property shall be deposited into such Containers daily.

(Code 1961, § 14-7)

Sec. 22-8. Exemption.

The owner, operator, proprietor or on-site supervisor of any buildings, structures or areas in the City that is required by this Chapter to provide the Stationary Containers may apply to the City Manager or designee for an exemption from these requirements. An exemption shall be granted by the City Manager or designee if the environmental conditions for the serviceable area for the removal of Waste is not conducive for Stationary Containers, or is unsafe. Upon this finding, the City Manager or designee is authorized to provide the applicant with Curbside or other suitable arrangements for the removal of Waste.

(Code 1961, § 14-8)

Sec. 22-9. Reserved.

Sec. 22-10. Collection Routes, Schedules and Pickup of Household Waste and Other Materials by City.

The City Manager or designee shall establish Collection routes and schedules and may alter these routes and schedules from time to time. The City Manager or designee may also establish, and revise from time to time, a policy relating to the number of times per week the City will collect Household Waste from Residential Units and the maximum number of Rollout Carts the City will service on any parcel. No owner or occupant of any property shall prohibit or prevent the City from providing services at the property at the prescribed periodic Collection rate. When scheduling a pickup service for Non-Compliant Loads, Household Construction Debris, and move-outs, etc., the user should contact the Solid Waste Division.

1. City-served Curbside Collection services will be provided to Units, on a day designated for Collection by the City Manager or designee. Household Waste shall be placed at the Curbside no earlier than the day before the scheduled Collection.
2. Special Collection services for users with a Physical Disability shall be available as outlined under the Solid Waste Division policy. Anyone who is unable, because of a Physical Disability, hardship, age, or handicap, to roll the Rollout Cart to the Curbside may receive Backdoor Service at no cost, upon approval by the City Manager or designee, who may require additional documentation including, but not limited to, a doctor's certificate as proof thereof; provided there is no one else living in the home that can push the Rollout Carts to the Curbside.
3. [Reserved.]
4. For the Collection of Household Waste, the owner or occupant of each Unit shall place all Household Waste in approved Rollout Carts and place such containers within one foot of the Curbside or edge of the pavement and a minimum of four (4) feet from anything which may interfere with Collection on the day scheduled for Collection prior to 6:00 a.m. If more than one (1) Rollout Container is placed at the Curbside, the owner or occupant shall ensure a spacing of at least four (4) feet from other Rollout Carts and objects. Public notice shall

be given of any change of Collection day. City Collection personnel shall not provide service if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions. The following rules shall apply for the removal of Household Waste:

- a. No wooden boxes, barrels, or any other wooden receptacle, or any other receptacles except approved receptacles shall be used for Collection of Household Waste, Yard Waste, or Recyclables.
 - b. For the purpose of Collection, placement of Rollout Carts will be at ground level, and the use of underground receptacles will not be permitted.
5. Collection of Household Waste and other materials begins at 6:00 a.m. and containers not available for Collection on the scheduled day will not be collected until the next regularly scheduled day. Rollout Carts shall be removed from the Curbside the day that they are serviced and shall not be stored in front of a dwelling or commercial establishment, or otherwise in front of the building, closest to the street. Any variations from these requirements requires the approval of the City Manager or designee. Failure to remove the Rollout Cart from the Curbside the day that it is serviced is a violation of this Section, which shall result in the following:
 - a. As a result of a first and second violation, written warning of such violation shall be issued to the owner, occupant, lessor, lessee, or person in charge of the property where the Rollout Cart is located, with no monetary penalty being imposed;
 - b. Any third or subsequent violations shall subject the offender to a citation and civil penalty based on the Solid Waste Fee Schedule. Such civil penalty shall be recovered by the City in a civil action in the nature of a debt if the offender does not pay the penalty within the time prescribed in the citation notice.
 - c. Once a citation is issued, each and every day's violation of the cited offense shall constitute a separate and distinct offense.
6. The City Manager or designee shall determine that area considered to be the Curbside as it relates to the Waste Collection pickup point.
7. Spilled materials or overflow not caused by City Collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant. Spilled Household Waste materials caused by City Collection crews shall be cleaned up immediately after such spillage occurs by such crew.
8. Recyclables containerization requirements and Collection services.
 - a. The City Manager or designee shall have the authority to determine the manner, method, and timeframe for Collection of Recyclables. Collection of Recyclables shall be provided to all eligible Units.
 - b. The Solid Waste Division will supply one (1) blue, 96-gallon Rollout Cart to provide the user with the ability to store Recyclables for a bi-weekly Collection service at the Curbside. The Recyclables Rollout Cart shall be set out before 6:00 a.m. on the scheduled day of pickup and rolled back per the requirements of other Rollout Carts.
 - c. Users are encouraged to place clean and dry Recyclables into the Rollout Cart and to break down corrugated containers before placing them in the Rollout Cart.
 - d. Recyclables must be inside the Rollout Cart. If the user has oversized corrugated boxes that do not fit in the Rollout Cart, those corrugated boxes, also broken down tied or taped, may be placed next to the Rollout Cart for Collection by the City or its designated contractor.
 - e. Approved Recyclables are subject to change based on the Material Recovery Facility contracted by the City to receive Recyclables from the City.
9. Yard Waste containerization requirements and Collection.
 - a. Yard Waste Collection shall be provided only to Units as approved by the City Manager or designee.
 - b. Yard Waste shall be separated from all other Waste prior to Collection. The City shall collect Yard Waste that is customarily and reasonably associated with the Unit served so long as it is properly prepared or containerized and in compliance with these regulations. Yard Waste shall be placed within four (4) feet of the Curbside for Collection by the City.

1. Grass clippings, small shrubbery clippings, leaves, and other small lawn yard waste debris shall be collected at the Curbside provided that they are placed in plastic bags, an approved can for Collection, or a Rollout Cart that is purchased from or provided by the City. If plastic bags are used, such bags shall be in good condition, and of such size and weight that, when full, do not weigh more than 50 pounds each and are such that one individual can pick up each bag, one at a time, for disposal. The plastic bags shall be secured at the top when placed at Curbside for Collection. For each Collection day, a maximum of ten (10) Rollout Carts, plastic bags, and approved cans in total can be set out at the Curbside for weekly Collection.
2. Loose Yard Waste comprised of branches and twigs are to be tied into bundles weighing no more than 50 pounds, be no longer than (3) feet in length, three (3) feet in width, and the branches must not be larger than three (3) inches in diameter. A maximum of four (4) bundles can be placed at the Curbside for any weekly Collection.
3. Other approved cans used for Yard Waste that are provided by the user shall be made of metal or plastic, have tight-fitting lids, be made for Waste disposal, equipped with strong handles, and shall not exceed 32 gallons in size or 50 pounds in weight when lifted by one person.
4. The Parks & Recreation Department is responsible for the collection of un-containerized leaves and pine straw placed at the Curbside. One free collection is scheduled by the Parks Department during November through January according to the street's zip code. Additional un-containerized leaves and pine straw can also be collected at different times by making arrangements with the Parks Department and paying the fees pursuant to a fee schedule approved and authorized by the City Council.

10. Large Limb Waste Collection requirements.

- a. *Large Limb Collection.* Collection of un-containerized Large Limb Waste shall be provided to Units. The City Manager or designee shall have the authority to determine the manner, method, and timeframe for Collection of Large Limb Waste. Large Limb Waste to be collected by the City shall contain limbs no longer than five (5) feet in length and not greater than six (6) inches in diameter, and a pile no more than 10 cubic yards and must be placed in an orderly manner at the Curbside at least four (4) feet away from all other objects. Scheduled arrangements must be made with the Solid Waste Division for special pickup of materials over 10 cubic yards. A fee as provided in the Solid Waste Fee Schedule will be charged for this service as approved by the City Council. Payment must be made in advance of having the service provided. Any non-scheduled set outs of Large Limb Waste piles over 10 cubic yards will be considered a Non-Compliant Load and subject to abatement in accordance to this Chapter.
- b. Additional requirements for Large Limb Waste Collection:
 1. Those properties participating in the "farm use program" as listed by the Cumberland County Tax Administrator's Office shall not qualify for bulky tree and Large Limb Waste Collection;
 2. Solid Waste Division shall in no case collect Yard Waste and or Large Limb Waste generated by a contractor or person other than the owner, occupant of a Unit;
 3. The City shall not provide Collection service for vacant lots (this is considered land clearing);
 4. It shall be unlawful for any person to place Large Limb Waste and tree debris in a manner that it obstructs traffic or is piled over three (3) feet high.
 5. It shall be unlawful for any person to place tree and Large Limb Waste under trees, near mailboxes and utility boxes, or other objects;
 6. It shall be unlawful for any person to place tree and Large Limb Waste in a place that would obstruct overhead power lines;
 7. The Solid Waste Division shall have the authority to take several days to collect excessive loads, based upon other work commitments.

8. Items are to be placed at the Curbside the day before the scheduled Collection day.

11. Bulk Waste Collection requirements.

c. Collection of Bulk Waste shall be provided to Units. The Public Services Department Director or designee shall have the authority to determine the manner, method, and timeframe for Collection of Bulk Waste. Each Compliant Bulk Waste load cannot contain more than five (5) items. Requests for the pick-up of more than five (5) items will be subject to a service fee in accordance with the current Solid Waste Fee Schedule. Payment must be made in advance of having the service provided. Items are to be placed at the Curbside the day before scheduled Collection day for that week. Items at the Curbside that are not scheduled and paid for are considered a Non-Compliant Load and subject to abatement in accordance to this Chapter.

b. Additional requirements for Bulk Waste Collection:

1. Notification and payment must be made to the Solid Waste Division in order to schedule a Collection of Non-Compliant Loads of Bulk Waste.
2. Appliances shall be emptied of their contents.
3. Refrigerator and freezer doors must be removed or secured to prevent entry by small children.
4. City Collection personnel shall not provide service if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions.
5. Appliances shall not be collected from any Unit engaged in the repair or resale of appliances.
6. Bulk Waste shall be placed at the Curbside by 6:00 a.m. on the Collection day of the week to ensure Collection.
7. Bulk Waste must be separated from all other Waste prior to Collection.
8. All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass removed and where practicable placed in a City-approved Rollout Cart for Collection.
9. All gasoline/fuel must be removed from all lawn equipment prior to Collection.
10. Oxygen tanks and other medical equipment, propane tanks, large oil tanks used for household purposes or batteries from any residentially used property, etc., shall not be collected by the City.
11. Furniture and/or mattresses shall be limited to five (5) pieces per Collection.
12. Any Bulk Waste or other items not properly prepared for disposal as provided in this section, and any items that exceed the size indicated by this Chapter, will not be collected by the Solid Waste Division.

12. Household Construction Debris Collection.

- a. The Solid Waste Division can collect Household Construction Debris generated by the owners or renters of Residential Units.
- b. Collection services need to be scheduled seven (7) days in advance of the requested Collection date unless otherwise approved by the Solid Waste Division.
- c. For non-contracted renovations and additional Collections, the Residential Unit will be charged in accordance to the Solid Waste Fee Schedule.
- d. Items are to be placed at the Curbside the day before the scheduled Collection day. Items at the Curbside that have not been scheduled for Collection are considered a Non-Compliant Load and subject to abatement in accordance to this Chapter.

13. The City Manager or designee shall have the authority to require that items be prepared for ease of Collection and to assure the safety and health of the employees performing the Collection tasks.

14. The City Manager or designee can designate different Collection locations for Units that are located on private streets or driveways.

- a. The determination of whether a private street or driveway creates a safety and operational hazard will be made by the Solid Waste Division.
- b. When such a determination is made, the Solid Waste Division will inform the owner and/or occupant of an alternative location for Collection services for Rollout Carts and other City-approved cans.
- c. In the event that the Solid Waste Division determines it can provide service on the private street or driveway, the Unit owner will be required to sign a waiver limiting the City's liability for damages that may occur while providing Curbside Collection adjacent to the Unit.

(Code 1961, § 14-10; Ord. No. S2002-005, § 1, 2-18-2002; Ord. No. S2004-006, §§ 1-10, 6-14-2004; Ord. No. S2007-011, §§ 2—11, 2-12-2007; Ord. No. S2010-002, §§ 3—6, 3-8-2010; Ord. No. S2011-007, §§ 1, 2, 5-23-2011)

Effective on: 11/18/2013

Sec. 22-11. Proper Placement of Trash.

It shall be unlawful to sweep or cause to be swept, thrown, placed, poured, dumped or drained any Litter, empty cartons, paper, packing boxes, packing material, sweeping compound or cleaning waste from any real estate, building or enterprise into any public street, drain, gutter or storm sewer. All trash, paper or Litter shall be immediately placed in approved containers as prescribed by this Chapter, if dry and nonperishable, it shall be bundled, packaged, stacked, boxed, crated, barreled or otherwise bound, tied or secured into one-person loads and shall be so placed or located with reference to the streets and alleys as to provide for convenient Collection. Plastic or metal binding materials will not be allowed. Placement for Collection shall be in a manner to prevent wind blowing or scattering of any Litter. All empty crates, boxes, cartons and similar containers in preparation for removal by the Solid Waste Division shall be crushed or otherwise broken down flat and bundled, tied, packaged or stacked by the service user.

(Code 1961, § 14-11)

Effective on: 11/18/2013

LitterLitter

Sec. 22-12. Accumulations of Solid Waste Liable to Spontaneous Combustion.

It shall be unlawful for any person to allow to accumulate on any property occupied by him any Litter, trash, rubbish or other Waste which is liable to spontaneous combustion.

(Code 1961, § 14-13)

Effective on: 11/18/2013

Sec. 22-13. Transporting Garbage, Organic Wastes or Similar Materials; Vehicles.

- a. It shall be unlawful for any person to privately haul or have hauled, carried or transported any Waste or wet or perishable or malodorous matter of organic origin on any city thoroughfare except in metal containers, covered vessels, or liquid-tight containers with tight-fitting covers; all of which shall be devoid of any drain tubes, or drainage pipes or other features which will release drainings, waste, seepage, or washing from the container onto public roads, streets or property over which the transport is being moved.
- b. It shall be unlawful to commercially collect, handle, haul or transport on any of the streets, public ways/alleys, or other places of the city any waste without obtaining the necessary approvals, permits and licenses to do work in the city.
- c. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load contents or Litter from being blown, deposited or spilled upon any street, alley or any other public place. No person shall allow to be spilled from any truck or any other vehicle any abrasive materials, such as sand, rocks or gravel, but not limited thereto, which might harm or do damage to the streets or the paint markings thereon.

(Code 1961, § 14-14; Ord. No. S2007-020, § 2, 5-29-2007)

Effective on: 11/18/2013

Sec. 22-14. Littering by Operators and Occupants of Motor Vehicles.

- a. No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit Litter from any motor vehicle in operation upon any street, road, highway or public vehicular area, except into a Litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- b. No operator of a motor vehicle in operation upon any street, road, highway or public vehicular area shall allow Litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a Litter receptacle in a manner that prevents its being carried away or being deposited by the elements.

(Ord. No. S2007-020, § 3, 6-11-2007)

Effective on: 11/18/2013

Sec. 22-15. Noxious, Toxic, Flammable or Dangerous Materials.

It shall be unlawful for any person to place in any Waste Stationary Container, Rollout Cart, approved can/receptacle any noxious, toxic or flammable chemical or gasoline, kerosene, motor oil or other petroleum based products. Hypodermic needles shall be bent and placed in clearly marked containers specifically designed for the removal and disposal of hypodermic needles. Pressurized canisters of more than a one-quart capacity shall be sawed or punctured so as to eliminate the danger of explosion.

(Code 1961, § 14-15)

Effective on: 11/18/2013

Sec. 22-16. Illegal Dumping; Owners and Occupants Required to Keep Property Free from Public Health and Safety Nuisances.

