

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
MARCH 25, 2024
6:30 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Malik Davis (District 2); Mario Benavente (District 3); D. J. Haire (District 4); Lynne Greene (District 5); Derrick Thompson (District 6); Brenda McNair (District 7) (via zoom); Courtney Banks-McLaughlin (District 8) (via zoom); Deno Hondros (District 9)

Others Present: Douglas Hewett, City Manager
Lachelle Pulliam, Interim City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeffrey Yates, Assistant City Manager
Jodi Phelps, Assistant City Manager
Kemberle Braden, Police Chief
Gerald Newton, Development Services Director
Loren Bymer, Marketing & Communications Director
Lisa Harper, Senior Assistant City Attorney
Craig Harmon, Senior Planner
Will Deaton, Planning and Zoning Manager
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Father Alexander Papagikos.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Colvin and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Mr. Grant Bennett, President and Founder of the Two-Six Project, provided a presentation on the highlights and achievements of the organization in Fayetteville.

Fayetteville PACT presented an award to Police Chief Kemberle Braden for his support of nonprofit organizations and groups.

Mayor Colvin presented a proclamation to the staff of Development Services proclaiming the month of April to be Development Services Month.

Council Member Hondros presented a proclamation to Father Papagikos proclaiming March 25, 2024, in recognition of Greek Independence Day.

5.0 CITY MANAGER REPORT

Mr. Douglas Hewett, City Manager, stated the City Manager newsletter is published weekly and residents can sign up to receive it via the City's website.

6.0 APPROVAL OF AGENDA

MOTION: Council Member Davis moved to approve the agenda, with the removal of Items 8.01 and 8.02; the applicant requested the items be withdrawn from this meeting.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Benavente)

7.0 CONSENT AGENDA

MOTION: Council Member Hondros moved to approve the consent agenda, with the exception of moving Item 7.06 to Item 10.02; for presentation and separate vote.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Benavente)

7.01 Approval of Meeting Minutes:
February 26, 2024 - Regular
March 4, 2024 - Work Session
March 4, 2024 - Special

7.02 P24-08. Rezoning of 4.75 acres ± from Community Commercial (CC) and Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 5510 and 5414 Bragg Boulevard (REID #s 0419310372000 and 0419311002000), and is the property V Capital LLC, represented by Lori Epler of Larry King & Assoc.

7.03 P24-09. Rezoning of .42 acres ± from Office and Institutional (OI) to Neighborhood Commercial (NC), located at 916 Hay Street (REID # 0437150542000), and being the property of Cardassi-Langley Investments LLC, represented by Casey Benander.

7.04 P24-10. Conditional rezoning to amend conditions in MR-5/CZ located at 0 Rock Creek Lane and 0 Mount Rainer Road (REID #s 0439300490000 and 0439302525000) totaling 17.61 acres ± and being the property of Northridge Towns LLC.

7.05 P24-11. Rezoning from Single-Family Residential 6 (SF-6) and Community Commercial (CC) to Community Commercial (CC) located at 5709 Bragg Boulevard (REID # 0419128627000) totaling 9.29 acres ± and being the property of Macpherson LLC.

7.06 This item was moved to Item 10.02.

7.07 Resolution Authorizing a Quitclaim Deed of the City's Title to the County in Order to Expedite the Sale of Land located at 1128 Sun Valley Drive

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTY SURPLUS AND QUITCLAIM CITY'S INTEREST IN JOINTLY HELD PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2024-007

7.08 Resolution Authorizing the Setting of a Public Hearing to Consider Closing Carthage Drive

A RESOLUTION AUTHORIZING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF CARTHAGE DRIVE. RESOLUTION NO. R2024-008

7.09 Resolution Authorizing the Setting of a Public Hearing to Consider Closing a Portion of Joseph Street

A RESOLUTION AUTHORIZING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF JOSEPH STREET. RESOLUTION NO. R2024-009

7.10 Stormwater Ordinance Text Amendments, Sec. 23-33, Ownership & Maintenance of Stormwater Management Facilities and Sec. 23-35, Performance Guarantee for Installation

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 23 STORMWATER MANAGEMENT, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2024-003

7.11 Request for Legal Representation of City Employees

Authorization from City Council to provide legal representation for current City employees Don Bell, Krista Zentner, and Ashley Wolford in the matter of *Sheila Lee v. City of Fayetteville*, Officer Molly O'Hara, in her individual and official capacity, Officer Richard J. Rodriguez and Officer Don Bell, in their individual and official capacities, Krista Zentner and Ashley Wolford, in their individual and official capacities, Gina Hawkins, in her official capacity as Chief of Police for City of Fayetteville, and Mitch Colvin, in his official capacity as Mayor of City of Fayetteville. The employees were acting within the scope and course of their employment with the City when the alleged incident(s) occurred.

