



Legislation Text

File #: 23-3688, Version: 1

TO: Mayor and Members of City Council

**THRU: Kelly Olivera - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director**

**FROM: Will Deaton, AICP - Planning & Zoning Division Manager
Craig Harmon, CZO, Senior Planner**

DATE: November 27, 2023

RE: SUP23-09 Special Use Permit to allow Transitional Housing at 344, 348 352 Hawley Lane and unaddressed Plummers Lane (REID # 0437848219000, 0437848347000, 0437848464000, 0437849540000), and being the property of Cumberland County Board of Education, and Cumberland, represented by Jimmy Kizer, Moorman, Kizer & Reitzel, Inc. and Jermaine Walker, Cumberland County.

COUNCIL DISTRICT(S):
2 - Malik Davis

Relationship To Strategic Plan:
Strategic Operating Plan FY 2022
Goals 2027

Goal I: Safe and Secure Community

- Objective 1.3 - To ensure low incidence of property and violent crime

Goal III: City Investment in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.
- Objective 3.3 - To sustain a favorable development and business climate through timely and accurate construction review and building inspection services

Goal IV: Desirable Place to Live, Work and Recreate

- Objective 4.5 - To ensure a place for people to live in great neighborhoods

Executive Summary:

Evidentiary Hearing:

During an Evidentiary Hearing, the burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, which shall be demonstrated by competent, material, and substantial evidence. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

The proposed tenant is a Transitional Shelter Facility to be owned by Cumberland County. The Unified Development Ordinance (UDO) requires a Special Use Permit (SUP) in the DT-2 district to operate this type of use. As part of the Council's consent agenda is a request to rezone these properties to DT-2/CZ. The use in question is not allowed in the Current MR-5 - Mixed Residential 5 district.

Background:

Applicant: Jimmy Kizer, Moorman, Kizer & Reitzel, Inc

Owner: County of Cumberland, represented by Jermaine Walker

Requested Action: Conditional rezoning to DT-2/CZ

REID #: 0437848219000, 0437848347000, 0437848464000, 0437849540000

Council District: 2 - Shakeyla Ingram

Status of Property: 1 Single Family Structure at 348 Hawley Ln, remaining is vacant

Size: 1.86 acres

Adjoining Land Use & Zoning:

- North: MR-5, LC & CC - Vacant and Commercial
- South: DT-2 - Board of Education Property
- East: DT-2 & CC - Board of Education Property & Commercial
- West: MR-5 & LC - Vacant - Flood Zone

Annual Average Daily Traffic: "B" Street: 5,900 (2018)

Letters Mailed: 128

Additional Reviews: This project was reviewed by the Technical Review Committee and standard comments were provided (see attached).

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Official/Institutional (OI). The Official/Institutional designation calls for Medium-intensity nonresidential uses. Light industrial, office, flexspaces, warehouse, large schools/institutions. Businesses or buildings grouped, sometimes in business parks. This area also includes utilities and City services.

Issues/Analysis:

History:

The subject property and immediate area have been within the city limits of Fayetteville since the 1800s. Per Cumberland County GIS records, the subject properties were almost all developed by 1968. By 2008 only one house remained.

Surrounding Area:

The surrounding properties are a mix of residential, commercial and institutional in nature with many

vacant lots and flood zone as well.

Special Use Permit Request:

The applicant is requesting a Special Use Permit to build and operate a Transitional Housing shelter on the properties in question.

According to the applicant Cumberland County, they would like to construct a transitional housing facility adjacent to the existing Cumberland County Schools Facility that is currently being used by FTCC for vocational training. The proposed facility would be used to temporarily house homeless citizens and provide them is services and assistance to help them transition back to a stable quality of life. The facility will be used 24/7, with a larger staff being present during weekly and daily working hours to assist residents. The facility will house staff at all time to help monitor and minimize the movement of residents during non-working hours.

The application is only to address the allowance of a Transitional Housing shelter.

