

FAYETTEVILLE CITY COUNCIL
MINUTES
AUGUST 27, 2007
7:00 P.M.
CITY HALL COUNCIL CHAMBER

Present: Mayor Anthony G. Chavonne
Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Council Member Lois A. Kirby (District 5); Paul Williams (District 6); Curtis Worthy (District 7); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Stanley Victrum, Assistant City Manager
Kyle Sonnenberg, Assistant City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Bobby Teague, Engineering and Infrastructure Director
Jimmy Teal, Planning Director
Kyle Garner, Planner
Kenny Horne, Purchasing Manager
Candice H. White, City Clerk
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Father K. Kostaris of the Greek Orthodox Church, Fayetteville, NC, followed by the Pledge of Allegiance to the American Flag.

RECOGNITIONS AND ANNOUNCEMENTS

Mayor Chavonne announced at the earlier 12:000 noon special meeting, a unanimous vote was passed to deed the property in Festival Park to the Museum of Art and a vote was passed six in favor to three in opposition to approve the architect's rendering of the building and the location in Festival Park.

1. APPROVAL OF AGENDA

Council Member Evans requested the removal of Item 4.

Council Member Gonzalez requested the addition of a closed session for consultation with attorney.

MOTION: Council Member Massey moved to approve the agenda with the removal of Item 4 and the addition of a closed session for consultation with attorney.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

2. CONSENT:

Council Member Evans requested Item 2.I. pulled.

Council Member Gonzalez requested Items 2.N. and 2.Q. pulled.

MOTION: Council Member Gonzalez moved to approve the consent agenda with the exception of Items 2.I., 2.N. and 2.Q.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

A. Approve minutes:

1. Work Session Meeting held on August 6, 2007

2. Regular Meeting held on August 13, 2007

B. Capital Project Ordinance Amendment 2008-4 (Appropriation of Investment Income for Festival Park Project)

This amendment will appropriate an additional \$77,000 for the Festival Park project. The source of funds for this amendment is income received from the investment of bond proceeds for this project. The funds will be primarily used for additional landscaping and to construct a small

storage building as well as construct a concrete walkway along Cross Creek.

C. Tax Refunds Greater Than \$100

NAME Year Basis CITY REFUND

BB&T Leasing Corp.	2006	Corrected Assessment	<u>\$457.24</u>
TOTAL			<u>\$457.24</u>

D. Authorize Waiver of Bidding for Previously Bid Contracts for Purchase of One Fire Pumper

E. Approve Bid Recommendation for Annexation Phase V, Project 1, Section 2C-LaGrange, Section 1

Bid award to Autry Grading Inc., Hope Mills, NC, lowest responsive bidder, in the total amount of \$2,014,268.50.

Bids were received as follows:

Autry Grading, Inc. (Hope Mills, NC)	\$2,014,268.50
Triangle Grading and Paving (Burlington, NC)	\$2,039,812.00
Colt Contracting Co. (Clinton, NC)	\$2,211,308.00
Billy Bill Grading (Fayetteville, NC)	\$2,227,175.00
TA Loving Co. (Goldsboro, NC)	\$2,492,039.00
ES&J Enterprises (Autryville, NC)	\$2,544,454.10
Key Constructors, Inc. (Clarksville, VA)	\$2,659,573.00

F. Approve Sign Permit for Greek Festival

**G. Resolution to Set Public Hearing to Consider Closing a Portion of Eunice Drive
RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF
A PORTION OF EUNICE DRIVE AS A CITY STREET. RESOLUTION NO. R2007-046**

H. Consider an Offer by Habitat for Humanity to Purchase a Vacant City-owned Lot on Old Wilmington Road

RESOLUTION TO CONVEY REAL PROPERTY TO THE FAYETTEVILLE AREA HABITAT FOR HUMANITY. RESOLUTION NO. R2007-047

I. Pulled at the request of Council Member Evans.

J. Consider Animal Ordinance Amendments Regarding Dog and * Fighting Paraphernalia and Aggressive Dogs**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SECTIONS OF CHAPTER 6, ANIMALS AND FOWL, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2007-032