- a. Every person owning or occupying any property in the city shall keep such property free from the following enumerated and described conditions which are hereby found, deemed and declared to constitute a hazard or detriment to the health and safety of the inhabitants of the City:

1. Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;
 2. Open wells and open basements or structures where construction of such structure has been abandoned or the structure has been razed by fire, demolition or other casualty;
 3. An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, Waste, brush, old clothes, rags, or any other combustible material or object of a like nature;
 4. An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind which is subject to decay or shall otherwise be a menace to health or cleanliness;
 5. Hides, dried or green, provided such hides may be kept when thoroughly cured and odorless; or
 6. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass where such furniture, appliances or other metal products poses a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside.
- b. The creation, maintenance or failure of the owner or occupant to abate any of the conditions enumerated in subsection (a) of this section is hereby declared unlawful. An owner remains liable for violations of duties imposed upon him by this chapter even though:
1. An obligation is also imposed on the occupants;
 2. The owner has, by agreement, imposed on the occupant the duty of complying with this chapter.
- c. Except as permitted in this Chapter, no owner, lessor, lessee, person, firm or corporation shall be permitted to illegally dump, leave or dispose in any manner upon their property or the property of another, whether public or privately owned, within the city limits the following items:
1. Mixed household, metal and yard waste;
 2. Tires or automotive parts to include engines, axles, batteries, transmissions, etc.;
 3. Hazardous materials, e.g. oils, cleaning fluids, paints and household chemicals;
 4. Furniture or mattresses as defined in subsection 22-10(10)h.;
 5. Carpet as defined in subsection 22-10(10)g.;
 6. Building material, e.g. bricks, drywall, gutters, shingles, wooden fencing, pool liners, lumber, boards, toilets, sinks and tubs;
 7. Household garbage and related materials;
 8. Trees cut down by residents or contractors to include land clearing debris;
 9. Yard debris and related materials not removed by the generator of this waste within one week except as allowed in subsection 22-10(9).
- d. Any person, firm or corporation that is found to have dumped, left or disposed of in any manner, or whose personal items are identified within any items as enumerated in subsection (c)(1) through (c)(8) of this section, upon the property of another, without the consent of that property owner or other persons in lawful control of the property, shall be subject to a civil penalty of \$500.00 and shall be responsible for the city's cost of removal of such items.
- e. An undeveloped lot is hereby declared a nuisance lot when there are two or more verified violations within a one-year period.
1. Upon the declaration of an undeveloped lot as a nuisance lot, the planning and code enforcement services director or his designee may prepare a property maintenance plan for such lot. The property maintenance plan shall specify corrective actions to be taken by the owner to detour illegal dumping on the nuisance lot. Such corrective actions may include, but are not limited to, installation of fencing, lighting, and signage. The property maintenance plan shall include a date by which the corrective actions are to be completed.
 2. The property maintenance plan and any subsequent appeal documents shall be served on the owner as set forth in section 22-18.
 3. An owner may appeal the property maintenance plan to the board of appeals. A request for an appeal hearing by the board of appeals must be filed in writing with the city clerk's office within ten business days

of the date the property maintenance plan is mailed to the property owner. The property owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this article. The request must state the reason for the appeal. The board of appeals, after a hearing, may modify or reverse the application of any corrective action provisions stipulated in the property maintenance plan when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this chapter or public interest, or when, in its opinion, the corrective action provisions should be modified or reversed. A decision of the board to modify the corrective action provisions shall specify in what manner such modification is made, the conditions upon which it is made, and the reasons therefore. Every decision of the board of appeals shall be in writing, and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the planning and code enforcement services director or his designee. The board of appeals shall in every case reach a decision without unreasonable or unnecessary delay. If a decision of the board of appeals reverses or modifies any corrective action provisions stipulated in the property maintenance plan, the planning and code enforcement services director shall or his designee shall immediately take action in accordance with such decision. The owner shall have the right to seek judicial review of the board of appeals decision in a proceeding in the nature of certiorari instituted in the superior court of the county within 30 days after the board of appeals decision.

f. *Criminal Prosecution.* It shall be unlawful to allow to exist upon any property within the City a condition as set forth under this Section 22-16. Violation of Section 22-16 may subject the violator to a criminal penalty as allowed under N.C.G.S. § 14-4.

(Code 1961, § 14-16; Ord. No. S2015-016, §3, 9-28-2015)

Effective on: 9/28/2015

Sec. 22-16.1. Placement and Maintenance of Litter Receptacles.

- a. It is the intent of this Section to ensure that public areas are kept clean and free from Litter.
- b. Any person, firm or corporation operating a grocery store, a convenience store or an establishment selling food or beverages for consumption off the premises shall place and maintain a Litter receptacle outside of each exit from said premises for the use of the patrons thereof during business hours.
- c. The receptacle shall be emptied when full and at the close business each day. Each receptacle shall be maintained in a clean and sanitary condition.
- d. If any person or firm or corporation should violate the provision of section [22-16.1](#), it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property in accordance with sections [22-17](#), [22-18](#) and [22-20](#) of this chapter.

(Ord. No. S2008-017, § 1, 8-25-2008)

Effective on: 11/18/2013

Sec. 22-17. Notice to Abate Unlawful Conditions; Abatement by City.

- a. If any person shall violate the provisions of this Chapter, it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property, in accordance with section [22-18](#) of this Chapter, as follows:
 1. That an unlawful condition exists thereupon and that the unlawful condition shall be abated by the owner and if the unlawful condition is not abated, that the owner will be subject to a civil penalty as set forth in section [22-20](#); and
 2. That if the property owner does not abate the unlawful condition within ten business days:
 - a. The property owner will be charged an administrative fee in accordance with the Fee Schedule as approved by City Council regardless of who abates the unlawful condition; and
 - b. The City Manager or designee, may proceed without notice to abate the unlawful condition and charge the actual cost of abatement to the property owner; and
 - c. In addition to any other penalty imposed, the administrative fee, the actual cost of abatement or both shall be collected in the manner as provided for delinquent taxes, pursuant to [G.S. 160A-193](#); and

- d. Upon the completion of any removal and abatement by the City, in accordance with section 22-18 of this Chapter, the City Manager or designee shall give notice to the property owner of their right to appeal the City caused abatement and the appeal process thereof; and
 - e. Upon the completion of any removal and abatement by the City, the property owner may request an appeal hearing of the City caused abatement to the city administrative hearing officer. Such request for an appeal hearing shall be in writing and submitted to the City Attorney's Office within ten business days of the receipt of the notification of the right of appeal. The request for an appeal hearing shall state the reason(s) why the property owner should not be assessed for the cost of the City caused abatement. The appeal hearing shall be held within 14 business days of the receipt of the request. Failure of the property owner to file a written request for an appeal hearing within the time prescribed by this Section will result in the waiver of the opportunity to file a request for an appeal hearing and the property owner being responsible for all costs associated with the abatement as otherwise provided in this Chapter.
- b. Upon the completion of any removal and abatement by the City, the City Manager or designee or his designated representative, shall deliver to the deputy tax collector a statement showing the actual cost of the abatement of the unlawful condition, in which statement, in addition to the cost of labor, hauling, and other necessary items of expense, shall be included an administrative fee in accordance with the fee and penalty schedule as approved by City Council. The deputy tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon such property and, if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes.
 - c. If the same person, corporation, or other property owner or occupant has failed to abate a violation within the ten-day period allowed in this section for the same or different parcels of property at least twice in the same 24-month period, then if the same person, corporation, or other property owner or occupant fails to abate a third or subsequent unlawful condition within the ten-day period allowed in this section and within the same 24-month period of the first two violations as specified in this section, the person, corporation, or other property owner or occupant shall be subject to a \$1,000.00 civil penalty, collectible as set forth in subsection (a) of this section, in addition to any other fee imposed by this chapter for a continuation of the violation after the ten-day period allowed in this section.
 - d. In the event that the City Manager or designee, determines that an unlawful condition constitutes an imminent danger to the public health or safety, such that notice to the property owner could not be provided without endangering the public, the City Manager or designee, may take immediate action to remove or abate the unlawful condition, and the property owner shall be subject to the costs and administrative fee of such abatement as provided in this section and in accordance with the fee schedule adopted by the council. As soon as is practicable after the abatement of the unlawful condition, the property owner who has been assessed the costs for such abatement under this subsection shall be given notice as prescribed by this Section.

(Code 1961, § 14-17; Ord. No. S2001-005, § 1, 2-5-2001; Ord. No. S2010-002, § 7, 3-8-2010; Ord. No. S2015-012, § 1, 8-24-2015)

Effective on: 8/24/2015

Sec. 22-18. Service of Notice.

- a. The notice required by this Chapter shall be served upon the owner of the subject property either personally or by first-class mail and by posting the notice on the subject property. If the whereabouts of such owner is unknown and the owner cannot be ascertained by the City in the exercise of reasonable diligence, and the City shall make an affidavit to that effect, then the serving of such notice upon such owner may be made by serving any person in possession of the subject property, or, if there is no person in possession of it, by posting the notice on the subject property.
- b. Any such notice may be served by any authorized representative of the City or by any police officer of the City when so authorized through the City Manager's Office.

(Code 1961, § 14-18; Ord. No. S2006-003, § 1, 2-13-2006)

Sec. 22-19. Defect in Notice Not to Affect Lien.

Any defect in the method of giving the notice required by section [22-17](#), or in the form thereof, or the giving of such notice to an improper person, shall not prevent the city, in any case where the working of abating an unlawful condition upon any property is caused by the city, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

(Code 1961, § 14-19)

Sec. 22-20. Citations and civil penalty.

Violations of this Chapter may result in a citation and civil penalty as outlined in the Fee Schedule, in addition to the remedies and sanctions set forth in section [22-17](#). Upon abatement of the unlawful condition, the total amount of the civil penalty shall be due and payable as outlined in such notice. Payments shall be made to the Finance Department, City Hall, 433 Hay Street, Fayetteville, North Carolina 28301-5537. Failure to pay the civil penalty within the prescribed period of time shall subject the offender to a civil action in the nature of a debt to recover the civil penalty due, plus the cost of the action. Each and every day's continued violation shall be a separate and distinct offense. This Section is enacted pursuant to [G.S. 160A-175\(c\)](#), and is intended to be a civil penalty and not a criminal sanction.

(Code 1961, § 14-20)

Sec. 22-21. Reserved.

Effective on: 11/18/2013

Sec. 22-22. Collection Service for Establishments Having a Front Door Only.

Owners of establishments, stores or other enterprises which are housed in buildings having only a front door opening onto a public sidewalk shall not place any Household Waste, other Waste or rubbish on or adjacent to any public sidewalk overnight or over the weekend. Cans/receptacles for debris shall be kept in the owner's establishment and moved outside to the Curbside only to meet the Collection schedule of the city solid waste department. Empty cans/receptacles shall be removed by the owner from the public area to the inside of his establishment as soon as scheduled Collection has been completed.

(Code 1961, § 14-24)

Effective on: 11/18/2013

Sec. 22-23. Schedule of Fees for Extra Solid Waste Division Services.

- a. A fee shall be collected by the City for all extra services which are requested and furnished to users in excess of those provided without cost or patrons otherwise authorized under this Chapter. The fees for extra services are set forth in a separate Solid Waste Fee Schedule as approved by the City Council.
- b. The charge for any extra service not covered by fees within the Solid Waste Fee Schedule as approved by the City Council shall be determined by the City Manager or designee, using these fees as guidelines and exercising judgment to establish a fee to cover only the actual cost of the specific service, plus the ten percent surcharge and less any funds generated from a disposal action related to the service.
- c. Heavy debris including, but not limited to, items in excess of one-person loads which require a special loading crew, front-end loader and/or special vehicle shall not be collected or removed by the Solid Waste Division except for a fee charged to the service user under the terms of this Chapter.

(Code 1961, § 14-25(a)—(d))

Effective on: 11/18/2013

Sec. 22-24. Accounting Procedures.

- a. Funds generated by charges for City Solid Waste Division services and materials shall be accounted for through the use of sound business principles to include as a minimum a system of serially numbered permits, tickets and duplicate receipt forms.
- b. The City Manager or designee is authorized to enter into a contractual service agreement on a monthly basis whenever such an agreement best serves the convenience of both the City and the service user.

(Code 1961, § 14-26)

Effective on: 11/18/2013

Sec. 22-25. Construction/Demolition Debris.

Removal of Construction/Demolition Debris shall be the responsibility of the property owner, and failure to remove the Construction/Demolition Debris shall be considered creation of an unlawful condition upon the property subject to abatement under the provisions of this Chapter.

(Code 1961, § 14-28)

Effective on: 11/18/2013

Sec. 22-26. Enforcement of Violations.

The City Manager or designee is hereby authorized to enforce the provisions of this Chapter. Violation of any provision of this Chapter may result in a civil penalty and citation, and other actions as outlined in this Chapter.

(Code 1961, § 14-29)

Effective on: 11/18/2013

Sec. 22-27. Reserved.

(Code 1961, § 14-30; Ord. No. S2015-016, §4, 9-28-2015)

Effective on: 9/28/2015

Sec. 22-28. Penalties for Violations.

- a. Civil penalty amounts for violations are listed in the Fee Schedule. A violation of any Section of this Chapter not specifically addressed in the Fee Schedule shall subject the violator to a civil penalty of \$100.00 per violation. Pursuant to [G.S. 160A-175\(g\)](#), each and every day's continuing violation shall be deemed a separate punishable offense. The civil penalty shall be imposed by citation served personally upon the violator by those individuals authorized under this Chapter, or delivered by first class mail followed by delivery confirmation if the first notice is returned within ten business days. The citation shall set forth the specific violation, the amount of the penalty, that each and every day's violation is a separately punishable offense, and that if the penalty is not paid within ten business days of the issuance date of the citation, the penalty shall be collected by civil action in the nature of a debt. The citation shall also set forth any appeal rights.
- b. If the penalty as set forth in the citation issued pursuant to subsection (a) of this section is not paid within the prescribed time, then the matter may be referred to the City Attorney's Office to institute an action in the nature of a debt in a court of competent jurisdiction to collect the civil penalty.

(Code 1961, § 14-31; Ord. No. S2010-003A, § 1, 3-22-2010; Ord. No. S2011-010, § 2, 9-26-2011)

PART II - CODE OF ORDINANCES

CHAPTER 22 - SOLID WASTE

Article I. - In General

Sec. 22-1. General Policy of City.

It is the policy of the Ceity to provide efficient, equitable, safe, and sanitary removal of Solid Waste, Bulk Waste, Yard Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris, and Recyclables, as defined herein,~~municipal solid waste~~ from all areas of the Ceity within the corporate limits, to afford the service to all users on as nearly an equitable basis as possible and to charge a fair and reasonable fee to those service users who require extra and disproportionately large amounts of Waste~~refuse~~ removal service. ~~The scope of this activity shall be limited to services as provided within this chapter and the city solid waste operating plan.~~ The Ceity shall further promote, protect, and preserve the general welfare of the people of the Ceity, through enforcement of this Chapter and shall perform this service in such a manner as to protect the environment and preserve our natural resources.

Sec. 22-2. Authority.

- a. The Ceity ~~M~~anager or designee may make such rules and regulations not inconsistent with this Cehapter as she/he deems advisable to safeguard the health and welfare of the citizens of the Ceity in the removal ~~of garbage, ashes and other refuse~~Waste and Recyclables.
- b. It is the intention of this Cechapter that the Ceity Manager building inspections director or designee, shall be primarily responsible for the enforcement of the provisions of this Cechapter. However, the Ceounty health officer shall, in any case where she/he deems it advisable to act, have all the authority conferred by this Cechapter upon the building inspections director or his designated representative City Manager or designee, and any notice served for the purpose of this Cechapter by, or by authority of, the Ceounty health officer and any charge made by the Ceounty health officer in accordance with the provisions of this Cechapter shall be as valid as if made by the Ceity Manager or designee building inspections director.

Sec. 22-3. Definitions.

The following words, terms and phrases, when used in this Cehapter, shall have the meanings ascribed in this Section, except where the context clearly indicates a different meaning:

Ashes means residue resulting from the burning of wood, coal, coke, or other combustible material.

~~**Attached Business Unit** means a unit of two or more business offices constructed as one unit, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.~~

Backdoor Service means the Collection of Household Waste and Recyclables at Units from a location next to or near outside the user's backdoor as a result of qualifying for such services due to Physical Disability.~~**Automated Refuse Container** means any automated refuse container owned by the city and provided for the collection of wet and dry garbage, or other materials as defined in the city program. This includes, but is not limited to, both rollout and stationary refuse containers.~~

Building Material means ~~lumber, brick, stone dirt, carpet, plumbing materials, plaster, concrete, floor coverings, pool liners, roofing material, gutters, and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures, or demolition of such.~~

Bulk ~~trash~~ Waste means items too large to fit into a Rollout Cart ~~an automated refuse container~~, such as large household furnishings, mattresses, box springs, dismantled swing sets with concrete removed, clothesline poles with concrete removed, lawn equipment (e.g., mowers, wheelbarrows), appliances and similar large household items.

City means the political subdivision of the City of Fayetteville, North Carolina.

~~**Bulk Yard Waste** means any uncontainerized yard waste as defined in this section that is longer than three feet in length or greater than three inches in diameter or greater than 50 pounds in weight that must be scheduled for a special pickup with the solid waste management department.~~

City Manager means the person designated by the City Council to perform duties and responsibilities as chief executive officer for the City.

Collection means the act of removing Household Waste, Recyclables, Yard Waste, Bulk Waste, Household Construction Debris, Small Limb Waste and/or Large Limb Waste from an acceptable Curbside placement or Backdoor Service to an approved processing and/or disposal site. ~~solid waste from a point of generation to an approved disposal site.~~

Collection on Private Property means the act of removing ~~W~~solid waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the ~~property manager and the solid waste director~~City Manager or designee for manual and/or automated Collection.

Compliant Load means a load of collectable items or materials that is in accordance with this Chapter and the standards for Collection as determined by the City or contracted vendor.

~~**Construction Debris (Household)** means lumber, carpet, plumbing materials, floor coverings, pool liners, roofing material, gutters, and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing residential structures or accessory structures, or demolition of such.~~

~~**Construction/Demolition Debris Landfill** means a sanitary landfill that is limited to receiving large stumps, concrete, brick, treated wood and uncontaminated earth.~~

Curbside means ~~the area between the street and the private property line. the line or edging along a street bordered by the street that forms part of the gutter. May also be referred to as curbside.~~

~~**Environmental Services** means the department and personnel responsible for the administration, operation and daily activities encompassing the collection of all refuse, solid waste, and other materials as provided in this section on behalf of the city, both now and as hereinafter designated.~~

Fee Schedule means the list of fees approved by the City Council.

Foul Odors means offensive odors emanating from, but not limited to W, solid waste.

