

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

The issuance of a Special Use Permit to allow Transitional Housing to be located in a Conditional Downtown 2 District (DT-2/CZ).

SUP 23-09

Property Address: 344, 348, and 352 Hawley Lane and unaddressed Plummers Lane  
Tax Map Number: REID #s 0437848219000, 0437848347000, 0437848464000, and 0437849540000

Property Owners: Cumberland County Board of Education and Cumberland County

The City Council for the City of Fayetteville, NC, held an evidentiary hearing on January 8, 2024, after the item was tabled from the City Council's November 27, 2023, agenda, to consider a Special Use Permit request filed by Jimmy Kizer of Moorman, Kizer & Reitzel, Inc., and Jermaine Walker of Cumberland County ("Applicants"), on behalf of Cumberland County Board of Education and Cumberland County Government ("Property Owners"), to issue a Special Use Permit to allow Transitional Housing to be located on property at 344, 348, and 352 Hawley Lane and unaddressed Plummers Lane, Fayetteville, NC ("Subject Property"). The Subject Property is presently zoned as Conditional Downtown 2 District (DT-2/CZ).

On November 13, 2023, a notice of evidentiary hearing was mailed to the Property Owners and all the owners of property within 1,000 feet of the Subject Property. On November 17, 2023, a notice of evidentiary hearing sign was placed on the Subject Property. On November 17 and 24, 2023, a notice of evidentiary hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

This item appeared on the City Council's November 27, 2023, agenda as an Evidentiary Hearing, Council Member Ingram moved to table the item until January 8, 2024. On January 8, 2024, the City Council held its Evidentiary Hearing regarding this case.

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. Cumberland County Board of Education and Cumberland County Government are the Property Owners of property zoned Conditional Downtown 2 District (DT-2/CZ) located at 344, 348, and 352 Hawley Lane and unaddressed Plummers Lane, which contains approximately 1.86 acres in the City of Fayetteville, NC.

2. The Subject Property is currently zoned Conditional Downtown 2 District (DT-2/CZ) and is mostly vacant with one single-family structure.

3. The Property Owners/Applicants seek to build and operate a transitional housing facility on the Subject Property.

4. The Applicants filed a timely application for a Special Use Permit on behalf of the Property Owners on October 10, 2023.

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 . . .”.

6. Chapter 30, Article 30-4, Section 30-4.C.2.b.6., Transitional Housing, allows for Transitional Housing to be operated in the Conditional Downtown 2 District (DT-2/CZ) with the approval of a Special Use Permit.

- a. The special use complies with all applicable standards, conditions, and specifications in this Ordinance, including in Section 30-4.C, Use-Specific Standards, as the Property Owners seek to build a transitional housing facility on its property pursuant to Section 30-4.C.3.b. The proposed transitional housing use is compatible with the area neighborhood that currently contains a school and other residential-oriented uses such as single-family houses. The proposed structure will be built to all UDO standards for the zoning district. It complies with all special use UDO standards. The site will be complimentary to the existing Fayetteville Technical Community College facility which is used for training courses. The existing transitional housing site provides a logical extension of a governmental facility used to better the services to citizens. The facility has a natural buffer of Blounts Creek and is also near Grove Street.
- b. The special use will be in harmony with the area in which it is located, as the transitional housing shall be comparable with the residential and non-residential uses of the area that include an educational facility and single-family houses. The construction of an additional governmental facility would leverage the training taking place at the existing school facility, so it would be in harmony with area uses.
- c. The special use will not materially endanger public health or safety if located where proposed and developed according to the plan as submitted and approved. The transitional housing development shall comply with the pertinent regulations of the City and State as related to public health and safety. The development will not generate any toxic fumes. A majority of the surrounding properties are governmental; therefore, it is not anticipated to endanger public health or safety and align with adjacent properties.
- d. The special use is in general conformity with the City's adopted land use plans and policies as the UDO allows for transitional housing facilities in the Conditional Downtown 2 District (DT-2/CZ) as a special use. This

transitional housing is more than 2,640 feet from any other transitional housing. It is surrounded by mostly government-owned properties and has a natural buffer of Blounts Creek and also a buffer of Grove Street.

It will also provide services to house homeless citizens and provide them with services and assistance to help them transition back into a stable quality of life. It would operate 24/7 with a larger staff during the week and daytime to assist residents. It would house staff at all times to help monitor and minimize the movements of residents during non-work hours.

- e. The special use will not substantially injure the value of the abutting land, or the special use is a public necessity, as the abutting land is also mostly governmental and therefore will not injure the value. The special use provides a public necessity by providing transitional housing to the homeless and then, in turn, would be able to have a place to provide assistance and services to transition them back to a stable quality of life.
- f. The special use complies with all other relevant City, State, and Federal laws and regulations since the Property Owners will be required to comply with all applicable laws and regulations.

7. The Special Use Permit applies to the entire Subject Property currently zoned Conditional Downtown 2 District (DT-2/CZ) located at 344, 348, and 352 Hawley Lane and unaddressed Plummers Lane.

8. The City's Unified Development Ordinance (UDO) requires that the Property Owners 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. 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 Cumberland County Board of Education and Cumberland County Government 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 complies with all applicable standards, conditions, and specifications in this Ordinance, including in Section 30-4.C, Use-Specific Standards;
- b. The special use will be in harmony with the area in which it is located;
- c. The special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
- d. The special use is in general conformity with the City's adopted land use plans and policies;
- e. The special use will not substantially injure the value of the abutting land, or the special use is a public necessity; and
- f. 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: 10 to 0

This the 8th day of January, 2024.

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MITCH COLVIN, Mayor

#### ATTACHMENTS

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Properties
7. Site Plan
8. PowerPoint

9. TRC Comment Letter