7.12 Resolution - Tentative Award of Bid Contract for ARPA Funded Sewer Main Rehabilitation

A RESOLUTION TO AUTHORIZE THE TENTATIVE AWARD OF A BID CONTRACT BY AND THROUGH FAYETTEVILLE PUBLIC WORKS COMMISSION. RESOLUTION NO. R2024-010

7.13 Adoption of Capital Project Ordinance Amendment 2024-17 to Re-appropriate Funds and Adopt the Capital Project Ordinance 2024-16 to move the Funding to the Winslow Street/Russell Street Parking Lot Improvements and Award the Construction Contract to Lanier Construction Company, Inc.

Adoption of Capital Project Ordinance Amendment (CPOA) 2024-17 to re-appropriate \$546,000.00 from the completed Legend Avenue Extension Project and adopt CPOA 2024-16 to move the funds to the Winslow Street/Russell Street Parking Lot Improvements, and to award the construction contract to Lanier Construction, Inc, the apparent lowest responsive, responsible bidder. The project will add 50 new parking spaces to the existing lot, for a total of 86 spaces.

7.14 Bid Recommendation and Resolution of Tentative Award - Ray Avenue Drainage Improvement Project

Approval of award and authorize the execution of a contract for the Ray Avenue Drainage Improvement project. The lowest responsive, responsible bidder, TA Loving Company dba Pipeline Utilities, Inc. is recommended.

The Council is also asked to adopt a Resolution of Tentative Award. This Resolution of Tentative Award is required by NCDEQ to be included in the project bid information that is submitted for review and approval.

Contract will primarily be funded by American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund established in S.L. 2021-180.

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA FOR TENTATIVE AWARD OF THE RAY AVENUE DRAINAGE IMPROVEMENT PROJECT. RESOLUTION NO. R2025-011

7.15 PWC - Bid Recommendation - Re-Advertisement of Water Main Replacement from Robeson Street to Winslow Street

Approval of the bid recommendation to award the contract for the Re-Advertisement of Water Main Replacement from Robeson Street to Winslow Street to T. A. Loving Company, dba Pipeline Utilities, Inc., Goldsboro, NC, in the total amount of \$910,229.00, the lowest responsive, responsible bidder. The City Council authorizes the CEO and General Manager of the Fayetteville Public Works Commission to execute for that purpose the contract for its construction.

7.16 PWC - Bid Recommendation - Re-Advertisement for Procurement and Construction of Gillespie B1.9 Solar PV Utility Station

Approval of the bid recommendation to award the contract for the Re-Advertisement for the Procurement and Construction of Gillespie B1.9 Solar PV Utility Station to Oral's Construction Company, Inc., Maxton, NC, in the total amount of \$3,439,364.87, the lowest responsive, responsible bidder. The City Council authorizes the CEO and General Manager of the Fayetteville Public Works Commission to execute for that purpose the contract for its purchase and construction.

8.0 PUBLIC HEARINGS (Public & Legislative Hearings)

8.01 P24-12. Initial zoning from Rural Residential (RR) (County) and Single-Family Residential 15 (SF-15) to Mixed Residential 5 (MR-5) located at 0, 1666, and 1674 Cedar Creek Road and 0 and 1678 Fields Road (REID #s 0446803573000, 0446804658000, 0446709250000, 0445892478000, and 0445894268000) totaling 27.72 acres ± and being the property of Cedar Creek Road, LLC.

This item was pulled from the agenda at the request of the applicant.

8.02 AX24-02. Cedar Creek Road, LLC, is seeking annexation into the corporate limits of the City of Fayetteville for four contiguous parcels totaling approximately 27.72 acres. These parcels are situated on the western side of Cedar Creek Road at 1666 and 1674 Cedar Creek Road and 0 and 1678 Fields Road. They can be further identified by Parcel Identification Numbers (PINs) 0445-89-2478, 0446-70-9250, 0446-80-3573, and 0445-89-4268, and Real Estate Identification Numbers (REIDs) 0446804556000, 0446709250000, 0445892478000, and 0445894268000.

This item was pulled from the agenda at the request of the applicant.

8.03 Public Hearing on SN24-001. Consideration of Renaming Providence Street to JP Swinson Street

Mr. Chester Green, Senior Planner, presented this item and stated the process for street renaming begins with an application to Cumberland County for address and 911 purposes. Once reviewed by Cumberland County, a memo recommending approval of street name change is forwarded to City of Fayetteville staff for those streets within our City limits. The City Council shall consider the street name application and has the option to approve or deny the request at a public hearing.

The City Council previously heard this request on December 12, 2022, and two people spoke in opposition. The City Council voted to deny the request by a vote of 6 to 3.

