

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

**The issuance of a Special Use Permit to reduce the required 500 feet distance separation
between a bar/nightclub and a religious institution.**

SUP21-04

Property Address: 901 – 907 Bragg Boulevard
Tax Map Number: REID #s 0437176840000, 0437177998000, and 0437177949000
Property Owner: Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs

The City Council for the City of Fayetteville, NC, held an evidentiary hearing on August 23, 2021, to consider an application for a Special Use Permit filed by John Bantsolas (“Applicant”) on behalf of Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs (“Property Owners”) to reduce the required 500 feet distance separation between a bar/nightclub and a religious institution on the property located at 901 – 907 Bragg Boulevard, Fayetteville, NC (“Subject Property”). The Subject Property is presently zoned as Community Commercial (CC).

On August 9, 2021, a notice of evidentiary hearing was mailed to the Property Owners and all of the owners of property within 500 feet of the Subject Property. On August 11, 2021, a notice of evidentiary hearing sign was placed on the Subject Property. On August 11 and 18, 2021, 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. Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs are the owners of commercially zoned property located at 901 - 907 Bragg Boulevard, with approximately 0.69 acres in the City of Fayetteville, NC.
2. The Subject Property is currently zoned Community Commercial (CC) and is adjacent to properties zoned and used for commercial uses.
3. The Property Owners are seeking to reduce the required 500 feet distance separation between a bar/nightclub and a religious institution.
4. The Applicant filed a timely application for a Special Use Permit on behalf of the Property Owners on June 22, 2021.
5. An evidentiary hearing was held on August 23, 2021. The City Council voted 7 to 0 to approve the issuance of a Special Use Permit.

6. 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.C.3g.1. states that a “religious institution shall be located at least 500 linear feet from any adult entertainment use and/or bars, nightclubs and similar establishments.

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 4, states that “separation standards may be reduced upon approval of a Special Use Permit finding that the reduction in the separation standard does not increase negative, such as natural or man-made features that create visual or physical separation between the uses.”

8. A religious institution is a use allowed by right in the Community Commercial (CC) zoning district.

9. According to Section 30-4.C.4.g, “Religious Institution” uses shall comply with the following standards:

- a. Religious institutions shall be located at least 500 linear feet from any adult entertainment use and/or bars, nightclubs, and similar establishments.
- b. 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.

- (1) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands. The proposed use will meet the specified standards for exterior building materials, paved drives, parking areas, and landscaping that will ensure compatibility with the abutting and surrounding uses.

10. No evidence was presented showing that the special use will have a significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration as the religious establishment is compatible with all surrounding uses (retail and entertainment).

11. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands as the project will have fencing and landscaping to provide screening of the site. The building will not be significantly altered and no visual impact upon adjacent lands.

12. No evidence was presented showing that there will be significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources. The religious institution is a very benign use which will not affect deterioration of water and air resources, wildlife habits, scenic resources and any other natural resources in the vicinity.

13. The special use maintains safe ingress and egress onto the site and safe road conditions around the site as the property has direct access to Bragg Boulevard as the development currently has three driveways for access from Bragg Boulevard.

14. 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 neighborhood is already fully developed and the special use will not adversely affect property values.

15. The special use will comply with all other relevant city, state, and federal laws and regulations. The submitted site plan for the proposed development shows that the use for which the SUP 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. The proposed development conforms to the stormwater regulations of the state and city, and other applicable local, state and federal regulations. The Applicant will be required to meet all applicable standards.

16. This Special Use Permit applies to the entire 0.69 acres \pm of the parcel identified by the REID #s 0437176840000, 0437177998000, and 0437177949000 and addressed as 901 – 907 Bragg Boulevard.

17. The City's Unified Development Code (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.

18. The City's Technical Review Committee (TRC) will review and approve all plans before any permits are issued.

19. The 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 Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs 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 is configured to 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: UNANIMOUS (7 to 0)

This the _____ day of _____, 2021.

MITCH COLVIN, Mayor

ATTACHMENTS

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Site Photos
6. Surrounding Area Photos
7. Site Plan