Garbage, Dry Household Waste means the accumulation of any non-recyclable articles from households ~~or businesses~~, such as garbage, trash, discarded clothing, toys, small appliances, sweepings, rags, packaging materials, animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto. Household Waste does not mean waste that ~~which~~ is associated ~~with the operation of stores or offices, but not associated~~ with the production, distribution, warehousing, construction or manufacturing of a product. Household Waste may be collected from Residential Units and Single Business Units.

Hazardous Waste means potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes, but is not limited to, ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal) and explosives. For the purposes of this Chapter, this definition has been condensed from the definition as published in the North Carolina Hazardous Waste Management Law, adopted for the Federal Environmental Protection Agency (EPA). The terms defined are not inclusive of all items specified by Environmental Protection Agency regulations. the following explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law, adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by Environmental Protection Agency regulations. The term "hazardous waste" is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes, but is not limited to, ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal) and explosives.

Building Material Household Construction Debris means lumber, brick, stone carpet, plumbing materials, plaster, concrete, floor coverings, pool liners, roofing material, gutters, and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing residential structures or accessory structures, or demolition of such.

Industrial Waste means all waste, including solids, semisolids, sludge and liquids created by factories, processing plants or other manufacturing enterprises.

Garbage, Wet means ~~animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto.~~

~~**Hazardous Waste** means the following explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law, adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by Environmental Protection Agency regulations. The term "hazardous waste" is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes, but is not limited to, ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal) and explosives.~~

~~**Industrial Waste** means all waste, including solids, semisolids, sludge and liquids created by factories, processing plants or other manufacturing enterprises.~~

Inert Debris means solid waste that is composed of material that exhibits nonleaching characteristics such as uncontaminated soils, concrete, brick, concrete block, gravel and rock, and untreated and unpainted wood.

Infectious Waste means a solid waste capable of producing an infectious disease. Examples of waste designated as infectious are: Microbiological waste, pathological waste, blood products, improperly packaged sharps and all other waste as defined in the Medical Waste Management Regulation under 15A NCAC 13B.1200 in North Carolina Solid Waste Management Rules.

Bulk Yard Large Limb Waste means any uncontainerized yard waste limbs longer than three (3) feet in length, greater than three (3) inches in diameter, or greater than 50 pounds in weight but less than five (5) feet in length, less than six (6) inches in diameter and that does not exceed 20 cubic yards, as defined in this section that is longer than three feet in length or greater than three inches in diameter or greater than 50 pounds in weight that must be scheduled for a special pickup with the solid waste management department.

Litter means any discarded manmade materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter and not properly containerized or prepared for collection and disposal.

Multifamily Residential Unit Community means any community that is not subject to a Solid Waste User Fee and that is not designated by the Cumberland County Tax Office as a single-family residence, including but not limited to, apartments, townhouses, condominiums, public housing communities and mobile home parks with more than seven (7) units per parcel.

means two or more single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses or condominiums. Duplexes/triplexes built on public streets are not considered multifamily residential units.
Non-Compliant Load means a load of materials that is not properly set out for collection in accordance with Section 22-10 of this Chapter. ode and the standards for collection as determined by the City of Fayetteville or contracted vendor.

Physical Disability means a medical condition, hardship or age, verified by a registered physician, that makes an individual physically unable to bring a automated refuse container **Rollout Cart** to the curbside **Curbside** for collection, and where there is no one else residing in the household capable of taking the containers **Rollout Cart** to the curbside **Curbside.**

Premises means lots, sidewalks, rights-of-way, grass strips, or curbs up to the edge of the pavement of any public street.

Private Street means a street not open to public use, on private property, not accepted by the City, and not maintained by any governmental agency.

Private Property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, Curbside or rights-of-way up to the edge of the pavement of any public street or body of water.

Properly Containerized means stored in accordance with the provisions of section 22-9 of this **Chapter.**

Properly Disposed means disposed of in accordance with the provisions of this Cchapter.

Public Right-of-Way means land that is dedicated or otherwise legally established for public use.

Environmental Public Services Department means the department and personnel responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, and Household Construction Debris, and may include other materials that result from a Non-Compliant Load. refuse, solid waste, and other materials as provided in this section on behalf of the city, both now and as hereinafter designated.

Recyclables means items included in the City's—local approved recycling programs ~~that includes~~including, but not limited to, selected glass, newsprint and accompanying inserts, magazines, aluminum, corrugated cardboard boxes, plastic containers with recycle triangle markings 1 through 5 (or other approved recycling based on the Material Recovery Facility (MRF) and other items determined to be recyclable by the City Manager or designee.~~cardboard and other items determined to be recyclable by the solid waste director.~~

~~**Refuse** means the accumulation of any solid waste.~~

Residential Units ~~means for the purposes of this chapter shall mean a parcel of land with seven (7) or less residential properties, that is~~which are subject to the Solid Waste User Fee.

Rollout Cart~~Refuse Container~~ means any City-provided~~approved~~ green, brown or blue container or receptacle~~cart~~ with wheels, of an approximate capacity of 96 gallons~~specific color~~, and constructed so that the cart~~container~~ can be emptied mechanically by means of an automated loading device as equipped on a Solid Waste~~Solid Waste Division Collection vehicles for the purpose of C~~ollection of Household~~solid W~~aste, Recyclables and/or Yard Waste.~~means any city-approved container or receptacle of an approximate capacity of~~

~~90 gallons, and constructed so that the container can be emptied mechanically by means of an automated loading device as equipped on refuse vehicles for the purpose of collection of solid waste.~~

Sanitary Landfill means a facility for the disposal of solid waste on land in a sanitary manner in accordance with the North Carolina Solid Waste Management Rules.

Single Business Unit means a Residential Unit in which a business is operated, that generates no more Household Waste Garbage/Refuse/Solid Waste per week than can be placed or stored in a maximum of two (2) Rollout Cartss totaling a combined capacity of no more than 192 gallons when accumulated between Collections,~~eeollections,~~ such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.~~means any single nonresidential unit that generates no more garbage per week than can be placed or stored in a maximum of two automated containers totaling a combined capacity of no more than 180 gallons when accumulated between collection, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.~~

Single Family Residential Unit means any dwelling place occupied by one family and not defined as a multifamily residential unit.

Small Limb Waste means limbs that can fit into a City-issued brown or green Rollout Cart, a 32 gallon trash can, plastic bag household or yard waste cart or any bundled small limbs that, when combined in a pile or stack, is not longer than three (3) feet in length, not greater than three (3) feet in width, not greater than three (3) inches in diameter, and not greater than 50 pounds in weight.

Solid Waste means the Division and personnel within the Public Services Department responsible for the administration, operation and daily activities encompassing the collection of all Household Waste, refuse, solid waste, Recyclables, Yard Waste, Bulk Waste, Small Limb Waste, Large Limb Waste, Household Construction Debris and Demolition materials, and other materials as provided in this Chapter, on behalf of the City, both now and as hereinafter designated.

Solid Waste Fee Schedule means the current list of Solid Waste Division fees and penalties as adopted by the City Council.

Solid Waste User Fee means the fee that the City includes on County tax bills for the services the Solid Waste Division provides to Residential Units and Single Business Units.

Solid Waste means accumulations consisting of any combination of business trash, wet or dry garbage, household trash, bulk items, yard waste and recyclables.

Solid Waste Director means the person designated by the city manager to perform duties and responsibilities assigned by this chapter to the solid waste director as department head over the solid waste management department.

Stationary Waste Container means any City-approved non-moving dumpster container of a minimum capacity of two (2) cubic yards and having a maximum capacity of eight (8) cubic yards, made of watertight construction, and constructed so that the container can be emptied mechanically by means of a front loading refuse vehicle used for the purpose of collection. means any city approved container of a minimum capacity of six cubic yards and having a maximum capacity of eight cubic yards, made of watertight construction, and constructed so that the container can be emptied mechanically by means of a front loading refuse vehicle used for the purpose of collection. Some stationary containers may also be referred to as "todals".

Stationary Recycling Container means any City-approved non-moving stationary container dumpster or receptacle, which may contain a packing mechanism and an internal or external power unit used for the purpose of collection of Recyclables recyclable materials as defined in the local approved recycling program. means any city approved stationary container or receptacle, which may contain a packing mechanism and an internal or external power unit used for the purpose of collection of recyclable materials as defined in the local approved recycling program.

Stationary Refuse Container means any city approved stationary container or receptacle used for the purpose of collection of wet and dry garbage, or other solid waste as defined within the city's solid waste program.

Undeveloped Lot means a lot with no buildings or not otherwise developed for residential, commercial, recreational or governmental use.

Unit means a Residential Unit and one single family residence or an individual apartment, Single Business Unit.

~~motel, mobile home, townhouse, patio house, condominium, cluster home in a multifamily residence, unless otherwise specified by the city.~~

~~**Verified Violation** means a violation of any section of Chapter 22 of this Code this Chapter as determined by a planning and Code Enforcement Services official and/or Solid Waste Division official. the City Manager or designee. means a violation of subsections a.3, a.4, a.6. and c of Section 22-16 as determined by a planning and code enforcement services official.~~

Wastes means all useless, unwanted or discarded materials resulting from industrial, commercial, agricultural and residential activities.

Yard Waste means grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, Small Limb Waste and such other similar materials which are generated in the maintenance of yards and gardens, and which are collected separately from other Household solid Wwaste and Recyclables, materials, and placed at the Ceurbside for Ceollection.

~~means grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar materials which are generated in the maintenance of yards and gardens, and which are collected separately from other solid waste materials, and placed at the curbside for collection.~~

Cross reference— Definitions generally, § 1-2.

Sec. 22-4. Ownership of Materials.

~~All All Household solid Wwaste, Garbage, Trash, Recyclables, Yard Waste, yard wastes, Bulk Waste, Large Limb Wastes, Small Limb Waste, Household Construction Debris and Demolition Materials and similar related-items, that are properly containerized and placed by an owner or occupant of a property at Curbside for Ceollection, are deemed to be the property of such person until such time that the City or its authorized agent collects the set-out materials. solid waste, wet and dry garbage, recyclable materials, yard wastes, bulk trash, large appliances and similar related items, which are properly containerized and placed by an owner or occupant of a property at curbside for collection, are deemed to be abandoned by such person and become the property of the city or its authorized agent.~~

State law reference— Regulation of the placing of trash, refusewaste and garbage within municipal limits, G.S. 160A-303.1 et seq.

Sec. 22-5. Solid Waste Rollout Carts, Cans and Containers Generally.

a. *Requirements.* All Rollout -Carts must meet all design and capacity requirements as defined in this Section. Any variations of Rollout -Carts or -Sstationary Ceontainers, in types, styles, designs, etc., must be reviewed and approved by the City Manager or designee. All eligible households-Residential Units and Ssingle-Bbusiness Units shall use only City-provided-approved Rollout Carts eontainers for all -solid wasteHousehold Waste removal by the City. Recyclables shall be collected only from City-provided approximately 96-gallon Rollout Carts for Collection of Recyclables. No Recyclables shall be collected from Rollout Carts designated for the disposal of Household Waste or Yard Waste. The following provisions shall be complied with:

1. *Automated R-rollout Cart Collection System.* The City shall provide two (2) 96-gallon (approximate) rollout containersRollout Carts, one for householdHousehold Waste and one for recyclingRecyclables, where the automated system is in use for the Ceollection. of Solid Waste, Garbage, and recyclables. One of these container shall be dedicated for Recyclables

~~collection. Should this not be sufficient storage between Ceollections, the userresident or business may purchase two (2) for refuse purposes from the Cityadditional Household Waste Rollout Carts Cart from the City. Until such time as the City obtains and delivers such Rollout Carts, such persons shall cause all Household Waste, to be placed in watertight containers manufactured for Household Waste containerization. Household Waste cans shall not weigh more than 50 pounds. for Household Waste only for a max number of two Household Waste Carts The City will repair no more than two Household carts per resident.~~

2. ~~Excess Amounts. Single Business Unit~~ses generating in excess of 192 gallons per week of Solid WasteHousehold Waste, Trash, and/or Garbage must provide a Sstationary refuseWaste Ceontainer for service by a ~~by the solid waste management department or private hauler.~~ Variations must be approved by the Public Services Department Director or designee. ~~Automated containersRollout Carts for Yard Waste may be purchased by the userthe resident from the Solid WasteSolid Waste Division for the published fee. All residents that purchased 96-gallon carts prior to them being issued by the city may use both 96-gallon carts to recycling. No additional carts may be purchased for residents who only have one 96-gallon cart.~~

3. ~~Yard Waste Non-Automated Collection System. All households and businesses Residential Units and Single Business Units not part of the automated rollout collection system that have not purchased a City--issued Yyard Wwaste Rollout Cart Cart shall provide provide an alternative City-approvedapproved canontainers for all Yyard Wwaste for removal by the City. GarbageThe can seontainers shall have a capacity of no more than 32 gallons. The following provisions applyshall be complied with:~~

a. ~~Cans shall be made substantially of metal or plastic. Cans shall have tight-fitting covers and strong handles, and the covers shall be kept on at all times except when cans are being filled or emptied.~~

b. ~~Plastic bags used to containerize Yard Waste shall be constructed from film made from high quality polyethylene or a similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.~~

c. ~~Cans provided by the user for Yard Waste shall not weigh more than 50 pounds.~~

~~Containers shall be canPlastic bags may be used as approved containers for household Solid Waste collection by City forces and shall be properly secured at the bag opening with a twist tie or other secure means to eliminate any spillage oPlastic bags to be used to containerize household materials shall be constructed from film made from high quality polyethylene or similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.~~

b. ~~Identification. Where -Rollout Cartseontainers have been provided, the collection containersRollout Cart shall be -numbered by the Solid Waste Division so as to indicate the assigned dwelling using the particular Rollout Carteontainer. When the containers-Rollout Cart isare so identified, such containerit may be used only by the person whose assigned dwelling is shown thereon.~~

c. ~~Ownership of Rrollout Cartseontainers. The City shall retain ownership of Rrollout eontainersCarts which are initially provided for Ceollection services to the user. Such -containerRollout Carts shall not be removed from the original assigned property. Containers-Rollout Carts which require replacement as a result of user abuse and/or negligence will result in the user being charged a replacement fee as set forth in a separatethe Solid Waste Fee Sschedule. Any eontainers-Rollout Carts purchased by a~~

user, for purposes other than replacement of the City-issued container, shall become the property of the City.

- d. ~~Lost or Stolen damaged containers~~Rollout Carts. Any R~~ollout container~~Cart provided by the City which becomes lost or stolen through no fault of the user, or which is damaged through no fault of the user, shall be replaced by the City at no cost to the user. Any R~~ollout container~~Cart damaged by the placing of hot ashes or other toxic chemicals therein by the user, shall be replaced at the cost of the user, and ownership shall be retained by the City.
- e. ~~Unserviceable Rollout Cartseontainers~~. Any R~~ollout container~~Cart provided to the user at the City's expense that becomes unserviceable due to normal usage shall be replaced at the expense of the City, and ownership shall be retained by the City.
- f. ~~City-Owned Waste Receptacles~~. City-owned waste receptacles placed adjacent to City streets and in public places are for the exclusive use of the transient public, pedestrians and motorists, and City Solid Waste Division sweeper collectors. City-owned receptacles shall not be used by adjacent business enterprises or other privately owned establishments in lieu of the privately owned Stationary Containers they are required to furnish in accordance with this Chapter.
- g. ~~Missing or Damaged Rollout Carts~~. The City is not responsible for replacing missing or damaged non-City-owned and provided Rollout Carts. The City will repair no more than two (2) Rollout Carts per Unit.
- h. ~~Cleaning~~. No Rollout Cart or Stationary Container shall be cleaned on public property except under the supervision of the City Manager or designee, and no residual materials or Waste from the cleaning of Rollout Carts or Stationary Containers shall be allowed to drain into a public gutter, street, sidewalk, storm sewer, or into a constant flowing or intermittent flowing stream or stream bed.
- f. ~~Applicability~~. The provisions of subsections (b) through (e) of this section shall apply to containers whether they are being used by residential, multifamily dwelling, commercial, industrial, professional or governmental user.

Sec. 22-5.1. ~~Upsetting Public or Private Cans~~ Receptacles.

No person shall cause or permit the contents of ~~upset~~ a public or private receptacle designed for the deposit of Waste, Litter or Recyclables, ~~litter or cause or permit its contents~~ to be deposited or strewn in or upon public or private property. ~~Violation of this section shall result in a \$100.00 civil penalty.~~

Sec. 22-6. Containers Used for Apartment Buildings, Public Housing Complexes and Multi-Story Condominiums.

- a. In any Multifamily Community where the total number of living units is eight (8) or more per parcel, each building and/or group of buildings shall be furnished by the developer with a sufficient number of commercial centralized Stationary Ceontainers to ~~in sufficient number to~~ adequately contain the ~~garbage and refuse~~Waste disposal at such locations. The City Manager or designee shall review and approve the type of centralized Sstationary Ceontainer and the locations of those containers where overhead or lateral restrictions may pose collection service problems.
- b. The location of such containers shall be subject to the approval of the City Manager or designee ~~and/or the planning staff~~, and in no case shall a centralized Stationary Container be located closer than 25

feet to a structure, automobile parking space, or any other permanent fixture on the property. In addition, a 15-foot overhead clearance for the centralized Stationary Container shall be provided and maintained at all times.