K. Consider Approval of an Agreement with the Cumberland County Board of Education for Payment of Proceeds from the City's Safelight Program

L. Approve Resolution in Support of HB 1813

RESOLUTION OF SUPPORT FOR HOUSE BILL 1813 "STATE TAKE CAPE FEAR LOCKS/DAMS 1, 2, AND 3". RESOLUTION NO. R2007-048

M. Approve Resolution to Allow the City of Fayetteville to Enter into an Early Action Compact

OZONE REVISION RESOLUTION BY CITY OF FAYETTEVILLE, NORTH CAROLINA. RESOLUTION NO. R2007-049

N. Pulled at the request of Council Member Gonzalez.

O. Approve the addition of a MHO manufactured home overlay district in an R6 residential district for property located at 520 & 520.5 Martin Road. Containing 1.47 acres more or less and being the property of Effie L. McGuire. Case Number P07-54F.

P. Approve the rezoning from R6 residential district to C1 commercial district or to a more restrictive zoning classification for property located at 1608 Ramsey Street. Containing .20 acres more or less and being the property of Robert and Rebecca Tucker. Case Number P07-56F.

Q. Pulled at the request of Council Member Gonzalez.

R. The following properties are found to contribute to blight in the neighborhood. After notice to the owners and their failure to repair or demolish the

properties themselves, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action.

1. 2408 Greensboro Street (PIN 0428-87-4394); Gladys Marie Gale,

Heirs

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-033

2. 623 Hillsboro Street (PIN 0437-48-3587); Myong-Ok Nygard and Anthony N. Whiting

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-034

3. 736 Marsh Street (PIN 0437-88-1623); Lamart Kurvin, Jr. (aka Lamont Kurvin, Jr.)

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-035

4. 740 Marsh Street (PIN 0437-88-1638); Emily A. Kinsey

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-036

5. 748 Marsh Street (PIN 0437-88-1833); Thomas and Mae Wilson, Heirs c/o Tommie Wilson, Jr.

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-037

6. 906 Marsh Street (PIN 0437-89-1667); Alice P. Hinson

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-038

7. 537 Orange Street (PIN 0437-57-3851); Mildred Davis

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-039

8. 2220 Roosevelt Drive (PIN 0428-97-9711); Janie Barrington, Howard Barrington and Elizabeth Barrington Graham, Heirs c/o Thomas E. Barrington

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-040

9. 605 School Street (PIN 0447-03-0462); Roy Massengill and Peter Pavlikianidis
**AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA
REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH
RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE
DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE
NO. NS2007-041**

10. 1705 Stanberry Court (PIN 0438-27-4229); Kathleen Carver Harrington, Heirs
**AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA
REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH
RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE
DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE
NO. NS2007-042**

11. 131 Wall Street (PIN 0437-69-7801); Georgia A. James and Marion James, Heirs c/o
Effie Arthur (aka Effie McArthur)
**AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA
REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH
RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE
DWELLINGS AND BUILDING MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE
NO. NS2007-043**

**2.I. Consideration of Designating Surplus Property for the Community Gardens Project
in the Wilmington Road Community**

Council Member Evans asked Council to consider a public hearing because he, along with some
of the residents in the community with whom he had spoken, had concerns.

MOTION: Council Member Evans moved to set a public hearing.

SECOND: Council Member Worthy

Council Member Bates requested a briefing at the public hearing.

VOTE: UNANIMOUS (10-0)

**2.N. Approve the rezoning from R15 residential district to C1P commercial district or
to a more restrictive zoning classification for property located at 1653 Cedar Creek Road
and approve the rezoning from R15 residential district to C1 commercial district for
property located at 1651 Cedar Creek Road. Containing a total of 2.25 acres more or less
and being the property of James and Monica Smith. Case Number P07-52F.**

Council Member Gonzalez noted concern had been expressed at the Agenda Briefing meeting
regarding the split zoning of C1 and C1P.

