



Legislation Details (With Text)

File #: 21-2215 **Version:** 1 **Name:** SUP21-04: Order of Approval - Findings of Facts
Type: Consent **Status:** Agenda Ready
File created: 9/7/2021 **In control:** City Council Regular Meeting
On agenda: 9/27/2021 **Final action:**
Title: SUP21-04: Order of Approval - Findings of Facts. Special Use Permit to reduce the 500 feet distance separation between a bar and a religious institution to be located at 901-907 Bragg Boulevard and 0 Drive (REID #s 0437177949000, 0437176840000, 0437177998000, and 0437178937000), zoned as Community Commercial (CC), totaling 0.69 acres ± and being the property of Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs.

Sponsors:

Indexes:

Code sections:

Attachments: 1. SUP21-04 Bragg Boulevard Church Findings of Facts final, 2. 1. Plan application, 3. 2. SUP21-04 Aerial Notification Map, 4. 3. SUP21-02 Zoning Map, 5. 4. SUP21-02 Land Use Map, 6. 5. Subject Property, 7. 6. Surrounding Properties, 8. 7. Site Plan

Date	Ver.	Action By	Action	Result
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TO: Mayor and Members of City Council

THRU: Telly C. Whitfield, Ph.D. - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director
Taurus Freeman, MPA - Planning & Zoning Division Manager

FROM: Jennifer C. Baptiste, CFM - Senior Planner

DATE: September 27, 2021

RE:

SUP21-04: Order of Approval - Findings of Facts. Special Use Permit to reduce the 500 feet distance separation between a bar and a religious institution to be located at 901-907 Bragg Boulevard and 0 Drive (REID #s 0437177949000, 0437176840000, 0437177998000, and 0437178937000), zoned as Community Commercial (CC), totaling 0.69 acres ± and being the property of Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2021

Goals 2026

Goal 2: Responsible City Government Supporting a Diverse and Viable Economy

- Objective 2.4 - Sustain a favorable development climate to encourage business growth
- Goal 3: City Investment in Today and Tomorrow
- Objective 3.2 - Manage the City's future growth and strategic land use

Executive Summary:

Due to General Statute 160D, the Order of Approval (Findings of Facts) resulting from an Evidentiary Hearing decision must be approved by the council, board, or commission making the final action, per § 160D-705. The City Council must review and approve the written findings before the Mayor signs the Findings of Facts document.

The Finding of Facts was created based on the City Council meeting records. City Councilmember statements have been incorporated into the motions.

Special Use Permits require that the applicant meet specific standards for certain uses in specific districts. Unlike discretionary legislative rezonings, an evidentiary hearing requires that the applicant provide appropriate findings. The Finding of Facts are pivotal in documenting the findings presented by the applicant and approved by Council.

The applicant requested a Special Use Permit to reduce the 500 feet distance separation between a bar and a religious institution to 185 feet. This property is currently zoned Community Commercial (CC) and a Special Use Permit is required to reduce the separation between a religious institution and a bar/nightclub.

On August 23, 2021, the City Council voted unanimously (7-0) to approve the required 500 feet distance separation between a religious institution and a bar/nightclub to 185 feet.

Background:

Owner: Mary Demetrious, Paula Lawson, and Katina Demetrious Heirs.

Applicant: John Bantsolas of JNB Commercial Properties

Requested Action: SUP

Properties Addresses: 901 - 907 4209 Bragg Boulevard and 0 Drive

Council District: 2 - Shakeyla Ingram

Status of Properties: Developed

Size: Approximately 0.69 acres

Adjoining Land Use & Zoning:

- North - CC - Commercial
- South - MR-5 - Single-Family Residential
- West - CC - Commercial Strip Mall
- East - CC - Office Buildings

Letters Mailed: 32

Land Use Plan: Commercial Strip Redevelopment

Additional Reviews:

A Technical Review Committee (TRC) examination was conducted as part of the Special Use Permit process. However, this use is allowed in the zoning district so a complete review of the project will be conducted as part of the Development Review process to ensure the development meets all development standards for the use.

In general development comments were received, but specific comments were also provided.

Specific comments included:

1. Fire - Fire hydrants shall be provided within 400 feet of all portions of the building.
2. Traffic Services - A new driveway permit will be needed.

Issues/Analysis:

Surrounding Area

This parcel is located just south of Bragg Boulevard and west of Martin Luther King Jr. Freeway. This portion of Bragg Boulevard is a heavily commercialized area. To the east of the property is a commercial mini mall and to the west are several single commercial office type buildings. Across Bragg Boulevard to the north is a bar, Secrets Cabaret.

Special Use Permit Request

The applicant is requesting a Special Use Permit to reduce the 500 feet distance separation between a bar and a religious institution to 185 feet. The site is currently zoned as Community Commercial (CC) and is a three storefront retail strip.

The current site is developed with the buildings addressed as 901 and 903 Bragg Boulevard being constructed in 1938 and the building addressed as 905 and 907 Bragg Boulevard being constructed in 1963. In total, the buildings have approximately 9,120 square feet of leasable area.

According to Article 30-4.C.3.g.1. of the Unified Development Ordinance, a “religious institution shall be located at least 500 linear feet from any adult entertainment use and/or bars, nightclubs and similar establishment. The applicant is requesting to reduce this required separation from 500 feet to 185 feet, based on the site plan submitted by the applicant. The site plan submitted demonstrates that the western corner of the 907 Bragg Boulevard portion of the building is located approximately 185 feet south of the bar, Secrets Cabaret.

The 2040 Land Use Plan and Map identifies this site as being suitable for Commercial Strip Redevelopment. Commercial Strip Redevelopment is defined as a “commercial mixed use area that encourages higher density. However, with overall composition of the area and with Bragg Boulevard being classified as a Major Thoroughfare, this site and the adjacent sites would probably best suited for commercial development.

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable zoning districts in accordance with Section 30-2.C.

The SUP must meet the following findings of facts:

(1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;

Currently, the Unified Development Ordinance identify the standards below for Religious Institutions:

30-4.C.3.g. Religious Institutions

Religious institutions 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.

- (2) **The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands;**

Religious establishment is compatible with all surrounding uses (retail and entertainment).

- (3) **The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;**

There will be no adverse impact on surrounding lands.

- (4) **The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;**

Building will not be significantly altered and no visual impact upon adjacent lands.

- (5) **The special use avoids 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.

- (6) **The special use maintains safe ingress and egress onto the site and safe road conditions around the site;**

The current site already has three driveways for access from Bragg Boulevard.

- (7) **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**

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

- (8) **The Special use complies with all other relevant City, State, and Federal laws and regulations.**

As depicted on the accompanying site plan for the proposed development, the use for which this 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.

Budget Impact:

This action should result in no increase in City services.

Options:

- 1) Approval of the Order of Approval - Findings of Facts. (Recommended);
- 2) Remand to Staff for revision; or
- 3) Denial of the SUP.

Recommended Action:

Planning Staff recommends approval of the Order of Approval - Finding of Facts for SUP21-04.

Attachments:

1. SUP21-04: Order of Approval - Finding of Facts
2. Application
3. Aerial Map
4. Zoning Map
5. Land Use Plan Map
6. Subject Properties
7. Surrounding Properties
8. Site Plan