- c. In any Multifamily Community where the total number of living units is more than 16 within the development, each building and/or group of buildings shall have a centralized Stationary Ceontainer system. This type of ~~solid-waste~~ Waste collection system shall be provided and maintained by the developer. Screens or other devices with the intended purpose of blocking the view of ~~Solid Waste~~ Stationary Ceontainers shall be aesthetically pleasing. The type of centralized Sstationary Ceontainer and, where applicable, the design of the enclosures to screen the Ceontainers, is subject to the approval of the City Manager or designee-. Where centralized Stationary Containers are used, locations to permit safe and convenient access are required. The location of the Stationary Container shall be placed in a manner as to allow the service vehicle operator to service the ceontainer, backup, and depart without having to exit the vehicle or make unnecessary maneuvers, or require disproportionate time. Excessive walking distances for tenants and occupants should be reasonably minimized. ~~Approval for solid waste collection by the City will not be made-~~ If safe and reasonable access is denied due to ~~by~~ gates, fixed objects, low hanging wires or other obstructions, the Stationary Container will not be approved.-
- d. In the case of any Multifamily Community, as previously described, where the total number of living units is 16 or fewer within the development and each living unit has a separate ground level entrance, each living unit shall be provided, by the private hauler, a can/receptacle similar to a R~~e~~ollout Carteontainer for ~~solid-waste~~ Waste collection service.
- e. Any variations from the above standards requires approval from the City Manager or designee.
- f. Any Stationary Containers, placed into service after the effective date of the ordinance from which this Chapter is derived, which have side openings shall be equipped at the property owner's expense with locking devices for such side openings.

Sec. 22-7. Commercial, Industrial, Professional and Governmental Establishments.

The owner, operator, proprietor, on-site supervisor of any buildings, structures or areas in the City used or occupied as commercial, industrial, professional, governmental or private establishments to include, but not necessarily limited to, restaurants, hotels, motels, trailers, shopping centers, stores, shops, drive-in facilities, theaters, recreation or amusement enterprises and multiple or single dwelling places of all types and any governmental buildings or offices, yards, grounds or industrial type sites wherein ~~garbage-~~Waste accumulates, shall provide and maintain Stationary Ceontainers, as required by the Solid Waste Division, -of sufficient capacity, to accommodate the user in some convenient place so as to be easily and readily emptied or removed ~~by the solid waste division~~. The location of such Ceontainers shall be subject to the approval of the City Manager or designee. S tationary Ceontainers shall be located in such a manner as to be available for pickup at any time during the 24-hour day. ~~If at any time a stationary container is unavailable for pickup due to its location or due to parked cars or other obstacles, there may be an additional charge for each extra trip required to pick up such container in accordance with section 22-25. Into such containers shall be daily deposited all such garbage as shall accumulate in or be upon the property.~~ All Waste accumulated on the property shall be deposited into such Containers daily.

Sec. 22-8. ~~Variance~~Exemption.

The owner, operator, proprietor or on-site supervisor of any buildings, structures or areas in the City that is required by this Chapter to provide the Sstationary Ceontainers may apply to the City Manager or designee for an exemption from these requirements. An exemption shall be granted by the City Manager or designee only upon a finding that due toif the en-the physical location, terrain, or other environmental conditions for, the serviceable area for the removal of solid waste Waste is not conducive forto -Sstationary Ceontainers, or is unsafe for the movement of City solid waste trucks. Upon this finding, the City Manager or designee is authorized to provide the applicant with Ceurbssideside or other suitable arrangements for the removal of solid waste Waste. -

Sec. 22-9. ~~Maintenance of Containers~~Reserved.

- a. ~~Garbage, scraps, perishable refuse, wet waste, organic matter, or other solid waste subject to an odorous decay shall be placed in garbage containers conveniently situated for collection by the city solid waste department. It shall be unlawful to scatter any solid waste over any premises in the city. All wastes deposited in a prescribed, approved solid waste container will be accepted by solid waste department employees for disposal.~~
- b. ~~No container shall be cleaned on public property except that under supervision of the solid waste director or designee, and no residual materials or refuse from the cleaning of solid waste containers shall be allowed to drain into a public gutter, street, sidewalk or storm sewer or into a constant flowing or intermittent flowing stream or stream bed.~~
- c. ~~Recyclable material shall be collected only from city approved recycle carts for collection of recyclables. No recyclable material shall be collected from carts designated for the disposal of solid waste or yard debris.~~

Sec. 22-10. Collection Routes, Schedules and Pickup of ~~Rollout Refuse Containers~~Household Waste and Other Materials by City.

~~T~~The City Manager or designee shall establish Collection routes and schedules and may alter these routes and schedules from time to time. The City Manager or designee may also establish, and revise from time to time, a policy relating to the number of times per week the City will collect Household Waste from Residential Units and the maximum number of Solid WasteRollout Carts the City will service on any parcel. No owner or occupant of any property shall prohibit or prevent the City from providing services at the property at the prescribed periodic Collection rate. When scheduling a pickup service for Non-Compliant Loads, Household Construction Debris, and move-outs, etc., the user should contact the Solid Waste Division.

1. City-served Curbside Collection services will be provided to Units, on a day designated for Ceollection by the City Manager or designee. Solid WasteHousehold Waste shall be placed at the Curbside no earlier than the day before the scheduled Collection.
2. Special Collection services for users~~the~~ with a P~~hysically D~~isability~~ed~~ shall be available as outlined under the Solid Waste Division policy. Anyone who is unable, because of a Physical Disability~~p~~, hardship, age, or handicap, to roll a Rollout Cart to the Curbside may receive B~~ackdoor S~~ervice at no cost, upon approval by the City Manager or designee, who may require additional documentation including, but not limited to, a doctor's certificate as proof thereof; provided there is no one else living in the home that can push the Rollout Carts to the ~~cart~~ Ceurbsside.

3. [Reserved.]

4. ~~n order to collect~~For the Collection of Solid WasteHousehold Waste, the owner or occupant of each Unit shall place all Solid WasteHousehold Waste in approved Rollout Carts and place such containers within one foot of the Curbside or edge of the pavement and a minimum of four (4) feet from anything which may interfere with Collection on the day scheduled for Collection prior to 6:00 a.m. If more than one (1) Rollout Container is placed at the Curbside, the owner or occupant shall assensure a spacing of at least four (4) feet from other Rollout Carts and objects. Public notice shall be given of any change of Collection day. City Collection personnel shall not provide service if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions. The following rules shall apply for the removal of solid wasteHousehold Waste:

a. No wooden boxes, barrels, or any other wooden receptacle, or any other receptacles except approved receptacles shall be used for Collection of Household Waste, Yard Waste, or Recyclables.

b. For the purpose of Collection, placement of Rollout Carts will be at ground level, and the use of underground receptacles will not be permitted.

5. Collection of Solid WasteHousehold Waste and other materials collectionbegins at 6:00 a.m. and containers not available for Ceollection on the scheduled day will not be collected until the next regularly scheduled day. Rollout CartsContainers shall be removed from the Curbside the day that they are serviced and shall not be stored in front of a dwelling or commercial establishment, or otherwise in front of the building, closest to the street. Any variations from these requirements requires the approval of the City Manager or designee. Failure to remove the Rollout Carteontainer from the Curbside the day that itthe container is serviced is deemed ina violation of this Ssection, which shall result in the following:

a. As a result of a first and second violation, written warning of such violation shall be issued to the owner, occupant, lessor, lessee, or person in charge of the property where the Rollout Carteontainer is located, with no monetary penalty being imposed;

b. Any third or subsequent violations shall subject the offender to a citation and civil penalty based on the Solid Waste Fee Schedule. Such civil penalty shall be recovered by the City in a civil action in the nature of a debt if the offender does not pay the penalty within the time prescribed in the citation notice. in subsection (c) of this section.

~~— In the case of a third or subsequent violation of this section, a written citation shall be issued to the owners, occupant, lessor, lessee or person in charge of the premises where the containers are located, stating the amount of the penalty and that the penalty is to be paid to the Finance Department Director, City Hall, 433 Hay Street, Fayetteville, North Carolina, within five (5) days. If the penalty is not paid within the time prescribed, the City may initiate a civil action in the nature of a debt and recover the sum of the penalty plus the costs of the action~~

c. Once a citation is issued, eEach and every day's violation of the cited offense any provision of this section after the second violation shall constitute a separate and distinct offense.

6. The City Manager or designee shall determine that area considered to be the Curbside as it relates to the ~~refuse~~ Waste Collection pickup point.
7. Spilled materials or overflow not caused by City Collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant. Spilled ~~solid waste~~ Household Waste materials caused by City Collection crews shall be cleaned up immediately after such spillage occurs by such crew.
8. Recyclables containerization requirements and Collection services.
 - a. ~~ollection of Recycling shall be provided to single-family residential units upon request~~The City Manager or designee shall have the authority to determine the manner, method, and timeframe for Ceollection of ~~Large Limb waste~~ Recyclables. Collection of Recyclables ~~collection~~ shall be provided to all eligible Units.
 - b. The Solid Waste Division will supply one (1) blue, 96-gallon Rollout Cart~~ontainer~~ to provide the user~~household~~ with the ability to ~~store~~ Recyclables for a bi-weekly ~~Ceollection~~ service at the Curbside. The Recyclables Rollout Cart~~ontainer~~ shall be set out before 6:00 ~~AM~~-a.m. on the scheduled day of pickup and rolled back per the requirements of other Rollout Cart~~ontainers~~.
 - c. Users~~Households~~ are encouraged to place clean and dry Recyclables into the Rollout Cart~~ontainer~~ and to break down corrugated containers before placing them in the Rollout Cart~~ontainer~~.
 - d. ~~A~~Recyclables must be inside the Rollout Cart~~ontainer~~. If the user~~household~~ has oversized corrugated boxes that do not fit in the Rollout Cart~~ontainer~~, those corrugated boxes, also broken down tied or taped, may be placed next to the Rollout Cart~~ontainer~~ for Ceollection by the City or its designated contractor.
 - e. Approved R~~ecyclables~~ are subject to change based on~~ff~~ the Material Recovery Facility contracted by the City to receive Recyclables~~recycling~~ from the City.
9. Yard W~~aste~~ containerization requirements and Ceollection~~-services and Large Small Limb collection services requirements~~.
 - a. Yard Waste Ceollection shall be provided only to Units as approved by the City Manager or designee.
 - b. Yard Waste shall be separated from all other ~~refuse~~ Waste prior to Ceollection. The City shall collect Y~~ard W~~aste that is customarily and reasonably associated with the U~~n~~it served so long as it is properly prepared or containerized and in compliance with these regulations. Yard Waste shall be placed within four (4) feet of the Curbside for Collection by the City.
 1. Grass clippings, small shrubbery clippings, leaves, and other small lawn and Yard Waste debris shall be collected at the Curbside provided that they are placed in plastic bags, ~~or other~~ an approved can~~ontainers~~ for Ceollection, or a Rollout Cart~~ontainers~~ that is~~may be~~ purchased from or provided by the City. If plastic bags are used, such bags shall be in good condition, and of such size and weight that, when full, do not weigh more than 50 pounds each, and are such that one individual can pick up

each bag one at a time for disposal. The plastic bags shall be secured at the top when placed at Curbside for Ceollection. For each Collection day, at the maximum-number of eighteen (108) Rollout Cartsonainers, plastic bags, and approved cansontainers in total can be set out at the Curbside for weekly Ceollection.

2. Loose Yard Waste comprised of branches and twigs are to be tied into bundles weighing no more than 50 pounds, be no longer than ~~three~~ ~~four~~ ~~three (4)~~ (3) feet in length, three (3) feet in width, and the branches must not be ~~no~~ larger than three (3) inches in diameter. A maximum of four (4) bundles can be placed at the Curbside for any weekly Ceollection.
3. Other approved cansontainers used for Yard Waste that are ~~to be~~ provided by the userhousehold shall be made of metal or plastic, have tight-fitting lids, be made for Solid Waste disposal, equipped with strong handles, and shall not exceed 32 gallons in size or 50 pounds in weight when lifted by one person.
4. The Parks & Recreation Department is responsible for the collection of un-containerized leaves and pine straw placed at the Ceurbside. One free collection is scheduled by the Parks & Recreation Department between November and January according to the street's zip code. Additional un-containerized leaves and pine straw can also be collected at different times by making arrangements with the Parks & Recreation Department and paying the fees pursuant to a fee schedule approved and authorized by the City Council.

10. Large Limb Waste set out and eCollection requirements.

- a. *Large Limb Ceollection.* Collection of un-containerized Large Limb ~~yard W~~waste shall be provided to Uunits that pay the Solid Waste Fee upon request. The City Manager or designee shall have the authority to determine the manner, method, and timeframe for Ceollection of Large Limb Wwaste. Large Limb Wastes to be collected by the City ~~only on a scheduled basis and~~ shall contain limbs no- longer than five (5) feet in length and ~~or~~ not greater than six (6) inches in diameter, and a pile no more than ~~under~~ 2010 cubic yardsCY and must be placed in an orderly manner at the Ceurbside at least four (4) feet away from all other objects. ~~containers set out by the household. Any items that will not fit in containers must be scheduled for a special pick up at least seven (7) days in advance.~~ Scheduled aArrangements must be made with the Solid Waste Division for special pickup of materials over 2010 cubic yardsCY. ~~longer than three (3) feet in length, and/or larger than three (3) inches in diameter, and/or greater than 50 pounds in weight as provided in subsection 22-10(10).~~ A fee as provided in the Solid Waste -Fee Schedule will be charged for this service as approved by the City Council. Payment must be made in advance of having the service provided. Any non-scheduled Curbside placement of Large Limb Wastes piles over 2010 —cubic yards CY set out without ~~not scheduled~~ will be treated as illegal dumping and subject to illegal dumping violations and fines, and shall be considered creation of an unlawful condition upon the property subject to abatement under the provisions of sections 22-16 through 22-21a Non-Compliant Load and subject to abatement in accordance with this Chapter.

b. Additional requirements for Large Limb Waste Collection~~pickup~~:

1. Those properties participating in the "farm use program" as listed by the Cumberland County Tax Administrator's Office shall not qualify for bulky tree and Large Limb Waste Collection~~removal service~~;
- ~~— The Solid Waste Division shall not collect any Large Limb materials longer than five (5) feet in length or greater than six (6) inches in diameter;~~
2. Solid Waste Division shall in no case collect Yard Waste and or Large Limb Waste ~~debris~~ generated by a contractor or person other than the owner or occupant of a Unit;
3. The City shall not provide Collection ~~allow pickup~~ services for vacant lots (this is considered land clearing);
4. It shall be unlawful for any person to place Large Limb Waste and tree debris in a manner that ~~so~~ obstructs traffic or is piled over three (3) feet high.
5. It shall be unlawful for any person to place tree and Large Limb Waste~~debris~~ under trees, ~~or~~ near mailboxes and utility boxes, or other objects;
6. It shall be unlawful for any person to place tree and Large Limb Waste ~~debris~~ in a place that would obstruct overhead power lines;
7. The Solid Waste Division shall have the authority to take several days to collect excessive loads, based upon other work commitments.
- ~~— The Solid Waste Division shall charge a fee as set forth in a separate schedule approved by the City Council for Large Limb yard waste that generates either a full truck load of debris or over 20 cubic yards of debris.~~
- ~~— Those properties in the Cumberland County's Farm Use Program and vacant or abandoned lots shall not qualify for bulk yard waste collection.~~
8. Items are to be placed at the Ceurbside the day before the scheduled Collection day.

11. Bulk Waste C~~set out~~ and collection requirements.

- a. Collection of Bulky W~~aste~~ shall be provided to -Units~~who pay the Solid Waste User Fee~~. The Public Services Department Director or designee shall have the authority to determine the manner, method, and timeframe for C~~ollection~~ of Bulky W~~aste~~. ~~must be called in and scheduled at least seven (7) days in advance with the Solid Waste Division.~~ Each C~~ompliant~~ B~~ulky~~ Waste load cannot contain more than ~~be for a maximum of five (5) items. per request and each Residential Unit will be eligible for a maximum of four (4) such requests per year.~~ Requests for the Collection of more than five (5) items will be subject to a service fee in accordance with the current Solid Waste F~~ee~~ S~~chedule~~. Payment must be made in advance of having the service provided. Items are to be placed at the Ceurbside the day before scheduled Collection day for that week. Non-C~~ompliant~~ L~~oads~~ Items at the Curbside that are not scheduled and paid for are considered a Non-Compliant Load and subject to abatement in

accordance with this Chapter. illegally dumped and shall be considered a creation of an unlawful condition upon the property subject to abatement under the provisions of sections 22-16 through 22-21.

b. Additional requirements for Bulk Waste Collection pickup:

1. Notification and payment must be made to the Solid Waste Division in order prior to the scheduled curbside collection day for Solid Waste Household Waste. to schedule a Collection of Non-Compliant Loads of Bulky Waste loads.

Appliances shall be placed to the curb by 6:00 a.m. on the collection day from the home from which the appliance was removed in order to assure pick up.

2. Appliances shall be emptied of their contents.

3. Refrigerator and freezer doors must be removed or secured to prevent entry by small children.

City Collection personnel shall not provide services if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions.

4. _____

6. Appliances shall not be collected from any Unit engaged in the repair or resale of appliances. provided notification is made to the Solid Waste Division prior to the scheduled curbside collection day for bulk trash and under the following conditions:

5. _____

6. Bulk Waste shall be placed at to the Curb by 6:00 a.m. on the Collection day of the week to assure Collection. pickup.