**MOTION: Council Member Gonzalez moved to set a public hearing for Case No. P07-
52F.**

SECOND: Council Member Worthy

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

**2.Q. Approve the rezoning from R10 residential district to C1 commercial
district\conditional zoning district to allow a funeral home on property located at 1037
Seventy-First School Road. Containing 1.20 acres more or less and being the property of
James Vernon Peterson and Shelton Leon Melvin. Case Number P07-57F.**

Council Member Gonzalez expressed concern for the curve in the two-lane Seventy-First School
Road and stoppages of traffic due to fire station emergency vehicles and school buses.

**MOTION: Council Member Gonzalez moved to set a public hearing for Case No. P07-
57F.**

SECOND: Council Member Meredith

Council Member Worthy commented traffic from the proposed funeral home would likely be at a
slower pace than the church previously located on the property.

Council Member Williams spoke to the mailing of notices for the public hearing.

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members
Worthy and Williams)**

3. PUBLIC HEARINGS:

A. **Conduct a public hearing concerning the proposed permanent closure of a portion of Bingham Place and take final action on the closure.**

Mr. Bobby Teague, Engineering and Infrastructure Director, stated at their July 23, 2007 meeting, the City Council adopted resolution R2007-042 calling for a public hearing on August 27, 2007 regarding a request by Arran Lakes Baptist Church to permanently close a portion of Bingham Place adjacent to its property. Mr. Teague stated Bingham Place was cut by the new alignment of Bingham Road and access to the abutting properties would not be denied as a result of the closure. Mr. Teague further stated staff supported the closure.

Mr. Teague responded to questions posed by Council Members Worthy and Bates and stated the section of road proposed for closure will dead end and not tie into the new road to be constructed by the Department of Transportation.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:12 p.m.

Bruce Allen, 1137 Thornwood Place, Fayetteville, NC 28304 appeared in favor and stated closure of the road would lend to the residential character of the area and reduce traffic related concerns.

Tammy Johnson, 1137 Thornwood Place, Fayetteville, NC 28304 appeared in favor and stated closure of the road would provide greater privacy and reduce trash and litter resulting from through traffic.

Linda Jenkins, 5809 Valhalla Court, Fayetteville, NC 28304 appeared in favor and stated closure of the road would provide greater privacy and safety for residents.

Sandra Pruitt, 1105 Thornwood Place, Fayetteville, NC 28304 appeared in opposition and asked that the portion of Bingham Place remain open for six months after the opening of the unnamed road in order to study the impact of Bingham Place as an outlet for the Arran Lake North Subdivision.

There was no one further to speak and the public hearing closed at 7:20 p.m.

MOTION: Council Member Worth moved to delay action for six months and have staff to report back at that time.

SECOND: Council Member Haire

Mr. Teague responded to additional questions posed by Council.

VOTE: UNANIMOUS (10-0)

B.Consider the rezoning from C1 commercial district to R6 residential district or to a more restrictive zoning classification for property located at 1039 Southern Avenue. Containing .76 acres more or less and being the property of Larry Malloy. Case Number P07-36F.

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to change a non-conforming use to a conforming use by rezoning the property to residential. Mr. Teal further stated City Council set a public hearing for this case and the Zoning Commission recommends approval of R6 residential zoning.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:30 p.m.

Larry Malloy, 1038½ Southern Avenue, Fayetteville, NC 28306 appeared in favor and stated his reasons for requesting the rezoning were related to finances to include taxes and insurance. No one appeared in opposition and the public hearing closed at 7:32 p.m.

MOTION: Council Member Bates moved to rezone property to R6 as requested by the applicant.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

C.Consider the rezoning from R10 residential district to C1 commercial district or to a more restrictive zoning classification for ninety feet from the rear property line for property located at 211 Eucalyptus Street. Containing .17 acres more or less and being

the property of Perry Smith. Case Number P07-38F.