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;

According to Section 30-4.C.2.b.6. Transitional Housing:

A transitional housing facility shall be located at least 2,640 feet (approximately one-half mile) from any other group home, therapeutic home, community reintegration center, or transitional housing if located in a residential zoning district. If located in a business zoning district, the 2,640-foot separation standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation).

According to the State of North Carolina records, there are no group homes, therapeutic homes, community reintegration centers, or transitional housing facilities located within 2,640 feet of this proposed facility. And;

According to the application, The transitional housing will be built to all UDO standards for the zoning district. It complies with all special use UDO standards. The site will be complimentary to the existing FTCC facility which is used for training courses. The existing school sit provides a logical extension of a governmental facility used to better the services to citizens. The facility has a natural buffer of Blounts Creek and is also in close proximity to Grove Street.

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

According to the applicant “The special use accommodates the construction of an additional governmental facility that would leverage the training taking place at the existing school facility, so would be in harmony with area uses.”

- (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;

The applicant states “A majority of the surrounding properties are governmental therefore it is not anticipated to endanger public health or safety and aligns with adjacent properties.”

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

According to the applicant, the “This transitional housing is more than 2640 feet from any other transitional housing. It is surrounded by mostly governmental owned properties. Has a natural buffer of Blounts Creek and also a buffer of Grove Street.” And;

“It would provide services to house homeless citizens and provide them with services and assistance to help them to transition back into a stable quality of life. It would operate 24/7 with a larger staff during the week and daytime to assist residents. It would house staff at all times to help monitor and minimize the movements of residents during non-work hours.”

- (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 abutting land is also mostly governmental therefore will not injure the value. The special use provides a public necessity by providing transitional housing to the homeless and then in turn would be able to have a place to provide assistance and services to transition them back to a stable quality of life.”

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

The applicant states that they “will comply with all other relevant City, State, and Federal laws and regulations.”

Note: The properties in question must first be rezoned to a commercial zoning district. In this case, the applicant has also applied for a conditional rezoning to DT-2/CZ - Downtown 2 Conditional. That rezoning appears on the Council’s agenda as a consent item. If the property is not rezoned to a

commercial district, this SUP application is no longer valid.

Budget Impact:

The City would not be required to provide an increase in public services.

Options:

- 1) Approval of SUP as requested by the applicant;
- 2) Approval of SUP with conditions;
- 3) Denial of the SUP request

Recommended Action:

OPTION 1

I move to APPROVE the Special Use Permit (SUP) to allow the operation of a Transitional Housing shelter in the Downtown 2 zoning district subject to the conditions identified and the submitted site plans and conforming to the current Unified Development Ordinance standards as depicted on the attached 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 the Downtown 2 zoning district and (2) that the transitional housing will comply with all six of the findings of fact and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area and will help the choices for the homeless population in Fayetteville.

[Applicable to Motion to Approve] 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.

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

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
- (2) The special use will be in harmony with the area in which it is located; [insert supporting facts]
- (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; [insert supporting facts]
- (4) The special use is in general conformity with the City's adopted land use plans and policies; [insert supporting facts].
- (5) The special use will not substantially injure the value of the abutting land, or the special use is a public necessity; and; [insert supporting facts]
- (6) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts].

OPTION 2

I move to DISAPPROVE the Special Use Permit (SUP) for the operation of a Transitional Housing shelter in the Downtown 2 zoning district as depicted on the attached 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 does not meet the six (6) finding(s) of fact listed below. More specifically finding(s) #_____.]

* For a motion to deny only one of the findings shown below needs to not apply.

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

Standards; [insert supporting facts]

(2) The special use will be in harmony with the area in which it is located; [insert supporting facts]

(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; [insert supporting facts]

(4) The special use is in general conformity with the City's adopted land use plans and policies; [insert supporting facts].

(5) The special use will not substantially injure the value of the abutting land, or the special use is a public necessity; and; [insert supporting facts]

(6) The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts].

[Applicable to Motion to Deny] If denied this action shall become effective upon the approval of the Order of Findings by the City Council.

Attachments:

1. Application
2. Aerial Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Properties
7. Site Plan
8. PowerPoint
9. TRC Comment Letter