7. Bulk Waste must be separated from all other Waste containerized prior to Collection.

8. All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass removed and where practicable placed in a City-approved Rollout Cart container for Collection.

9. All gasoline/fuel must be removed from all lawn equipment prior to Collection.

10. Oxygen tanks and other medical equipment, propane tanks, large oil tanks used for household purposes or batteries from any residentially used property, etc., shall not be collected by the City.

11. Furniture and/or mattresses shall be limited to five (5) pieces —limit per Collection.

12. Any Bulky Waste or other items not properly prepared for disposal as provided in this Section, and any items that exceed the size indicated by this Chapter, will not be collected by the Solid Waste Division.

~~Large Limb collection. Collection of uncontainerized Large Limb yard waste shall be provided to single family residential units upon request. The Solid Waste Division shall have the authority to determine the manner, method, and timeframe for collection of Large Limb yard waste. Large Limb yard waste collection shall be provided under the following conditions:~~

~~Notification must be made to the Solid Waste Division to schedule Large Limb yard waste collection at least seven (7) days in advance~~

~~The Solid Waste Division shall charge a fee as set forth in a separate schedule approved by the City Council for Large Limb yard waste that generates either a full truck load of debris or over 20 cubic yards of debris;~~

~~Those properties in the Cumberland County's Farm Use Program and vacant or abandoned lots shall not qualify for bulk yard waste collection.~~

~~Items are to be placed at the curb the day before scheduled collection day. Items at the curb that are not scheduled are considered illegally dumped and shall be considered creation of an unlawful condition upon the property subject to abatement under the provisions of sections 22-16 through 22-21.~~

~~Household Construction Debris and Demolition containerization requirements and collection services.~~

12. Household Construction Debris Collection.

a. ~~The Solid Waste Division can collect Household Construction Debris can set out Construction and Demolition materials generated by the owners or renters of the Residential Units.~~

b. Collection services need to be scheduled seven (7) days in advance of the requested Collection date unless otherwise approved by the Solid Waste Division.

c. For non-contracted renovations and additional Collections pickups, the Residential Unit will be charged in accordance with the Solid Waste Fee Schedule.

d. Items are to be placed at the Curb side the day before the scheduled Collection day. Items at the Curb side that have not been scheduled for Collection are not scheduled are considered a Non-Compliant Load and subject to abatement in accordance to this Chapter.

~~illegally dumped and shall be considered a creation of an unlawful condition upon the property, subject to abatement under the provisions of Sections 22-16 through 22-21.~~

13. The Public Services Department Director City Manager or designee shall have the authority to require that items be prepared for ease of Collection and to assure the safety and health of the employees performing the Collection tasks.

14. ~~Large Limb yard waste shall not be placed in a pile over three feet high, under trees or near mailboxes and utility boxes, or in a place or manner so as to obstruct traffic or overhead power lines. Any item not prepared properly may be refuseWasted for collection.~~

~~All residents requiring special pickups for Non-compliant, bulky item pickups, called in or individually scheduled pickups may be subject to a fee as approved and adopted by the City council.~~

~~The City Manager or designee can designate different Collectionpickup locations for Units that are located on private streets or driveways.~~

- a. ~~The determination of whether a private street or driveway creates a safety and operational hazard will be made by the Solid Waste Division.~~
- b. ~~When such a an unserviceable determination is made, the Solid Waste Division will inform the owner and/or occupant of an alternative location for Ceollection services for Rollout Cartsonainers and other setouts are to be placedCity-approved cans.~~
- c. ~~In the event that the Solid Waste Division determines it can provide service on the private street or driveway, the Unit owner will be required to sign a waiver limiting the City's liability for damages that may occur whileduring providing Curbside Collectionservices adjacent to the Unit.~~

~~may result in a citation and civil penalty.~~

~~finest and penalties as described in Subsection 22-10(12)(a).~~

Sec. 22-11. Solid Waste Containers for Trash Other than Garbage; One-Person LoadsProper Placement of Trash.

It shall be unlawful to sweep or cause to be swept, thrown, placed, poured, dumped or drained any ~~litterLitter~~, empty cartons, paper, packing boxes, packing material, sweeping compound or cleaning waste from any real estate, building or enterprise into any public street, drain, gutter or storm sewer. All trash, paper or ~~litterLitter~~ shall be immediately placed in approved containers as prescribed by ~~sections 22-5 through 22-8 or this Chapter~~, if dry and nonperishable, it shall be bundled, packaged, stacked, boxed, crated, barreled or otherwise bound, tied or secured into one-person loads and shall be so placed or located with reference to the streets and alleys as ~~to provide for conveniente-render Ceollection-convenient by solid waste department employees~~. Plastic or metal binding materials will not be allowed. Placement for ~~Ceollection-by solid waste department personnel~~ shall be in a manner to prevent wind blowing or scattering of any ~~litterLitter~~. All empty crates, boxes, cartons and similar containers in preparation for removal by the ~~Ssolid Wwaste Divisiondepartment~~ shall be crushed or otherwise broken down flat and bundled, tied, packaged or stacked by the service user. ~~A one person load shall be bundled or packaged by a service user in a manner not to exceed three feet in length or general circumference or 50 pounds in weight. Debris or refuse which exceeds these prescribed dimensions or weights shall be considered by the solid waste department employees as heavy debris and shall be loaded and transported for disposal for a fee to be paid by the service user in accordance with charges prescribed for disposal of heavy debris by section 22-25.~~

Sec. 22-12. Scattering, Littering, Throwing, Sweeping or Burning of Trash on Streets and Sidewalks; Accumulations of Trash On Premises, in Alleys, etc.

- a. ~~It shall be unlawful for any person to throw, place or deposit, sweep, pour or drain onto, or allow to be blown or scattered onto, any of the streets, sidewalks, roads, alleys, or constant flowing or intermittent~~

~~flowing streams of the city or onto any other occupied, vacant or improved property in the city any ashes, cinders, oil, grease, detergents, or industrial, commercial, construction, destruction, property clearance or domestic waste, washing or cleaning solution, containers, paper, refuse, abandoned furnishings or fixtures, litter or rubbish of any kind, sand and/or dirt from any building construction or washing and cleaning of cement trucks into catch basins, or the spilling of such materials on any street or city right-of-way, or the piling or burning of any such materials thereon or therein.~~

- ~~b. It shall be unlawful for any person to allow the premises occupied by him or the roadways, walks, constant flowing or intermittent flowing streams or stream beds, including pits, depressions, or other areas where water is likely to accumulate, on such premises to fill with or to contain any garbage, litter, rubbish or other refuse as referred to in this chapter.~~

~~Cross reference—Fire protection and prevention, Chapter 11; streets and sidewalks, Chapter 24~~

Sec. 22-132. Accumulations of Solid Waste Liable to Spontaneous Combustion.

It shall be unlawful for any person to allow to accumulate on ~~the premises~~any property occupied by him any ~~litter~~Litter, trash, rubbish or other ~~solid~~Waste which is liable to spontaneous combustion.

Sec. 22-143. Transporting Garbage, Organic Wastes or Similar Materials; Vehicles.

- a. It shall be unlawful for any person to privately haul or have hauled, carried or transported any ~~garbage~~Waste or wet or perishable or malodorous matter of organic origin on any City thoroughfare except in metal containers, covered vessels, or liquid-tight containers with tight-fitting covers; all of which shall be devoid of any drain tubes, or drainage pipes or other features which will release drainings, Waste, seepage, or washing from the container onto public roads, streets or property over which the transport is being moved.
- b. It shall be unlawful to commercially collect, handle, haul or transport on any of the streets, public ways/alleys, or other places of the City any ~~refuse~~waste without obtaining the necessary approvals, permits and licenses to do work in the City.
- c. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load contents or ~~litter~~Litter from being blown, deposited or spilled upon any street, alley or any other public place. No person shall allow to be spilled from any truck or any other vehicle any abrasive materials, such as sand, rocks or gravel, but not limited thereto, which might harm or do damage to the streets or the paint markings thereon.

Sec. 22-144. Littering by Operators and Occupants of Motor Vehicles.

- a. No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit ~~litter~~Litter from any motor vehicle in operation upon any street, road, highway or public vehicular area, except into a ~~litter~~Litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- b. No operator of a motor vehicle in operation upon any street, road, highway or public vehicular area shall allow ~~litter~~Litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a ~~litter~~Litter receptacle in a manner that prevents its being carried away or being deposited by the elements.

~~c. A civil penalty in the amount of \$100.00 may be issued to any person in violation of this section.~~

Sec. 22-15. Noxious, Toxic, Flammable or Dangerous Materials.

It shall be unlawful for any person to place in any Waste Stationary Container, Rollout Cart, approved can/receptacle ~~solid waste container~~ any noxious, toxic or flammable chemical or gasoline, kerosene, motor oil or other petroleum based products. Hypodermic needles shall be bent and placed in clearly marked containers specifically designed for the removal and disposal of hypodermic needles. Pressurized canisters of more than a one-quart capacity shall be sawed or punctured so as to eliminate the danger of explosion.

Sec. 22-16. Illegal Dumping; Owners and Occupants Required to Keep PremisesProperty Free from Public Health and Safety Nuisances.

- a. Every person owning or occupying any premises-property in the City shall keep such property ~~emises~~ free from the following enumerated and described conditions which are hereby found, deemed and declared to constitute a hazard or detriment to the health and safety of the inhabitants of the City:
1. Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;
 2. Open wells and open basements or structures where construction of such structure has been abandoned or the structure has been razed by fire, demolition or other casualty;
 3. An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, ~~garbage, trash, refuse~~ Waste, brush, old clothes, rags, or any other combustible material or object of a like nature;
 4. An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind which is subject to decay or shall otherwise be a menace to health or cleanliness;
 5. Hides, dried or green, provided such hides may be kept when thoroughly cured and odorless; or
 6. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass where such furniture, appliances or other metal products poses a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside.
- b. The creation, maintenance or failure of the owner or occupant to abate any of the conditions enumerated in subsection (a) of this section is hereby declared unlawful. An owner remains liable for violations of duties imposed upon him by this chapter even though:
1. An obligation is also imposed on the occupants;
 2. The owner has, by agreement, imposed on the occupant the duty of complying with this chapter.

- c. Except as permitted in this Chapter, no owner, lessor, lessee, person, firm or corporation shall be permitted to illegally dump, leave or dispose in any manner upon their property or the property of another, whether public or privately owned, within the City limits the following items:
1. Mixed household, metal and yard waste;
 2. Tires or automotive parts to include engines, axles, batteries, transmissions, etc.;
 3. Hazardous materials, e.g. oils, cleaning fluids, paints and household chemicals;
 4. Furniture or mattresses;
 5. Carpet;
 6. Building materials, e.g. bricks, drywall, gutters, shingles, wooden fencing, pool liners, lumber, boards, toilets, sinks and tubs;
 7. Household garbage and related materials;
 8. Trees cut down by residents or contractors to include land clearing debris;
 9. Yard debris and related materials not removed by the generator of this waste within one (1) week except as allowed in Section 22-10.
- d. Any person, firm or corporation that is found to have dumped, left or disposed of in any manner, or whose personal items are identified within any items as enumerated in subsection (c)(1) through (c)(8) of this Section, upon the property of another, without the consent of that property owner or other persons in lawful control of the property, shall be subject to a civil penalty of \$500.00 and shall be responsible for the City's cost of removal of such items.
- e. An undeveloped lot is hereby declared a nuisance lot when there are two (2) or more verified violations within a one (1) year period.
1. Upon the declaration of an undeveloped lot as a nuisance lot, the Development Services Director or designee may prepare a property maintenance plan for such lot. The property maintenance plan shall specify corrective actions to be taken by the owner to detour illegal dumping on the nuisance lot. Such corrective actions may include, but are not limited to, installation of fencing, lighting, and signage. The property maintenance plan shall include a date by which the corrective actions are to be completed.
 2. The property maintenance plan and any subsequent appeal documents shall be served on the owner as set forth in Section 22-18.
 3. An owner may appeal the property maintenance plan to the Board of Appeals. A request for an appeal hearing by the board of appeals must be filed in writing with the City Clerk's office within 10 business days of the date the property maintenance plan is mailed to the property owner. The property owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this article. The request must state the reason for the appeal. The Board of Appeals, after a hearing, may modify or reverse the application of any corrective action provisions stipulated in the property maintenance plan when, in its

opinion, the enforcement thereof would do manifest injustice, and would be contrary to the ~~spirit and~~ purpose of this Chapter or public interest, or when, in its opinion, the corrective action provisions should be modified or reversed. A decision of the Board to modify the corrective action provisions shall specify in what manner such modification is made, the conditions upon which it is made, and the reasons therefore. Every decision of the Board of Appeals shall be in writing, and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the Development Services Director or designee. The Board of Appeals shall in every case reach a decision without unreasonable or unnecessary delay. If a decision of the Board of Appeals reverses or modifies any corrective action provisions stipulated in the property maintenance plan, Development Services Director or designee shall immediately take action in accordance with such decision. The owner shall have the right to seek judicial review of the Board of Appeals decision in a proceeding in the nature of certiorari instituted in the Superior Court of the County within 30 days after the Board of Appeals decision.

Sec. 22-16.1. Placement and Maintenance of Litter Receptacles.

- a. It is the intent of this ~~S~~section to ensure that public areas are kept clean and free from ~~litter~~Litter.
- b. Any person, firm or corporation operating a grocery store, convenience store or an establishment selling food or beverages for consumption off the premises, shall place and maintain a ~~litter~~Litter receptacle outside of each exit from said premises for the use of the patrons thereof during business hours.
- c. The receptacle shall be emptied when full and at the close of business each day. Each receptacle shall be maintained in a clean and sanitary condition.
- d. If any person or firm or corporation should violate the provision of section 22-16.1, it shall be the duty of the ~~city inspection director or his designated representative~~City Manager or designee to give notice to the owner or to any person in possession of the subject property in accordance with sections 22-17, 22-18 and 22-20 of this Chapter.

Sec. 22-17. Notice to Abate Unlawful Conditions; Abatement by City ~~Where Conditions of Matter Admit of No Delay; Penalty.~~

- a. If any person shall violate the provisions of ~~section 22-16~~this Chapter, it shall be the duty of the ~~C~~city ~~Manager or designee development services director or his designated representative~~ to give notice to the owner or to any person in possession of the subject property, in accordance with section 22-18 of this ~~C~~chapter, as follows:
 1. That an unlawful condition exists thereupon and that the unlawful condition shall be abated by the owner and if the unlawful condition is not abated, that the owner will be subject to a civil penalty as set forth in Section 22-20; and
 2. That if the property owner does not abate the unlawful condition within 10 business days:
 - a. The property owner will be charged an administrative fee in accordance with the ~~F~~fee ~~and penalty S~~schedule as approved by ~~C~~city ~~C~~ouncil regardless of who abates the unlawful condition; and

- b. The ~~development services director or his designated representative~~City Manager or designee, may proceed without notice to abate the unlawful condition and charge the actual cost of abatement to the property owner; and
- c. In addition to any other penalty imposed, the administrative fee, the actual cost of abatement or both shall be collected in the manner as provided for delinquent taxes, pursuant to G.S. 160A-193; and
- d. Upon the completion of any removal and abatement by the Ceity, in accordance with section 22-18 of this Cechapter, the ~~development services director~~City Manager or designee ~~or his designated representative~~ shall give notice to the property owner of their right to appeal the Ceity caused abatement and the appeal process thereof; and
- e. Upon the completion of any removal and abatement by the Ceity, the property owner may request an appeal hearing of the Ceity caused abatement to the City administrative hearing officer. Such request for an appeal hearing shall be in writing and submitted to the Ceity Attorney's Office within ten business days of the receipt of the notification of the right of appeal. The request for an appeal hearing shall state the reason(s) why the property owner should not be assessed for the cost of the Ceity caused abatement. The appeal hearing shall be held within 14 business days of the receipt of the request. Failure of the property owner to file a written request for an appeal hearing within the time prescribed by this Section will result in the waiver of the opportunity to file a request for an appeal hearing and the property owner being responsible for all costs associated with the abatement as otherwise provided in this Cechapter.

- b. Upon the completion of any removal and abatement by the ~~city~~City, the ~~development services director~~City Manager or designee or his designated representative, shall deliver to the deputy tax collector a statement showing the actual cost of the abatement of the unlawful condition, in which statement, in addition to the cost of labor, hauling, and other necessary items of expense, shall be included as an administrative fee in accordance with the fee and penalty schedule as approved by Ceity Ceouncil. The deputy tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon such property and, if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes.
- c. If the same person, corporation, or other property owner or occupant has failed to abate a violation within the ten-day period allowed in this Section for the same or different parcels of property at least twice in the same 24-month period, then if the same person, corporation, or other property owner or occupant fails to abate a third or subsequent unlawful condition within the 10-day period allowed in this Section and within the same 24-month period of the first two (2) violations as specified in this Section, the person, corporation, or other property owner or occupant shall be subject to a \$1,000.00 civil penalty, collectible as set forth in Subsection (a) of this Section, in addition to any other fee imposed by this Chapter for a continuation of the violation after the 10-day period allowed in this Section.
- d. In the event that the City Manager ~~or development services director or his~~ designee, determines that an unlawful condition constitutes an imminent danger to the public health or safety, such that notice to the property owner could not be provided without endangering the public, the ~~environmental services director~~City Manager or ~~his~~ designee, may take immediate action to remove or abate the unlawful condition, and the property owner shall be subject to the costs and administrative fee of such abatement

as provided in this Section and in accordance with the Fee Schedule adopted by the City Council. As soon as is practicable after the abatement of the unlawful condition, the property owner who has been assessed the costs for such abatement under this Subsection shall be given notice as prescribed by this ~~S~~section.

