

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

The issuance of a Special Use Permit to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district.

SUP23-02

Property Address: 206 Post Ave
Tax Map Number: REID # 0439705376000
Property Owner: Tammy and Tyrone Lock

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 Lori Epler of Larry King and Associates (“Applicant”) on behalf of Tammy and Tyrone Lock (“Property Owner”) to issue a Special Use Permit to allow Two- to Four-Family Dwellings (1 triplex), on the property addressed as 206 Post Ave, Fayetteville, NC (“Subject Property”). The Subject Property is presently zoned as Single-Family Residential 6 (SF-6).

On December 21, 2023, a notice of evidentiary hearing was mailed to the Property Owner 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. Tammy and Tyrone Lock, are the owners of Single-Family Residential 6 (SF-6) zoned property addressed as 206 Post Avenue, which contains approximately 0.38 acres in the City of Fayetteville, NC.

2. The Subject Property is currently zoned Single-Family Residential 6 (SF-6) and used as residential, but currently vacant.

3. The Property Owner/Applicant seeks to build a triplex (Two- to Four-Family Dwelling).

4. The Applicant filed a timely application for a Special Use Permit on behalf of the Property Owner on December 7, 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.2.a.2 Dwellings, Two- to Four-Family, allows for a triplex to be built in the Community Commercial (CC) zoning district with a Special Use Permit.

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

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 was granted 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, Single-family and Two-family Design Standards or 30-5.H Multifamily Design Standards, as appropriate.

As shown in the owner's application and on the submitted site plan, the special use complies with the standards set forth in the City Code of Ordinances with the following exceptions conditioned by the City Council.

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.

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. According to the submitted site plan, the application and testimony given during the hearing, 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.

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. submitted site plan, the application and testimony given during the hearing 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.

- d. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands. The applicant attests that 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.
- e. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources. The applicant and owner attests that 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.
- f. The special use maintains safe ingress and egress onto the site and safe road conditions around the site. The applicant attests that 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.
- 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. The applicant and the owner attests that 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.
- h. The special use is required to comply with all other relevant City, State, and Federal laws and regulations. The applicant will be required to meet all applicable standards.

7. The Special Use Permit applies to the entire Subject Property currently zoned Single-Family Residential 6 (SF-6) of the parcels identified by REID # 0439705376000 and addressed as 206 Post Avenue.

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 Tammy and Tyrone Lock, 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 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