County staff received a new request from Vardry Aiken to rename Providence Street to JP Swinson Street. According to Vardry Aiken the reason for this street name change request is to honor the legacy of an extraordinary man that contributed so much to his community.

Property owners were notified and given the opportunity for input on the respective road.

County staff contacted the owners of the parcels that abutted Providence Street. A total of 28 property owners were contacted, 13 responded of which 12 agreed with the request and 1 disagreed. Since the majority agreed with the request and the street is within the City Limits, the County has sent this request to the City for the Council to hold a public hearing and vote on the renaming.

The County has evaluated the petition and has not found any conflicts or duplications with the proposed name and recommends approval of the name change.

The renaming of this street would have a minimal impact on the City's budget.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Ms. Saresa Aiken, 338 Glen Canyon Drive, Fayetteville, NC, appeared in favor of this item.

Ms. Ruthie Toby, 5123 Foxfire Drive, Fayetteville, NC, appeared in favor of this item.

Mr. Robert Wiggins, 2621 Laurel Lakes Road, Fayetteville, NC, appeared in favor of this item.

Mrs. Carlene Hampton, 1427 Averton Court, Fayetteville, NC, appeared in favor of this item.

Mr. Clark Hampton, 1427 Averton Court, Fayetteville, Nc, appeared in favor of this item.

Mr. William Simmons, 8429 Frenchorn Ln., spoke in favor of this item.

Ms. Marmeka Swinson, 2741 20 Hwy W., St. Pauls, NC, appeared in favor of this item.

Mr. Vandry Aiken, 2240 Honey Lane, Fayetteville, NC, appeared in favor of this item.

Ms. Vickey Moore, 2710 Providence Street, Fayetteville, NC, appeared in opposition of this item.

Ms. Beverly Lusan, 2705 Providence Street, Fayetteville, NC, appeared in opposition of this item.

Mr. John Heart, 2705 Providence Street, Fayetteville, NC, appeared in opposition of this item.

There being no one further to speak, the public hearing was closed.

MOTION: Council Member Haire moved to deny the renaming of Providence Street to JP Swinson Street.

SECOND: Mayor Pro Tem Jensen

VOTE: FAILED by a vote of 5 in favor to 5 in opposition (Council Members Colvin, Benavente, McNair, Banks-McLaughlin, and Hondros)

MOTION: Council Member Benavente moved to reconsider another vote.

SECOND: Council Member Banks-McLaughlin

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Jensen and Haire)

MOTION: Council Member Haire moved to table this item until he meets with the church body for discussion and suggest alternative options to honor Bishop Swinson.
SECOND: Council Member Benavente
VOTE: UNANIMOUS (10-0)

9.0 EVIDENTIARY HEARINGS

9.01 SUP24-01. Special Use Permit to locate a Duplex (two-family dwelling) at 1040 Stamper Road (REID # 0428335880000) totaling 0.25 acres ± and being the property of Rockfish Run Land and Development LLC.

Mr. Craig Harmon, Senior Planner, presented this item and stated this item was tabled from the City Council's January 22, 2024, agenda when the accompanying rezoning was pulled and set for a legislative hearing. This item was again tabled at the request of the property owner on February 26, 2024.

The subject property was annexed into the City in 1951. The subject property has remained undeveloped since the late 1960s.

The surrounding area is primarily a subdivision consisting of single-family dwellings on 10,000-square-foot lots. The Cottages on Elm development is located to the west of the subject property. This development consists of two- to four-family dwellings. There is a City park located at the intersection of Stamper Road and McGougan Road. At the intersection of Stamper Road and Rogers Drive, there is a church and an adult day health center. The SUP must meet all the following findings of facts:

- (1) The special use complies with all applicable standards, conditions, and specifications in this Ordinance, including in Section 30-4.C, Use-Specific Standards;

30-4.C.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:

- 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.
- (2) The special use will be in harmony with the area in which it is located;

According to the submitted site plan and the application, there are multiple rentals in the neighborhood along with long standing duplexes.

- (3) 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.

According to the application and site plan, these residential units fit with the existing housing in the area.

- (4) The special use is in general conformity with the City's adopted land use plans and policies.

The 2040 Land Use Plan calls for Medium Density Residential, which consists primarily of single-family residential neighborhoods with small lots (3 to 6 dwellings per acre). Two- to Four-Family Dwellings should be interspersed within neighborhoods. Low-rise apartments are also possible. These areas of the City are mostly auto-oriented, with some walkable neighborhoods and destinations.

- (5) The special use will not substantially injure the value of the abutting land, or the special use is a public necessity; and

According to the application, the structure coincides with other properties in the area.

- (6) The special use complies with all other relevant City, State, and Federal laws and regulations.