Sec. 22-18. Service of Notice.

- a. The notice required by ~~section 22-17~~this Chapter shall be served upon the owner of the subject property either personally or by first-class mail and by posting the notice on the subject property. If the whereabouts of such owner is unknown and the owner cannot be ascertained by the ~~building inspector~~City in the exercise of reasonable diligence, and the ~~building inspector~~City shall make an affidavit to that effect, then the serving of such notice upon such owner may be made by serving any person in possession of the subject property, or, if there is no person in possession of it, by posting the notice on the subject property.
- b. Any such notice may be served by any authorized representative of the ~~building inspection department~~City or by any police officer of the ~~C~~city when so authorized through the ~~building inspection office~~City Manager's Office.

Sec. 22-19. Defect in Notice Not to Affect Lien.

Any defect in the method of giving the notice required by Section 22-17, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the City, in any case where the working of abating an unlawful condition upon any property is caused by the City, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

Sec. 22-20. Citations and civil penalty.

~~Violations of this Chapter may result in a citation and civil penalty as outlined in the Fee Schedule.~~ In addition to the remedies and sanctions set forth in section 22-17, ~~any person who, after having received the notice set forth in section 22-17, fails to abate the unlawful condition set forth in the citation shall be penalized in accordance with the fee and penalty schedule as approved by city council.~~ Upon abatement of the unlawful condition, the total amount of the civil penalty shall be due and payable as outlined in such notice. ~~Payments shall be made within five working days~~ to the ~~Collections-Finance~~ Department, City Hall, 433 Hay Street, Fayetteville, North Carolina 28301-5537. Failure to pay the civil penalty within the prescribed period of time shall subject the offender to a civil action in the nature of a debt to recover the civil penalty due, plus the cost of the action. Each and every day's continued violation shall be a separate and distinct offense. This ~~S~~section is enacted pursuant to G.S. 160A-175(c), and is intended to be a civil penalty and not a criminal sanction.

Sec. 22-21. ~~County Health Officer May Exercise Authority Conferred on Building Inspections Director~~Reserved.

~~It is the intention of this chapter that the city building inspections director or designee, shall be primarily responsible for the enforcement of the provisions of this chapter. However, the county health officer shall, in any case where he deems it advisable to act, have all the authority conferred by this chapter upon the building inspections director or his designated representative, and any notice served for the purpose of this chapter by, or by authority of, the county health officer and any charge made by the county health officer in accordance with the provisions of this chapter shall be as valid as if made by the city building inspections director.~~

~~Sec. 22-22. Solid Waste Collection Schedule and Services.~~

The city shall provide the following level of services to all residential establishments:

- ~~1. Garbage and household trash collection, limited to the contents of two rollout or other approved containers for the service described in subsections 22-10(1) and (2), on a scheduled day, one time per week from residential units only;~~
- ~~2. Refuse, other than garbage or heavy debris, from residential units only properly containerized or as prescribed by subsection 22-10(8) on a scheduled day, one time per week;~~
- ~~3. One stationary container (lodal) per week.~~

~~State law reference~~—Collection of solid waste fees, G.S. 160A-314.1 et seq.

~~Sec. 22-23. City-Owned Trash Containers.~~

~~City-owned trash containers placed adjacent to city streets and in public places are for the exclusive use of the transient public, pedestrians and motorists, and city solid waste sweeper collectors. City-owned containers shall not be used by adjacent business enterprises or other privately owned establishments in lieu of the privately owned containers they are required to furnish in accordance with section 22-5 or section 22-11.~~

~~Sec. 22-24. Collection Service for Establishments Having a Front Door Only.~~

Owners of establishments, stores or other enterprises which are housed in buildings having only a front door opening onto a public sidewalk shall not place any Household Waste, other Waste ~~solid waste, garbage or trash cans, dry refuse,~~ or rubbish on or adjacent to any public sidewalk overnight or over the weekend. ~~Cans/receptacles ontainers~~ for debris shall be kept in the owner's establishment and moved outside to the Ceurbside only to meet the pick-upCollection schedule of the City Solid Waste Division. Empty ~~cans/receptacles eontainers~~ shall be removed by the owner from the public area to the inside of the establishment as soon as scheduled ~~solid waste-C~~ollection has been completed.

~~Sec. 22-25. Schedule of Fees for Extra Solid Waste DepartmentDivision Services.~~

- a. A fee shall be collected by the ~~solid waste department~~City for all extra services which are requested and furnished to users in excess of those provided without cost or ~~authorized patrons~~ otherwise authorized under this Chapter. ~~e provisions of section 22-10 and section 22-22.~~ The fees for extra services are set forth in a separate Solid Waste Fee Sschedule as approved by the ~~C~~city Council.
- b. The charge for any extra service not covered by fees within the Solid Waste Ffee Sschedule as approved by the ~~C~~city Council shall be determined by the ~~solid waste director~~City Manager or designee, using these fees as guidelines and exercising judgment to establish a fee to cover only the actual cost of the specific service, plus the 10 percent surcharge, less any funds generated from a disposal action related to the service.
- c. Heavy debris including, but not limited to, items in excess of one-person loads (~~section 22-11~~) which require a special loading crew, front-end loader and/or special vehicle. ~~No heavy items as described~~

~~in this chapter~~ shall not be collected or removed by the ~~solid waste department~~ Solid Waste Division except for a fee charged to the service user under the terms ~~of subsection (a) of this Chapter~~ section.

~~d. Failure to pay the actual cost for services rendered pursuant to subsection (a) of this section within 30 days of the date of the performance of the extra services shall be a violation of this section and shall subject the owner to a civil penalty to be recovered by the city in a civil action in the nature of a debt pursuant to G.S. 160A-175(c). The civil penalty shall not exceed the cost of removal of the heavy debris plus court costs.~~

Sec. 22-215. Accounting Procedures.

- a. Funds generated by charges for Ceity Solid Waste Divisions~~solid waste department~~ services and materials shall be accounted for through the use of sound business principles to include as a minimum a system of serially numbered permits, tickets and duplicate receipt forms.
- ~~b. Accounts for extra solid waste service shall be considered due and payable within ten days of the billing date. All solid waste service may be discontinued for any user who has an account for extra service more than 60 days past due, upon notice.~~
- ~~eb.~~ The~~With the approval of the city manager, the solid waste director~~ City Manager or designee is authorized to enter into a contractual service agreement on a monthly basis whenever such an agreement best serves the convenience of both the Ceity and the service user.

Sec. 22-27. Lodal and Stationary Containers; Locking Devices Required.

~~Any lodal-type stationary containers, placed into service after the effective date of the ordinance from which this chapter is derived, which have side openings shall be equipped at the property owner's expense with locking devices for such side openings.~~

Sec. 22-218. Construction /Demolition Debris.

Removal of Ce~~onstruction/Demolition D~~ebris shall be the responsibility of the property owner, and failure to remove the Ce~~onstruction/Demolition D~~ebris shall be considered the creation of an unlawful condition upon the property subject to abatement under the provisions of this Chapter. sections 22-16 through 22-21.

Sec. 22-219. Enforcement of Violations.

The City Manager or designee ~~is solid waste department or inspection department employees as designated by the city manager are~~ hereby authorized to enforce the provisions of this Chapter. Violation of any provision of this Chapter may result in a civil penalty and citation, and other actions as outlined in this Chapter. section 22-15, and issue appropriate citations as permitted by section 22-
30.

Sec. 22-220. Notice to AbateReserved.

~~It shall be unlawful to allow to exist upon any property within the city a condition as set forth in section 22-16, excluding subsection 22-16(d), and upon discovery of such condition by any official designated in section 22-29, the violator shall be given written notice of the unlawful condition and ten working days to~~

~~abate the unlawful condition; and if, after receipt of the notice, the violator does not abate the unlawful condition within the allowed time, the violator shall be issued a citation as set forth in section 22-31.~~

Sec. 22-28-31. Penalties for Violations.

- a. ~~Civil penalty amounts for violations are listed in the Fee Schedule. A violation of section 22-30 shall subject the violator to a civil penalty in accordance with the fee and penalty schedule as approved by city council.~~ A violation of any section of this Chapter not specifically addressed in the ~~separate fee and penalty schedule, except as specified in section 22-16(d),~~ shall subject the violator to a civil penalty of \$100.00 per violation. Pursuant to G.S. 160A-175(g), each and every day's continuing violation shall be deemed a separate punishable offense. The civil penalty shall be imposed by citation served personally upon the violator by those individuals authorized ~~under this Chapter in section 22-29,~~ or delivered by first class mail followed by delivery confirmation if the first notice is returned within 10 business ~~working~~ days. The citation shall set forth the specific violation, the amount of the penalty, that each and every day's violation is a separately punishable offense, and that if the penalty is not paid within 10 business days of the issuance date of the citation, the penalty shall be collected by civil action in the nature of a debt. The citation shall also set forth any appeal rights.
- b. If the penalty as set forth in the citation issued pursuant to Subsection (a) of this Section is not paid within the prescribed time, then the matter ~~may shall~~ be referred to the ~~office of the city attorney~~ City Attorney's Office to, who shall institute an action in the nature of a debt in a court of competent jurisdiction to collect the civil penalty.

~~Secs. 22-32—22-42. Reserved.~~



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3130

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Evidentiary Hearing

Agenda Number: 10.01

TO: Mayor and Members of City Council

THRU: Kelly Olivera - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director

FROM: Craig M. Harmon, CZO - Senior Planner

DATE: January 9, 2023

RE:

SUP23-01. Special Use Permit to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment, bars, nightclubs, and a religious institution to be located at 929 Bragg Boulevard (REID # 0437172966000), zoned as Community Commercial (CC), totaling 1.15 acres ± and being the property of Peter Stewart, Paula Stewart, George Stewart III, Richard Gochner, Richard Bleakley Jr, Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, Sandra Kirkman Higgins Trustee.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2021

Goals 2026

Goal 2: Responsible City Government Supporting a Diverse and Viable Economy

- Objective 2.4 - Sustain a favorable development climate to encourage business growth

Goal 3: City Investment in Today and Tomorrow

- Objective 3.2 - Manage the City's future growth and strategic land use

Executive Summary:

Evidentiary Hearing

During an Evidentiary Hearing, the burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant,

which shall be demonstrated by competent, material, and substantial evidence. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

This request is not to approve the use as religious institutions are allowed by right in the Community Commercial (CC) zoning district; however, a distance of 500-feet is required between a religious institution and a bar/nightclub. This is a request for a Special Use Permit to allow a religious institution to reduce the required 500-foot distance separation between the religious institution and an existing bar/nightclub to 185-feet. The lot is located south of Bragg Boulevard and west of Martin Luther King Jr. Freeway.

Background:

Owner: Peter Stewart, Paula Stewart, George Stewart III, Richard Gochner, Richard Bleakley Jr, Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, Sandra Kirkman Higgins Trustee.

Applicant: Stephanie Davis All In Ministries

Requested Action: SUP - Reduction in Separation Standards

Properties Addresses: 929 Bragg Boulevard

Council District: 2 - Shakeyla Ingram

Status of Properties: Developed

Size: Approximately 1.15 acres ±

Adjoining Land Use & Zoning:

- North: CC - Commercial
- South: MR-5 - Single-Family Residential
- West: CC - Commercial
- East: CC - Commercial

Letters Mailed: 228

Land Use Plan: Commercial Strip Redevelopment

Additional Reviews:

A Technical Review Committee (TRC) examination was conducted as part of the Special Use Permit process. However, this use is allowed in the zoning district so a complete review of the project will be conducted as part of the Development Review process to ensure the development meets all development standards for the use.

In general development comments were received, but specific comments were also provided. Specific comments included:

1. Traffic Services - A new driveway permit will be needed.

Issues/Analysis:

History

On August 23, 2021, the City Council approved a similar SUP to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment, bars, and nightclubs located at 901-907 Bragg Boulevard. This property is on the same side of Bragg Boulevard, approximately 290 feet east of the property in question in this application. Both applications seek relief from the same adult entertainment, bar, and nightclub known as Secrets Cabaret.

Surrounding Area

This site is located on the south of Bragg Boulevard and west of Martin Luther King Jr. Freeway. This portion of Bragg Boulevard is a heavily commercialized area. To the north, east and west of the site are several commercial buildings and uses. Across Bragg Boulevard to the northwest is an adult entertainment use that also serves as a bar and nightclub, Secrets Cabaret.

Special Use Permit Request

A religious institution is requesting a Special Use Permit to reduce the 500-foot distance separation between adult entertainment uses, bars, and nightclubs, and religious institutions to 300 feet. The site is currently zoned as Community Commercial (CC) and is an auto dealership.

The current site has uses such as a car dealership, electronics store, retail establishments, and restaurants surrounding it on Bragg Boulevard.

Religious institutions are allowed by right in the Community Commercial (CC) zoning district. This Special Use Permit is not to allow the use, but to reduce the required distance separation. Section 30-4.C of the Unified Development Ordinance states that “separation standards may be reduced upon approval of a Special Use Permit finding that the reduction in the separation standard does not increase negative, such as natural or man-made features that create visual or physical separation between the uses.”

According to Article 30-4.C.3.g.1. of the Unified Development Ordinance, a “religious institution shall be located at least 500 linear feet from any adult entertainment use and/or bars, nightclubs and similar establishment. A religious institution is requesting to reduce this required separation from 500 feet to 185 feet, based on the site plan submitted by the applicant. The site plan submitted demonstrates that the western corner of the 907 Bragg Boulevard portion of the building is located approximately 185 feet south of the bar, Secrets Cabaret.

The 2040 Land Use Plan and Map identifies this site as being suitable for Commercial Strip Redevelopment. Commercial Strip Redevelopment is defined as a “commercial mixed use area that encourages higher density. Bragg Boulevard is classified as a Major Thoroughfare, and thus is suitable for commercial development.

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable zoning districts in accordance with Section 30-2.C.

However., The SUP must meet the following findings of facts:

(1) The special use complies with all applicable standards in Section 30-4.C,

Use-Specific Standards;

Currently, the Unified Development Ordinance identify the standards below for Religious Institutions:

30-4.C.3.g. Religious Institutions

Religious institutions shall comply with the following standards:

1. Religious institutions shall be located at least 500 linear feet from any adult entertainment use and/or bars, nightclubs and similar establishments.
2. Religious institutions in the AR, SF-15, SF-10, or SF-6 districts that include a school or sanctuary with a capacity of 800 persons or more shall obtain a Special Use Permit in accordance with Section 30-2.C.7.

(2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;

The application states the religious establishment is compatible with all surrounding uses (retail and entertainment) and will support the community with encouragement and religious services.

(3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;

The applicant attest to there will be no adverse impact on surrounding lands.

(4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;

The applicant states the building will not be significantly altered and no visual impact upon adjacent lands.

(5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;

The applicant states the religious institution is a very benign use, which will not affect the deterioration of water and air resources, wildlife habits, scenic resources and any other natural resources in the vicinity.

(6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;

The applicant attest that the current site already has multiple driveway entrances for direct access to and from Bragg Boulevard.

(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

The applicant states that the neighborhood is already fully developed and the special use will not adversely affect property values.

(8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

As depicted on the accompanying site plan for the proposed development, the use for which this SUP is requested complies with all use regulations and development standards of the City of Fayetteville. The applicant will be required to meet all applicable standards.

Budget Impact:

This action should result in no increase in City services.

Options:

- 1) City Council moves to **approve** the Special Use Permit (SUP) as presented based on the evidence submitted and finds that the Special Use Permit (SUP) meets the eight (8) findings of fact.
- 2) City Council moves to **approve** the Special Use Permit (SUP) as presented **with conditions**, based on the evidence submitted and finds that the Special Use Permit (SUP) meets the eight (8) findings of fact.

- 3) City Council moves to **deny** the Special Use Permit (SUP) based on the evidence submitted and finds that the Special Use Permit (SUP) fails to meet the eight (8) findings of fact.

Recommended Action:

SUPs do not have recommended actions. However, if to approve, the template is shown:

I move to APPROVE the Special Use Permit (SUP) to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment uses and bars, nightclubs, and a religious institution from 500-feet to 300-feet as indicated by the supplied site map subject to all other conditions identified in and conforming to the current Unified Development Ordinance standards as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because: (1) the development is located in a Community Commercial zoning district and (2) that this use complies with the findings listed and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area.

[Applicable to Motion to Approve] If approved, this Special Use Permit shall become effective upon the approval of the Order of Findings of Fact by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

*For a motion to approve, all eight findings below must be met:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (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; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

SUPs do not have recommended actions. However, if to deny, the template is shown:

I move to DENY the Special Use Permit (SUP) to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment uses and bars, nightclubs, and a religious institution from 500-feet to 300-feet as indicated by the

supplied site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application does not meet the finding(s) of fact listed below. More specifically finding(s) #_____.]