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to rezone 6,750 square feet (90 feet x 75 feet) of the rear property from R10 residential district to C1 commercial district leaving 8,062 square feet of the property zoned R10 residential district. Mr. Teal further stated the Zoning Commission recommends approval of 4,500 square feet for sixty feet from the rear property line in order for the lot to have at least 10,000 square feet to remain in compliance with R10 zoning.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:35 p.m.

Perry Smith, 812 Sandlewood Drive, Fayetteville, NC appeared in favor and stated he agreed to sell a portion of his lot for commercial purposes because the church was unable to afford the property.

No one appeared in opposition and the public hearing closed at 7:37 p.m.

Council Member Meredith asked Mr. Smith if he was in agreement with sixty feet as opposed to his request for ninety feet. Mr. Smith responded he supported keeping the property compliant with R10 zoning.

MOTION: Council Member Bates moved to approve the C1 zoning for sixty feet of the rear yard as recommended by the Zoning Commission.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (10-0)

D. Consider the rezoning from R10 residential district to R6 residential district or to a more restrictive zoning classification for property located at 1366 Bingham Drive. Containing 21 acres more or less and being the property of Richard and Georgia Matthews, Jon and Dawn Boyles, Janice Simpson, Glyndetta Hubbard, Annette Fox and Samuel Tolar. Case Number P07-49F.

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to construct apartment units on the property. Mr. Teal stated the City Council set a public hearing for this case at their July 23, 2007 meeting. Mr. Teal further stated the Zoning Commission and planning staff concur with the request.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:40 p.m.

Dino Hackett, 1152 Kerns Hackett Road, Pleasant Garden, NC appeared in favor as a representative of Hackett Builders and stated in response to previous concerns expressed by Council regarding impervious areas, the engineer's current design for multi-family housing provides 71% greenspace and no clear cutting.

No one appeared in opposition and the public hearing closed at 7:43 p.m.

Council Member Gonzalez inquired whether the Department of Transportation planned to install a signal light.

MOTION: Council Member Worthy moved to approve the R6 zoning as requested by the applicant.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

The following is the verbatim of this item as motioned and passed by a vote of nine in favor to one in opposition at the September 24, 2007 meeting:

Mayor: I think this is one we saw last month.

Mr. Teal: Right, you set a public hearing.

Mr. Williams: That's the question I had, it says that this case moved forward to City Council as a consent item and why are we having a second public hearing?

Mr. Teal: At the July 23rd meeting it was on your consent and there were some questions and the Council chose to set a public hearing for tonight.

Mayor: Mrs. Kirby?

Mrs. Kirby: I was just going to make a motion.

Mayor: No, we have to have the public hearing.

Mrs. Kirby: Oh.

Ms. Gonzalez: Well, I was going to explain to Mr. Williams that I am the one that asked for a public hearing and I think he will find as he hears more about this, that it was a good thing that I did because I think the owners have reconfigured a lot of things and we are going to have a lot more green space. So, sometimes it is important to have those public hearing (inaudible).

Mayor: Do we have any other questions for Mr. Teal, Council? Hearing none, Ms. White, can we start the public hearing, ma'am?

Ms. White: We have one speaker in favor, none in opposition. In favor I would call Mr. Dino Hackett.

Mr. Hackett: My name is Dino Hackett. I live at 1152 Kerns Hackett Road in Pleasant Garden, North Carolina. I am here as a representative of Hackett Builders, as Mr. Williams said, we were on the consent agenda and there were some questions by the Council and, we're here just to answer any of those questions and address some of the issues that were brought up. One of the main issues that was brought up was impervious areas on the site as Mr. Teal said, the site was zoned R10 which allows for 121 single-family houses. Our engineer did a design with that and showed with that development we would end up with 45% green space. The site we proposed was multifamily, leaves us with 71% green space. Sorry for the lack of technicality on things. Mr. Teal got our letter but we have the letter from the engineer if you all would like to see that. No, okay. I have a copy of our preliminary site plan if you all would like to see that. Okay. The area is mostly filled area so there is not a lot of clear cutting on it. I have an aerial picture if you would like to see that. Properties that we have done in the past we are looking to develop one, two and three bedroom all brick property, which should serve most of the community's, needs there that are looking for rental properties. Once again, we are just here to answer any sort of questions that were asked in the July 23rd meeting. We're available here tonight, my partner, Mike Freeman, is here and well, if there is anything I can't answer, I'm sure he can.