The owner will be required to comply with all applicable laws and regulations.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Tim Evans, 4239 Cameron Road, Fayetteville, NC, appeared in favor of this item.

Mr. Scott Brown, 409 Chicago Drive, Suite 112, Fayetteville, NC, appeared in favor of this item.

Mr. Rafael Rivera, 1811 Manteo Street, Fayetteville, NC, appeared in opposition of this item.

Mr. Rivera submitted folders for Council review.

Ms. Elizabeth Vasser, 1924 Cherokee Drive, Fayetteville, NC, appeared in opposition of this item.

Mr. Richard Bryant, 1803 Catawba Street, Fayetteville, NC, appeared in opposition of this item.

There being no one further to speak, the public hearing was closed.

Discussion ensued.

MOTION: Council Member Greene moved to approve the Special Use Permit (SUP) to allow a Two-Family Dwelling (1 duplex) in a Single-Family Residential 6 (SF-6) zoning district subject to the submitted site plans and conforming to the current Unified Development Ordinance standards as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Single Family 6 (SF-6) zoning district and (2) this use complies with the findings listed

and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. If approved, this Special Use Permit shall become effective with the approval of the Order of Findings by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Hondros

VOTE: PASSED by a vote of 6 in favor to 3 in opposition (Council Members Jensen, Davis, and Benavente)

9.02 SUP24-03. Special Use Permit (SUP) to allow the construction of 111 townhomes (single-family attached units) on property zoned Single-Family 6 Residential (SF-6) located at 6622 and 6658 Old Bunce Road (REID #s 9497843830000, 9497845917000, and 9497856199000) and being the property of King Model Homes Construction Co. Inc., Robert Bunce, and Fayetteville Habitat for Humanity Inc., Project owner Ben Stout, Stout Land Development, LLC., applicant Scott Brown, 4D Site Solutions, Inc.

Mr. Craig Harmon, Senior Planner, presented this item and stated the owner is requesting to construct 111 townhomes on one lot located on Old Bunce Road. The subject property and surrounding properties are zoned Single Family 6 (SF-6) except for the parcel to the north which is currently zoned Mixed Residential 5 (MR-5). The surrounding area has been developed for a variety of residential uses such as single-family homes, mobile home parks, duplexes, townhomes, and apartments.

In the City's Unified Development Ordinance (UDO), townhomes are defined as single-family attached dwellings, with two or more single-family dwelling units, each with its own outside entrance and individual lot, which are joined together by a common or party wall which is shared by two or more individual dwelling units along the lot line.

For a motion to approve, all six findings below must be met:

1. The special use complies with all applicable standards, conditions, and specifications in this Ordinance, including in Section 30-4.C, Use-Specific Standards;
2. The special use will be in harmony with the area in which it is located;
3. The special will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
4. The special use is in general conformity with the City's adopted land use plans and policies;
5. The special us will not substantially injure the value of the abutting land, or the special use is a public necessity; and
6. The special use complies with all other relevant City, State, and Federal laws and regulations.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Scott Brown, 409 Chicago Drive, Suite 112, Fayetteville, NC, appeared in favor of this item.

There being no one further to speak, the public hearing was closed.

MOTION: Council Member Hondros moved to approve the Special Use Permit (SUP) to allow Single-Family Attached Dwellings in a

Single-Family Residential 6 (SF-6) zoning district subject to the submitted site plans and conforming to the current Unified Development Ordinance standards as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Single Family 6 (SF-6) zoning district and (2) this use complies with the findings listed and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. If approved, this Special Use Permit shall become effective with the approval of the Order of Findings by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Benavente

VOTE: UNANIMOUS (10-0)

10.0 OTHER ITEMS OF BUSINESS

10.01 Employer of Choice - Compensation

MOTION: Council Member Benavente moved to table this item to the April 1, 2024, work session.

SECOND: Council Member Hondros

VOTE: UNANIMOUS (10-0)

10.02 Approve Contract for African American Museum

Mr. Adam Lindsay, Assistant City Manager, provided a brief overview of this item and stated City Council is asked to accept the resolution that requests funding to pursue the establishment of the Black Voice and History Museum and to approve the contract with the Community Development Foundation in the amount \$450,000.00 to pay for expenses associated with the study, community engagement, and preliminary conceptual design of an African American Museum.

MOTION: Council Member Haire moved to approve the contract for the African American Museum.

SECOND: Council Member Thompson

VOTE: UNANIMOUS (10-0)

11.0 ADMINISTRATIVE REPORTS

11.01 Administrative Report on City, County and State-Owned Property to be Returned to the Tax Roll

MOTION: Council Member Hondros moved to move this item to the April 1, 2024, work session

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

12.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:50 p.m.