* For a motion to deny only one of the findings shown below needs to not apply.

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (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; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

[Applicable to Motion to Deny] If denied this action shall become effective ten days after notification of the Findings of Fact to the Applicant of the denial by the City Council.]

Attachments:

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Properties
7. Site Map

Project Overview**#902509****Project Title:** 929 Bragg Boulevard**Jurisdiction:** City of Fayetteville**Application Type:** 5.3) Special Use Plan Review**State:** NC**Workflow:** Staff Review**County:** Cumberland**Notice Regarding Special Use Permit Procedural Process**

Special Use Permit

Dear Applicants,

Thank you for applying for a Special Use Permit with the City of Fayetteville. Due to legislative changes, the procedural process for Special Use Permits have changed:

1. Special Use Permits are now considered Evidentiary Hearings. With an Evidentiary Hearing, it is incumbent upon the applicant to present evidence that supports the application. This evidence is required both in writing and verbally.
2. Since the written evidence comes mainly from the application, the eight (8) Findings of Fact are essential. The answers must be complete and accurate.
3. Applicants are required to make, at minimum, an oral presentation to the City Council that addresses the eight (8) Findings of Facts. The applicant has the option of doing a visual presentation as well, but this is not required.
4. Lastly, Special Use Permits no longer have to be reviewed by the Zoning Commission and will proceed directly to the City Council. The deadline dates for Special Use Permits have changed.

Again, thank you for your application. If you have any additional questions, please contact the Planning & Zoning Division at 910-433-1612 to speak with a Professional Planner.

If you would like a copy of the above text, you can [download a copy here](#).

Please enter your full name in the space below to confirm your acknowledgement of the above statement.

Enter Your Full Name Here: Stephanie Davis

Project Location

Project Address or PIN: 929 BRAGG BLVD (0437172966000) **Zip Code:** 28301

GIS Verified Data

Property Owner: Parcel

- 929 BRAGG BLVD: STEWART, PETER
BLACKWOOD; STEWART, PAULA; STEWART, GEORGE

Acreage: Parcel

- 929 BRAGG BLVD: 1.15

CRAIG III;GOCHNAUER, RICHARD BLEAKLEY JR;GROSCHAN, CATHERINE G;BARRETT, LOUISE S;STEWART, JOHN PATRICK;STOKES, MARY S;STEWART, PETER BLACKWOOD;KIRKMAN, JOHN S TRUSTEE;HIGGINS, SANDRA KIRKMAN TRUSTEE

Zoning District:

Fire District:

Hospital Overlay District:

Cape Fear District:

Haymount Historic District:

100 Year Flood:

Watershed:

Subdivision Name:

Airport Overlay District:

Coliseum Tourism District:

Downtown Historic District:

Floodway:

500 Year Flood:

Written Description of Special Use

Is the proposed project for a cell tower?: No

A) Provide a written description of the proposed special use, including summary of existing uses and the proposed use/activity in detail. Also include hours and days of operation, number of employees, number of clients, etc.:

We are a group of friendly, warm, compassionate people who love Jesus and want to see lives changed by building community through Faith, Hope, and Love. We plan to gather as a church for prayer, worship and fellowship on a weekly basics.

Possibly 1 or 2 times a week. Sundays 11am Thursdays 7pm

At this time we have 5 partners, but are believing for more to come and join us.

B) Please provide a description of the Zoning District designations and existing uses on adjacent properties, including across the street.:

Car dealership, Electronic Store, Retail Stores, Club, Food establishments,

Special Use Justification. Answer all questions on this and the following pages (upload additional sheets as needed).

Indicate how the special use complies with all applicable use-specific standards in the City Code of Ordinances.:

N/A

Describe how the special use is compatible with the character and uses permitted in the zoning district(s) of surrounding lands.:

Supporting the community with encouragement and services.

Indicate how the special use avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration.:

We will add value to the community with compassion, friendliness, serving the needs. We will had adequate parking that will not pose an issue to our neighboring businesses.

Demonstrate how the special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands.:

Our visual impact will be positive to the neighboring businesses.

Explain how the special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources,

and other natural resources.:

Our business will not affect water, air, wildlife or scenic resources.

Indicate how the special use maintains safe ingress and egress onto the site and safe road conditions around the site.:

The location has easily access to enter and exit the parking lot. We will have parking attendants if and when it is necessary.

Demonstrate how 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.:

We will add value to the neighbors by sharing joy and peace.

The special use complies with all other relevant City, State, and Federal laws and regulations.:

Yes

Primary Contact Information

Contractor's NC ID#:

Project Owner

Stephanie Davis
All In Ministries
4004 Trista Lane
FAYETTEVILLE, NC 28306
P: 325-864-7576
allinministries317@gmail.com

Project Contact - Agent/Representative

Stephanie Davis
All In Ministries
4004 Trista Lane
FAYETTEVILLE, NC 28306
P: 325-864-7576
allinministries317@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:
NC State Mechanical Contractor's #2 License Number:
NC State Mechanical Contractor's #3 License Number:
NC State Electrical Contractor #1 License Number:
NC State Electrical Contractor #2 License Number:
NC State Electrical Contractor #3 License Number:
NC State Plumbing Contractor #1 License Number:
NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project:



Aerial Notification Map

SUP23-01

Request: SUP Distance Separation Reduction

Address: 929 Bragg Blvd

Legend



1,000' Notification Area

Parcels



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

SUP23-01

Request: SUP Distance Separation Reduction

Address: 929 Bragg Blvd

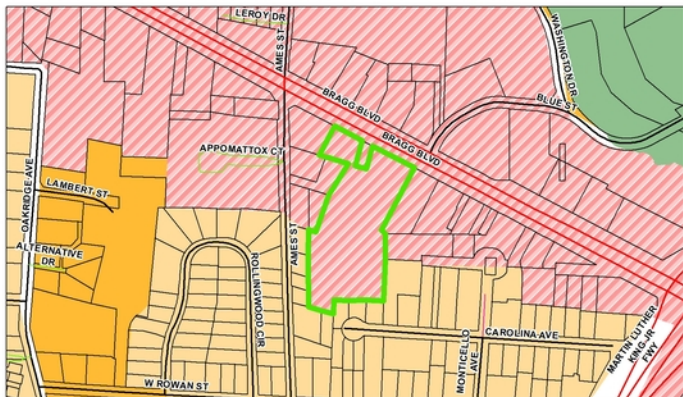
Legend

 CC	 MR-5
 LC	 DI



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Land Use Plan Map

SUP23-01

Request: SUP Distance Separation Reduction

Address: 929 Bragg Blvd

Legend

Parcels

Future Land Use 2040

Character Areas

PARKOS - PARK / OPEN SPACE

MDR - MEDIUM DENSITY

HDR - HIGH DENSITY RESIDENTIAL

CSR - COMMERCIAL STRIP REDEVELOPMENT



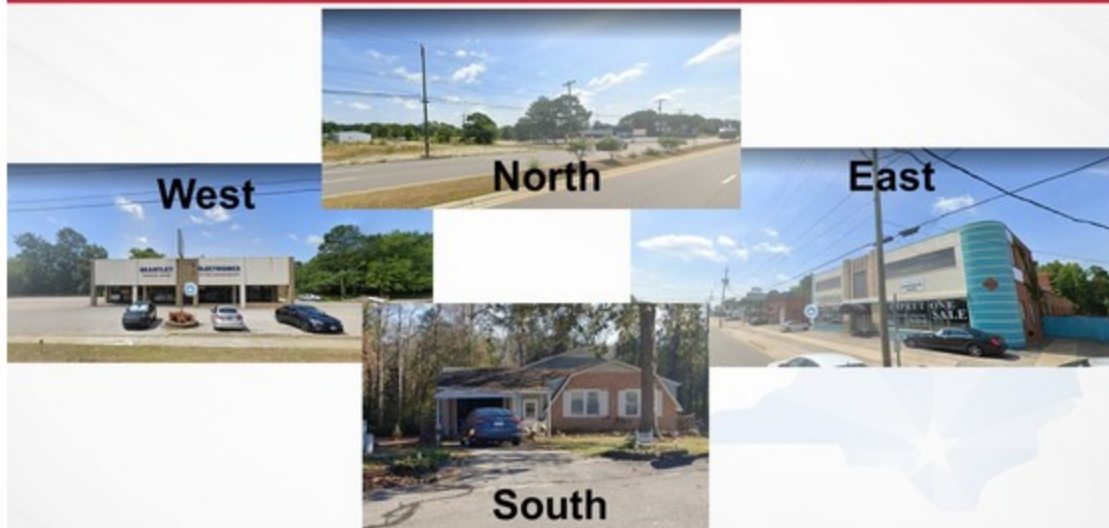
Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.

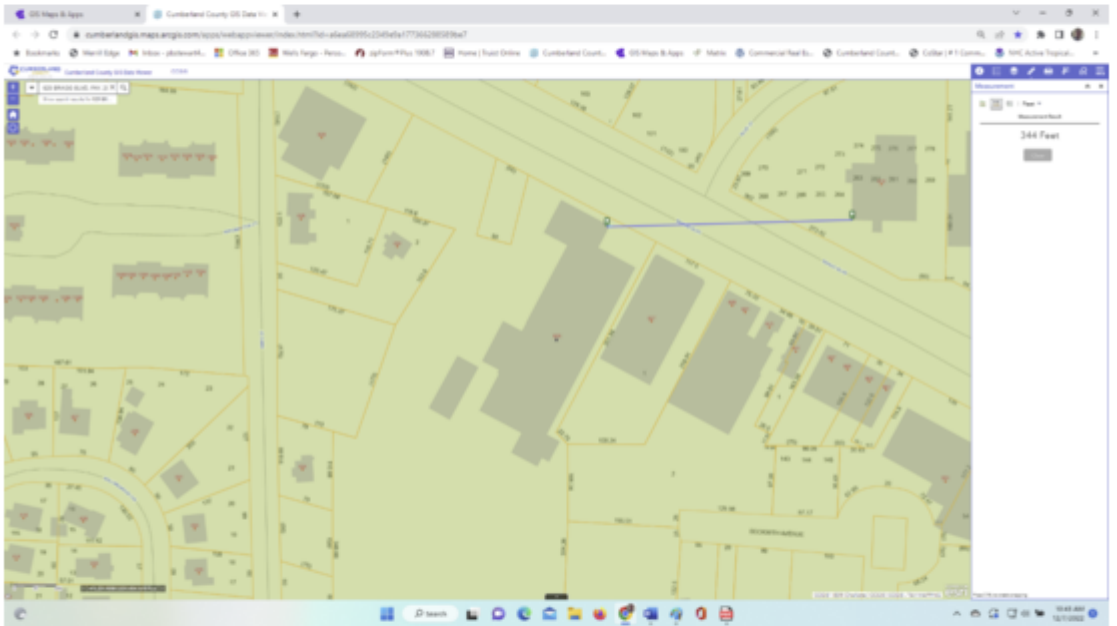






Surrounding Properties







City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 22-3131

Agenda Date: 1/9/2023

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Evidentiary Hearing

Agenda Number: 10.02

TO: Mayor and Members of City Council

THRU: Kelly Olivera - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director

FROM: Craig Harmon, Senior Planner, CZO

DATE: January 9, 2023

RE:

SUP23-02. Special Use Permit to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district, to be located at 206 Post Ave. (REID # 0439705376000), totaling 0.38 acres ± and being the property of Tammy and Tyrone Lock, represented by Lori Epler of Larry King and Associates.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2026

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base
- Objective 2.4 - To sustain a favorable development climate to encourage business growth.

Goal III: City Investment in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.
- Objective 3.3 - To sustain a favorable development and business climate through timely and accurate construction review and building inspection services

Goal IV: Desirable Place to Live, Work and Recreate

- Objective 4.3 - To improve mobility and connectivity through sidewalk, trail, and bike lane investments
- Objective 4.4 - To provide a clean and beautiful community with increased green spaces

Objective 4.5 - To ensure a place for people to live in great neighborhoods

Executive Summary:

Evidentiary Hearing

During an Evidentiary Hearing, the burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, which shall be demonstrated by competent, material, and substantial evidence. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

The owner is requesting to construct one triplex (3 units) on one lot (see attached site plan). Properties to the north, west, and east are all zoned SF-6 - Single Family 6. These properties are being used as single-family residential lots. The properties to the south are zoned LC - Limited Commercial, with some being used commercially and some being vacant.

In the City's Unified Development Ordinance (UDO) triplexes are defined as a Dwelling, Two- to Four-Family, which is a building containing two, three, or four individual dwelling units located on a single lot. Such units may be part of a single structure, or may be attached by one or more common walls.

Background:

Owner: Tammy and Tyrone Lock

Applicant: Lori Epler, Larry King & Assoc.

Requested Action: SUP - Dwelling, Two- to Four-Family (1 triplex)

Properties Addresses: 206 Post Ave.

Council District: 2 - Shakeyla Ingram

Status of Property: Former Single Family Residential

Size: Approximately 0.38 acres total

Adjoining Land Use & Zoning:

- North - SF-6: Single-family
- South - LC: Commercial & Vacant
- West - SF-6: Single-family
- East - SF-6: Single-family

Letters Mailed: 155

Land Use Plan: MDR - Medium Density Residential

MDR - Medium Density Residential consists primarily of single-family residential neighborhoods with small lots (3-6 dwellings per acre). Two- to Four-Family Dwellings should be interspersed within neighborhoods. Low-rise apartments are also possible. These areas of the city are mostly auto-oriented, with some walkable neighborhoods and destinations.

Additional Reviews:

A Technical Review Committee (TRC) examination was conducted as part of the Special Use Permit process. However, this use is allowed in the zoning district so a complete review of the project will be conducted as part of the Development Review process to ensure the development meets all development standards for the use.

The applicant is asking that two conditions be added to the approval of this project.

1. A reduction in the side yard setbacks as shown on the attached site plan.
2. An allowance for each unit to have its own individual front door entrance instead of one main entrance serving all three units.

Issues/Analysis:

Surrounding Area

Properties to the north, west, and east are all zoned SF-6 - Single Family 6. The properties to the south, are zoned LC - Limited Commercial. All of the surrounding lots except for the ones to the south are used for commercial development.

Special Use Permit Request

The owner is requesting to construct one triplex (3 units) on one lot. The attached site plan shows the layout of the three units.

According to the owner, the proposed use will comply with all of the City's Dwellings, Two-to Four-Family requirements except for the following conditioned exceptions.

1. A reduction in the side yard setbacks as shown on the attached site plan.
2. An allowance for each unit to have its own individual front door entrance instead of one main entrance serving all three units.

Homes within the subdivision in question are predominately single-family detached dwellings. The SF-6 zoning district requires a 10-foot minimum side yard setback for all properties. However, Post Avenue was developed as part of the E.M. Currin Property, which was platted in the late 1940s, with the construction of new homes starting in the early 1950s. This was prior to Fayetteville adopting its first Zoning Ordinance. According to the Cumberland County GIS, many of the homes along Post Avenue do not meet the Unified Development Ordinance's (UDO) side yard setback standards for SF-6 zoning districts. Many homes in the neighborhood have side yard setbacks of less than 10 feet, some being as little as only a couple of feet.

The application is only to address the approval and construction of the one triplex site. Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable zoning districts in accordance with Section 30-2.C. However., The SUP must meet the following findings of facts:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;

According to Section 30-4.C.2.a.2 *Dwellings, Two- to Four-Family*:

Two-to four-family dwellings in an SF-15, SF-10, or SF-6 district shall comply with the following standards:

1. Except for circular driveways, no two- to four-family dwelling lot shall be served by more than one driveway on the same block face.
2. Three and four-family dwellings on lots shall be served by a single entrance on any individual building façade. (The owner requests a condition to allow for individual entrances on each unit.)
3. Ground based, roof-based, and wall-mounted electrical equipment, HVAC equipment, and other utility connection devices shall be ganged and screened, or located outside the view from any adjacent public street.

4. Two- to four-family dwellings shall comply with Section 30-5.G
<<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx?ajax=0&tocid=005.030.005.007>>, Single-family and Two-family Design Standards or 30-5.H Multifamily Design Standards, as appropriate.

As shown in the owner's application and in the attached site plan, the special use complies with the standards set forth in the City Code of Ordinances with the following conditioned exceptions.

1. A reduction in the side yard setbacks as shown on the attached site plan.
 2. An allowance for each unit to have its own individual entrance instead of one entrance for all three units.
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;
According to the submitted site plan and the application, the proposed use is compatible with the overall area as the surrounding area is zoned residential and is comprised of mainly single-family residential homes and small multi-family complexes.
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
According to the application and site plan, the project is a residential development in a residential area. There will be no adverse impacts on adjoining parcels with regards to 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;
According to the application and site plan, the project will be self contained on one parcel and has sufficient on-site parking. There will be only one driveway so as to allow for one car to enter the street at a time, preserving a safe aspect. All construction materials will be comparable to those of the surrounding homes. The owner anticipates no negative visual impacts on the neighboring properties.
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
According to the application and site plan, this development is in a residential subdivision designed for and situated in an area that is not sensitive to natural resources.
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
According to the application and site plan, the proposed use will be in a well-established neighborhood with adequate roads. The project proposes only one driveway to maximize safe traffic movement to the same level as a single-family structure would.
- (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
According to the application and site plan, the neighboring lots are currently built upon and those structures were constructed in the 1950s. This development will not negatively affect those properties. The owner asserts that the proposed development may increase surrounding property values.
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

The applicant will be required to meet all applicable standards.

