

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A SPECIAL USE PERMIT**

The issuance of a Special Use Permit to allow a religious institution to reduce its required 500-foot distance separation between adult entertainment, bars, and nightclubs in a Community Commercial (CC) zoning district.

SUP 23-01

Property Address: 929 Bragg Boulevard
Tax Map Number: REID # 0437172966000
Property Owners: Peter Stewart, Paula Stewart, George Stewart III, Richard Gochnauer, Richard Bleakley Jr., Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, and Sandra Kirkman Higgins Trustee

The City Council for the City of Fayetteville, NC, held an evidentiary hearing on January 9, 2023, to consider a Special Use Permit request filed by Stephanie Davis with All In Ministries (“Applicant”) on behalf of Peter Stewart, Paula Stewart, George Stewart III, Richard Gochnauer, Richard Bleakley Jr., Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, and Sandra Kirkman Higgins Trustee (“Property Owners”) to issue a Special Use Permit to allow **a religious institution to reduce its required 500-foot distance separation between adult entertainment, bars, and nightclubs** on the property addressed as 929 Bragg Boulevard, Fayetteville, NC (“Subject Property”). The Subject Property is presently zoned as Community Commercial (CC).

On December 21, 2023, a notice of evidentiary hearing was mailed to the Property Owners and all of the owners of property within 1,000 feet of the Subject Property. On December 19, 2022, a notice of evidentiary hearing sign was placed on the Subject Property. On December 30, 2022, and January 6, 2023, a notice of evidentiary hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

Having considered all of the sworn testimony, evidence, and oral arguments submitted at the hearing by the parties, the City Council makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Peter Stewart, Paula Stewart, George Stewart III, Richard Gochnauer, Richard Bleakley Jr., Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, and Sandra Kirkman Higgins Trustee, are the owners of Community Commercial (CC) zoned property addressed as 929 Bragg Boulevard, which contains approximately 1.15 acres in the City of Fayetteville, NC.

2. The Subject Property is currently zoned Community Commercial (CC) and used for commercial/retail use.

3. The Property Owners seek to use a portion of the existing building as a religious institution.

4. The Applicant filed a timely application for a Special Use Permit on behalf of the Property Owners on November 17, 2022.

5. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the City’s zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes . . .”. Chapter 30, Article 4, Section 30-4.A.2 permits Residential Uses as a Use Category.

6. Chapter 30, Article 4, 30-4.C.3.g.1, of the Unified Development Ordinance, prohibits a religious institution within 500 feet of any adult entertainment use and/or bars, nightclubs and similar establishment, in the Community Commercial (CC) zoning district without a Special Use Permit to reduce this separation requirement.

a. The special use complies with all of the following applicable standards in Section 30-4.C, Use-Specific Standards:

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.

b. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands as the surrounding property is zoned and constructed as mainly commercial property. The religious establishment is compatible with all surrounding uses (retail and entertainment) and will support the community with encouragement and religious services.

c. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration as the proposed use is currently occurring at the site. No change is needed to increase service deliveries, parking, loading, odors, noise, glare or vibrations from the current situation as there will not be an adverse impact on surrounding lands.

d. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands. There will be no new construction and no significant alterations made to the building and the proposed use will have no visual impact upon adjacent lands.

- e. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources. There will not be any new construction associated with this use. 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.
- f. The special use maintains safe ingress and egress onto the site and safe road conditions around the site as the current site already has multiple driveway entrances for direct access to and from Bragg Boulevard.
- g. 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 as the neighborhood is already fully developed and the special use will not adversely affect property values.
- h. The special use is required to comply with all other relevant City, State, and Federal laws and regulations. As currently built, the use for which this Special Use Permit 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.

7. The Special Use Permit applies to the entire Subject Property currently zoned Community Commercial (CC) of the parcels identified by REID # 0437172966000 and addressed as 929 Bragg Boulevard.

8. The City's Unified Development Ordinance (UDO) requires that the Property Owner adhere to all City, State, and Federal requirements. Compliance with the required regulations will ensure that the surrounding properties are not harmed by this type of use.

9. The City's Technical Review Committee will review and approve all plans for new construction before any permits are issued.

10. An approved special use expires after 12 months if work has not commenced or permits have not been obtained or if the approved activity by the Special Use Permit is discontinued and not resumed for a period of one year.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to consolidate the City's zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes . . . " See City Code, Chapter 30.

2. The application on behalf of the Property Owners, **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, and Sandra Kirkman Higgins Trustee**, was timely, notice was properly given,

and an evidentiary hearing was held by the City of Fayetteville's City Council in compliance with the laws of North Carolina.

3. The Property Owners shall adhere to all City, State, and Federal requirements.

4. All of the general and specific conditions precedent to the issuance of a Special Use Permit have been satisfied.

- a. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district of surrounding lands.
- b. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration.
- c. The special use will minimize adverse effects, including visual impacts, of the proposed use on adjacent lands.
- d. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- e. The special use maintains safe ingress and egress onto the site and safe road conditions around the site.
- f. 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.
- g. The special use complies with all other relevant City, State, and Federal laws and regulations.

5. The special use expires after 12 months if work has not commenced or permits have not been obtained or if the approved activity by the Special Use Permit is discontinued and not resumed for a period of one year.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville's City Council that the application for the issuance of a Special Use Permit is APPROVED.

VOTE: 9 to 0

This the 27th day of February, 2023.

MITCH COLVIN, Mayor

ATTACHMENTS

1. Application
2. Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Properties
6. Surrounding Properties
7. Site Plan