Mayor: Thank you, Mr. Hackett. We appreciate you working with us and you might want to stand there for one more second while we close the public hearing.

Ms. White: We have no further speakers.

Mayor: We will close the public hearing and now entertain any questions from Council. Mr. Worthy, did you have a question?

Mr. Worthy: I have a motion, Mr. Mayor.

Mayor: Let me see, were there any questions? Mr. Evans?

Mr. Evans: Yes sir. Sir, since you have those pictures here and for us to see, I would like to see them.

Mr. Hackett: Okay. Would you like to see some of the properties we have done in the past? You want to see these.....?

Mr. Evans: I just would like to see the pictures.

Mr. Haire: I would like to see the properties.

Mayor: Okay, we'll, we'll pass them.

Mr. Hackett: The letters.....

Mr. Worthy: We got it, we got it.

Mayor: Mr. Hackett, if you have some photographs of the properties you've done, I think some.....

Mr. Hackett: Yes we do.

Mayor: You can pass those around, too, sir?

Mr. Evans: Thank you.

Mayor: We'll get those back to you, sir. Okay, let's see. Mr. Bates, did you have a question for Mr. Hackett?

Mr. Bates: No, not (inaudible).

Mayor: Okay, Mr. Williams.

Mr. Williams: Mr. Hackett, you were scheduled for July 23rd. What's changed since then as far as what you are proposing to do? Is the zoning request the same?

Mr. Hackett: Yes, sir.

Mr. Williams: It is not a conditional use zoning?

Mr. Hackett: No, sir.

Mr. Williams: Okay, what's changed?

Mr. Hackett: We're able to speak tonight.

Mr. Williams: Thank you.

Mayor: Okay, Ms. Gonzalez, you have a question?

Ms. Gonzalez: Yes, Mr. Hackett, do you know if DOT has any plans to put a signal light coming out of that in any way?

Mr. Hackett: Not that we're aware of.

Ms. Gonzalez: Man, I would think they would.

Mr. Hackett: We don't have on our preliminary site plan the turning lane that will be there but I am sure with that kind of volume of traffic we will have a turning lane.

Ms. Gonzalez: Thank you.

Mayor: Mr. Haire.

Mr. Haire: I would just like to say I have had the opportunity to visit one of your properties, The Commons?

Mr. Hackett: Yes.

Mr. Haire: I am renting space there for my daughter.

Mr. Hackett: Okay, great.

Mr. Haire: So, I am happy to see (inaudible).

Mr. Hackett: Send all of them our way.

Mayor: Okay, I think we've got all the questions answered. Mr. Hackett, thank you again for working with us and with that I will entertain a motion. Mr. Worthy, was that.....

Mr. Worthy: Mr. Mayor, I would like to make a motion that we approve the rezoning as recommended by staff, I think it is R6.

Mrs. Kirby: Second.

Mayor: All right, we have a first and a second. Are there questions on that, Council?

Mr. Evans: I've got a question.

Mayor: Mr. Evans?

Mr. Evans: Mr. Mayor. Since Mr. Haire let us know that he was renting from this young man, should he exclude himself from this vote?

Mayor: I doubt that would be required. Let's see, Mrs. Kirby, do you have a comment?

Mrs. Kirby: (Silent response.)

Mayor: Okay, Mr. Bates.

Mr. Bates: Thank you. What's changed since the last time in, was it July.....?

Mr. Worthy: Yes.