Budget Impact:

This action should result in no increase in City services.

Options:

- 1) City Council moves to approve the Special Use Permit (SUP) as presented based on the evidence submitted and finds that the Special Use Permit (SUP) meets the eight (8) findings of fact.
- 2) City Council moves to approve the Special Use Permit (SUP) as presented with conditions, based on the evidence submitted and finds that the Special Use Permit (SUP) meets the eight (8) findings of fact.
- 3) City Council moves to deny the Special Use Permit (SUP) based on the evidence submitted and finds that the Special Use Permit (SUP) fails to meet the eight (8) findings of fact.

Recommended Action:

OPTION 1

I move to APPROVE the Special Use Permit (SUP) to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district subject to the conditions identified and the submitted site plans and conforming to the current Unified Development Ordinance standards as depicted on the attached site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because: (1) the development is located in a Single Family 6 (SF-6) zoning district and (2) that this use complies with the findings listed and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. [Applicable to Motion to Approve] If approved, this Special Use Permit shall become effective with the approval of the Order of Findings by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

*For a motion to approve, all eight findings below must be met:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].

- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (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; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

OPTION 2

I move to DISAPPROVE the Special Use Permit (SUP) for the construction of Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district as depicted on the attached site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application does not meet the finding(s) of fact listed below. More specifically finding(s) # _____.]

* For a motion to deny only one of the findings shown below needs to not apply.

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
- (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; [insert supporting facts]
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

[Applicable to Motion to Deny] If denied this action shall become effective upon the approval of the Order of Findings by the City Council.]

Attachments:

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Properties
6. Surrounding Properties
7. Site Plan

Project Overview**#913269****Project Title:** POST AVENUE COTTAGES**Jurisdiction:** City of Fayetteville**Application Type:** 5.3) Special Use Plan Review**State:** NC**Workflow:** Staff Review**County:** Cumberland**Notice Regarding Special Use Permit Procedural Process**

Special Use Permit

Dear Applicants,

Thank you for applying for a Special Use Permit with the City of Fayetteville. Due to legislative changes, the procedural process for Special Use Permits have changed:

1. Special Use Permits are now considered Evidentiary Hearings. With an Evidentiary Hearing, it is incumbent upon the applicant to present evidence that supports the application. This evidence is required both in writing and verbally.
2. Since the written evidence comes mainly from the application, the eight (8) Findings of Fact are essential. The answers must be complete and accurate.
3. Applicants are required to make, at minimum, an oral presentation to the City Council that addresses the eight (8) Findings of Facts. The applicant has the option of doing a visual presentation as well, but this is not required.
4. Lastly, Special Use Permits no longer have to be reviewed by the Zoning Commission and will proceed directly to the City Council. The deadline dates for Special Use Permits have changed.

Again, thank you for your application. If you have any additional questions, please contact the Planning & Zoning Division at 910-433-1612 to speak with a Professional Planner.

If you would like a copy of the above text, you can [download a copy here](#).

Please enter your full name in the space below to confirm your acknowledgement of the above statement.

Enter Your Full Name Here: LORIS EPLER

Project Location**Project Address or PIN:** 206 POST AVE (0439705376000)**Zip Code:** 28301**GIS Verified Data****Property Owner:** Parcel

- 206 POST AVE: LOCK, TAMMY MICHELLE; LOCK, TYRONE MCKOY

Acreage: Parcel

- 206 POST AVE: 0.38

Zoning District: Zoning District

- 206 POST AVE: SF-6

Fire District:

Hospital Overlay District:

Cape Fear District: Cape Fear District

- 206 POST AVE: 0

Haymount Historic District:

100 Year Flood:

Watershed:

Subdivision Name:

Airport Overlay District:

Coliseum Tourism District:

Downtown Historic District:

Floodway:

500 Year Flood:

Written Description of Special Use

Is the proposed project for a cell tower?: No

A) Provide a written description of the proposed special use, including summary of existing uses and the proposed use/activity in detail. Also include hours and days of operation, number of employees, number of clients, etc.:
THIS PROPERTY IS CURRENTLY VACANT.

THE PROPOSED USE IS A THREE UNIT RESIDENTIAL STRUCTURE.

B) Please provide a description of the Zoning District designations and existing uses on adjacent properties, including across the street.:

SUBJECT PROPERTY AND PROPERTIES TO THE WEST, NORTH AND EAST ARE ZONED SF-6.

PROPERTY TO THE SOUTH IS ZONED LC.

PROPERTY 120 FEET TO THE SOUTHEAST IS ZONED MR-5.

Special Use Justification. Answer all questions on this and the following pages (upload additional sheets as needed).

Indicate how the special use complies with all applicable use-specific standards in the City Code of Ordinances.:

THE SF-6 DISTRICT ACCOMMODATES TWO-FOUR FAMILY DWELLINGS, SINGLE -FAMILY ATTACHED AND ZERO LOT LINE DEVELOPMENTS SUBJECT TO THE REQUIREMENTS OF THE ORDINANCE.

THE PROPOSED DEVELOPMENT COMPLIES WITH ALL REQUIREMENTS WITH THE EXCEPTION OF SIDE YARD SETBACKS AND A SINGLE ENTRANCE TO THE STRUCTURE.

Describe how the special use is compatible with the character and uses permitted in the zoning district(s) of surrounding lands.:

A SITE PLAN FOR THE PROPERTY DIRECTLY TO THE SOUTH WAS APPROVED FOR A 13 UNIT MULTI-FAMILY PROJECT IN 2011.

THREE ACRE PARCEL 120 FEET AWAY IS CURRENTLY A 20 UNIT MULTIFAMILY DEVELOPMENT.

UNTIL 2011 ALL OTHER ADJOINING PARCELS WERE PERMITTED TO HAVE MULTI-FAMILY DEVELOPMENT. THEY COULD EXIST THERE BUT IT IS NOT CONFIRMED.

Indicate how the special use avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration.:

THIS IS A RESIDENTIAL DEVELOPMENT IN A RESIDENTIAL AREA. THERE WILL BE NO ADVERSE IMPACTS ON ADJOINING PARCELS WITH REGARDS TO SERVICE DELIVERY, PARKING AND LOADING, ODORS, NOISE, GLARE AND VIBRATION.

Demonstrate how the special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands.:

THIS DEVELOPMENT WILL BE SELF CONTAINED ON ONE PARCEL AND HAS SUFFICIENT ON-SITE PARKING.

IT WILL HAVE ONLY ONE DRIVEWAY SO AS TO ALLOW FOR ONE CAR ENTERING THE STREET AT THE TIME, PRESERVING A SAFETY ASPECT.

THE CONSTRUCTION MATERIALS WILL BE COMPARABLE TO THOSE OF EXISTING STRUCTURES.

THERE SHOULD BE NO NEGATIVE VISUAL IMPACTS ON NEIGHBORING PROPERTIES.

Explain how the special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.:

THIS PROJECT IS IN A RESIDENTIAL SUBDIVISION DESIGNED FOR AND SITUATED IN AN AREA THAT IS NOT SENSITIVE TO NATURAL RESOURCES.

Indicate how the special use maintains safe ingress and egress onto the site and safe road conditions around the site.:

THIS PROJECT PROPOSES ONLY ONE DRIVEWAY TO MAXIMIZE SAFE TRAFFIC MOVEMENT TO THE SAME LEVEL AS A SINGLE FAMILY STRUCTURE WOULD.

Demonstrate how 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.:

NEIGHBORING LOTS ARE CURRENTLY BUILT UPON AND THOSE STRUCTURES WERE CONSTRUCTED IN THE 1950'S, THIS DEVELOPMENT WILL NOT NEGATIVELY IMPACT THOSE PROPERTIES. TO THE CONTRARY, IT MAY INCREASE THEIR VALUE.

The special use complies with all other relevant City, State, and Federal laws and regulations.:

IT DOES COMPLY WITH ALL OTHER CITY, STATE AND FEDERAL LAWS.

Primary Contact Information

Contractor's NC ID#:

Project Owner

EDWARD AND LEORA KISHBAUGH

1100 MAPLE AVENUE

ELMIRA, NY 14904

P: 910.476.4502

BEN@BENSTOUTCONSTRUCTION.COM

Project Contact - Agent/Representative

LORIEPLER

Larry King & Assoc.

1333 Morganton Road, Fayetteville

Fayetteville, NC 28305

P: 9104834300

LEPLER@LKANDA.COM

Project Contact - Primary Point of Contact for the Developer

BEN STOUT

BEN STOUT CONSTRUCTION

1786 METRO MEDICAL DR

FAYETTEVILLE , NC 28304

P: 910.779.0019

BEN@BENSTOUTCONSTRUCTION.COM

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds

\$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Developer





Aerial Notification Map

SUP23-02

Request: SUP Triplex

Address: 206 Post Ave

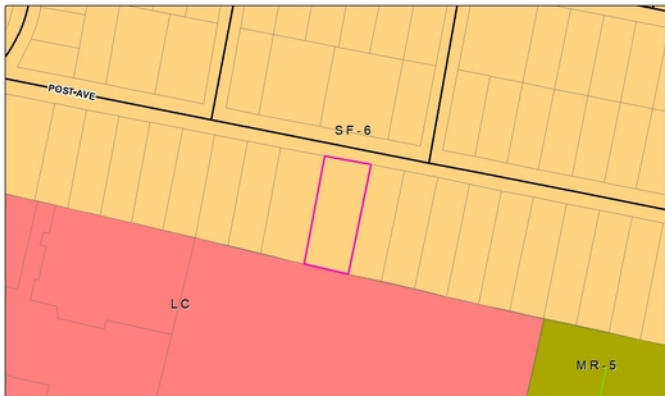
Legend

-  1,000' Notification Area
-  Parcels



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

SUP23-02

Request: SUP Triplex

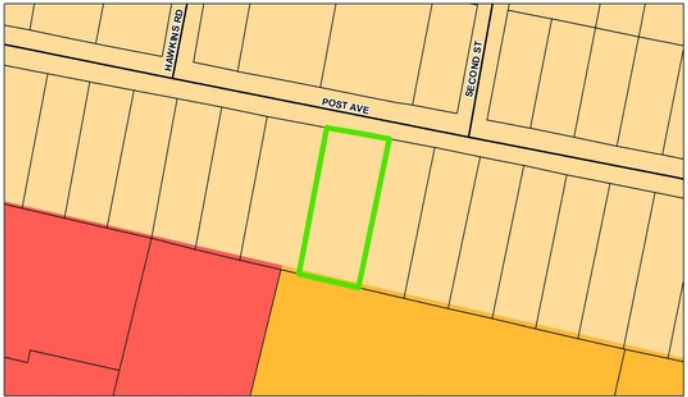
Address: 206 Post Ave

Legend



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Land Use Plan Map

SUP23-02

Request: SUP Triplex

Address: 206 Post Ave

Legend

Parcels

Future Land Use 2040

Character Areas

MDR - MEDIUM DENSITY

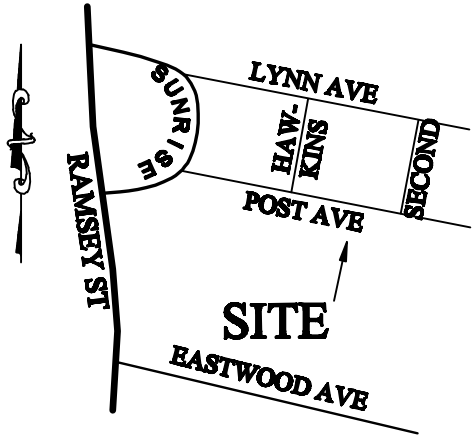
HDR - HIGH DENSITY RESIDENTIAL

HC - HIGHWAY COMMERCIAL



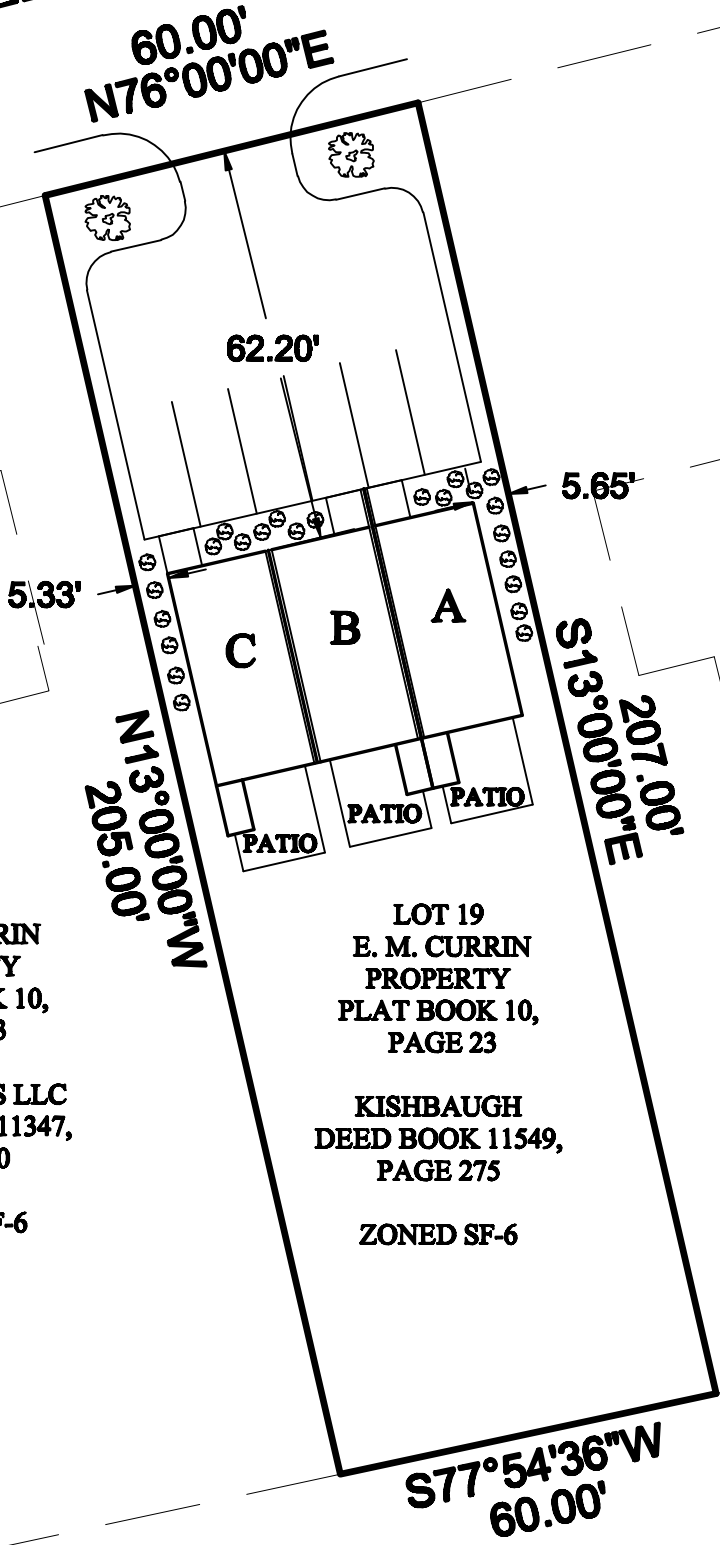
Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





- 1. IMPERVIOUS AREA CREATED = 5160 SQUARE FEET
- 2. PARKS REQ'D = 5 PARKS PROVIDED = 6
- 3. SHRUBS REQ'D = 24 SHRUBS PROVIDED = 24
- 4. TREES REQ'D = 2 TREES PROVIDED = 2
- 5. WATER AND SEWER BY PWC
- 6. REID: 0439705376000

POST AVENUE 50' PUBLIC R/W



LOT 18
E. M. CURRIN
PROPERTY
PLAT BOOK 10,
PAGE 23

DINO HOMES LLC
DEED BOOK 11347,
PAGE 300

ZONED SF-6

LOT 19
E. M. CURRIN
PROPERTY
PLAT BOOK 10,
PAGE 23

KISHBAUGH
DEED BOOK 11549,
PAGE 275

ZONED SF-6

LOT 20
E. M. CURRIN
PROPERTY
PLAT BOOK 10,
PAGE 23

LECOMPTE
DEED BOOK 10081,
PAGE 453

ZONED SF-6

LOT 5
TRI-WALKER INVESTMENTS, LLC
PLAT BOOK 130,
PAGE 09

JACQUELINE SMITH
DEED BOOK 10200,
PAGE 017

ZONED LC

SPECIAL USE PERMIT APPLICATION

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

PRELIMINARY
DO NOT USE FOR
CONSTRUCTION
THIS DRAWING HAS NOT
BEEN REVIEWED BY ANY
GOVERNMENTAL AGENCY
FOR COMPLIANCE WITH ANY
APPLICABLE LAND
DEVELOPMENT OR OTHER
REGULATIONS.

checked by: _____
survey by: _____
drawn by: **LSE**
date: **12/06/2022**
job no.: **P22-063**
state: **NC**
county: **Cumberland**
township: **Cross Creek**
tax id #: **0439705376000**

Project:
**POST
AVENUE
COTTAGES**

Owner:
**EDWARD & LEORA
KISHBAUGH**
CONTACT:
**1100 MAPLE AVE
ELMIRA NY 14904**

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