

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

The issuance of a Special Use Permit to allow the reduction of the separation requirement between an automotive wrecker service and residentially zoned property located at 639 Gillespie Street.

SUP 24-04

Property Address: 639 Gillespie Street
Tax Map Number: REID #s 0436592379000
Property Owner: H & A Joint Adventures LLC

The City Council for the City of Fayetteville, NC, held an evidentiary hearing on May 28, 2024, to consider a Special Use Permit request filed by Jainelys Prather ("Applicant"), on behalf of H & A Joint Adventures LLC ("Property Owner"), to issue a Special Use Permit to allow the reduction of the separation requirement between an automotive wrecker service and a residentially zoned property at 639 Gillespie Street, Fayetteville, NC ("Subject Property"). The Subject Property is presently zoned as Heavy Industrial (HI).

On May 14, 2024, a notice of evidentiary hearing was mailed to the Property Owner and all the owners of property within 1,000 feet of the Subject Property. On May 14, 2024, a notice of evidentiary hearing sign was placed on the Subject Property. On May 17 and 24, 2024, 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. H & A Joint Adventures LLC is the Property Owner of property zoned Heavy Industrial (HI) located at 639 Gillespie Street, which contains approximately 2.38 acres in the City of Fayetteville, NC.
2. The Subject Property is currently zoned Heavy Industrial (HI) and has an automotive repair shop located on it.
3. The Property Owner/Applicant seeks to operate a wrecker service on the Subject Property.
4. The Applicant filed a timely application for a Special Use Permit on behalf of the Property Owner on April 1, 2024.
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 30-5, Section 30-4.C.4.k.5 allows an automotive wrecker service to operate within 250 feet of a residential zoning district with the approval of a Special Use Permit.

a. The special use complies with all applicable standards, conditions, and specifications in this Ordinance, including Section 30-4.C.4.k.5, automotive wrecker service, as the Property Owner seeks to operate a wrecker service on its property pursuant to Section 30-4.C.4.k.5.

1.) The use shall be located at least 250 feet from any residential district, school, or child care center. In any of the districts in which this use may be located, the City Council may through a special use permit request to approve a reduction in the separation requirement upon a showing of good cause with supporting evidence and mitigation of impacts.

2.) Vehicles shall not be stored on-site for more than 90 days.

3)Vehicles shall be stored to the rear of the principal structure, behind a wooden fence or masonry wall in accordance with Section 30-5.D, Fencing Standards.

The Subject Property already has vehicles stored on the property for mechanic work as there is an auto body shop and a mechanic shop within the same building. Also, vehicles are not stored on the property r over 10 days. After the 10-day waiting period, the remaining vehicles are transported to the Property Owner's overflow lot. Furthermore, the vacant lot that is less than 250 feet away is separated from the yard by an active railroad track.

b. The special use will be in harmony with the area in which it is located, as wrecker services are a permitted use in HI zoning but requires a SUP. The Property Owner currently stores cars on the Subject Property and there will not be a negative impact to the surrounding area if cars continue to be stored on the property.

c. The special use will not materially endanger public health or safety if located where proposed and developed according to the plans that were submitted to and approved by the City. The Subject Property will be served with public water and sewer and no negative impact is anticipated from the proposed development. The Applicant does not store vehicles for longer than 10 days on the property and all vehicles are secured behind a 6 foot wooden fence locked with a padlock with 24/7 camera monitoring. Therefore, there is no negative impact on the public health or safety.

- d. The special use is in general conformity with the City's adopted land use plans and policies as the 2040 Land Use Plan calls for Industrial/Employment Center which consists of high intensity nonresidential uses with high impact or likelihood of nuisance uses. Regional employment centers including larger industrial uses or business parks.
- e. The special use will not substantially injure the value of the abutting land, as the abutting land is separated from the Subject Property by a railroad right-of-way and a major thoroughfare. The property is zoned for heavy industrial use.
- f. The special use complies with all other relevant City, State, and Federal laws and regulations since the Property Owner will be required to comply with all applicable laws and regulations.

7. The Special Use Permit applies to the entire Subject Property currently zoned Heavy Industrial (HI) located at 639 Gillespie Street.

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. 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 H & A Joint Adventures LLC 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 Owner 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; 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 FACT 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 24th day of June, 2024.

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