

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO DENY A SPECIAL USE PERMIT
The denial of a Special Use Permit to allow three Two-Family Dwellings (duplexes
units) in a Single-Family Residential 10 (SF-10) zoning district.**

SUP22-06

Property Address: 2417 and 2421 Colgate Drive
Tax Map Number: 0426650150000 and 0426558132000
Property Owner: Mark Mayoras, Military Standard Construction L.L.C.

The City Council for the City of Fayetteville, NC, held an evidentiary hearing on September 26, 2022, to consider a Special Use Permit request filed by Blaine Stubbs, Military Standard Construction L.L.C. ("Applicant") on behalf of Mark Mayoras, Military Standard Construction L.L.C. ("Property Owner") to allow three Two-Family Dwellings (duplexes units) at 2417 and 2421 Colgate Drive ("Subject Property"). The Subject Property is presently zoned as Single-Family Residential 10 (SF-10).

On September 8, 2022, a notice of public hearing was mailed to the Property Owner and all of the owners of property within 1,000 feet of the Subject Property. On August 9, 2022, a notice of public hearing sign was placed on the subject property. On September 16 and 23, 2022, a notice of public 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. Mark Mayoras, Military Standard Construction L.L.C., is the owner of residentially zoned property located at 2417 and 2421 Colgate Drive, which contains approximately 1.94 acres in the City of Fayetteville, NC ("Subject Property").
2. The Subject Property is currently zoned Single-Family Residential 10 (SF-10) and is adjacent to properties zoned and used for residential uses.
3. The Applicant requested to build three Two-Family Dwellings (duplexes units) in a Single-Family Residential 10 (SF-10) district.
4. This Special Use Permit applies to the entire 1.94 acres \pm of 2417 and 2421 Colgate Drive, sites originally identified by the Applicant's application submittal.
5. The Applicant filed a timely application for a Special Use Permit on behalf of the Property Owner on September 1, 2022.

6. This case was duly advertised as required by state law and on September 26, 2022, the case appeared on the City Council's agenda for an evidentiary hearing.

7. 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 30-4, Section 30-4.A.2, Use Table, permits Automotive Wrecker Service Uses as a Use Category.

8. Chapter 30, Article 30-4, Section 30-4.A.2., Use Table, permits Two-four Family Dwellings in the Single Family Residential 10 (SF-10) zoning district as a use by right in the when all of the Use Specific Standards of the UDO are met.

9. Chapter 30, Article 30-4, Section 30-4.C.2.a.2 , *Dwellings, Two- to Four-Family* , identifies additional development standards for *Two- to Four-Family Dwelling* uses in the SF-10 zoning district. The uses shall comply with the following standards:

- a. Except for circular driveways, no two- to four-family dwelling lot shall be served by more than one driveway on the same block face.
- b. Three- and four-family dwellings on lots shall be served by a single entrance on any individual building façade.
- c. 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.
- d. Two- to four-family dwellings shall comply with Section 30-5.G, Single-family and Two-family Design Standards or 30-5.H Multifamily Design Standards, as appropriate.

10. Applicants are required to show substantial, competent and material evidence that:

- a. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards identified in Finding No. 10 above;
- b. The special use is compatible with the character of surrounding lands and the use permitted in the zoning district(s) of surrounding lands;
- c. The special use avoids significant impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- d. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- e. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;

- f. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
 - 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; and;
 - h. The special use complies with all other relevant City, State, and Federal laws and regulations.
11. The Applicant requested a SUP to allow the building of three Two-Family Dwellings (duplexes units).
12. The Applicant failed to present substantial, competent and material evidence that the proposed development is and/or will be compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands, and that it avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources, and 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, including meeting the City's Unified Development Ordinance (UDO) standards.

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 Mark Mayoras, Military Standard Construction, L.L.C. 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. All of the general and specific conditions precedent to the issuance of a Special Use Permit have not been satisfied.
4. The special use is not compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands, and it does not avoid significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources, and that the special use does not allow for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district, including meeting the City's Unified Development Ordinance (UDO) standards.

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 be DENIED because the Applicant, Blaine Stubbs on behalf of Mark Mayoras, Military Standard Construction

L.L.C. failed to meet the required standards for a Special Use Permit pursuant to the Unified Development Ordinance.

VOTE: 8 to 2

This the 24th day of October, 2022.

MITCH COLVIN, Mayor

ATTACHMENTS

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