Mr. Bates:was that the gentleman and the engineers came up, and we discussed the project, the Mayor and myself, and Mr. Teal, engineers and I would like to reiterate that by going to R6 you have decreased the surface runoff by 50% and increased the open space by 35% and that we thank you for.

Mayor: Well, I think his project was always that. Just so there won't be any, for clarification, the project really hasn't changed, they, because it wasn't a public hearing. It was on consent at the July meeting. Mr. Hackett wasn't able to speak and answer any of the Council questions. That was the reason we went through this tonight. Mr. Williams, did you have another comment, sir?

Mr. Williams: I just, yes, I do have a comment. I just want to thank Mr. Hackett for doing business in the city of Fayetteville and I do apologize for the thirty-day delay.

Mayor: All right, hearing that, we'll have a motion to approve the R5 zoning as requested by the applicant. Let me ask for your vote on that motion please.

Mr. Worthy: R6.

Mayor: Okay, R6. Sorry. Thank you so much, Mr. Worthy. That's unanimous. Thank you.

Mr. Evans: Mr. Mayor. May I make a, say something, sir?

Mayor: Sure.

Mr. Evans: When I asked that question I was serious. I just didn't want you to think that I just asked it to be asking it.

Mayor: Okay, Mrs. McDonald. The fact that Mr. Haire's daughter is actually renting an apartment from this gentlemen, probably in another city, does that, is Mr. Haire okay to make a vote on that tonight, sir?

Mrs. McDonald: No sir, there was no conflict of interest.

Mayor: Thank you.

Mr. Evans: Okay, thank you.

Mayor: Okay, we're good to go. You're welcome.

E. Consider the rezoning from R10 residential district to C1 commercial district or to a more restrictive zoning classification for property located at 726 Country Club Drive. Containing .46 acres more or less and being the property of Aldrino and Ilmada Cariaso. Case Number P07-51F.

Kyle Garner, Planner, showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Garner also showed previous rezoning cases in the vicinity at the northeast corner of Country Club Drive and McCohen Drive and 714 Country Club Drive. Mr. Garner stated the applicant wishes C1 commercial uses at this location. Mr. Garner further stated the applicant appealed the Zoning Commission's recommendation of P2 professional district.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:55 p.m.

Ilmada Cariaso, 1637 Boros Drive, Fayetteville, NC 28303 appeared in favor and stated a home daycare had operated on the property since ownership was assumed in 1989.

Jonathan Charleston, 201 Hay Street, Fayetteville, NC 28301 appeared in favor as counsel for the property owners and stated the character of the area has changed to commercial uses and the rezoning would have no substantive impact on the surrounding properties.

Kelli Diamond, 201 Hay Street, Fayetteville, NC 28301 appeared in favor as legal counsel for the property owners and deferred to Mr. Charleston.

No one appeared in opposition and the public hearing closed at 8:08 p.m.

Council Member Haire inquired about commercialization of the corner of Rosehill Road and Country Club Drive.

Council Member Williams asked whether consideration had been given to increased property value and the potential for job creation as a result of the requested rezoning.

Council Member Gonzalez asked about a guarantee for egress and ingress from Country Club Drive. Council Member Bates posed questions regarding a driveway location on McCohen Drive.

MOTION: Council Member Haire moved to approve the C1 zoning as requested by the applicant.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

F. Consider an application by Janice M. Smith for a Special Use Permit to allow a daycare center in an R10 residential district for property located on the eastern side of Rosehill Road and south of Hickory Hill Road. Containing 2.2 acres more or less and being the property of Janice M. Smith. Case Number P07-53F.

Mr. Garner showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Garner stated the applicant is requesting a daycare at this location for fifty children with hours of operation Monday through Friday from 5:30 a.m. to 6:30 p.m. Mr. Garner further stated the Zoning Commission recommends approval for the daycare with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:16 p.m.

Janice M. Smith, 617 Bromsworth Trail, Fayetteville, NC 27311, being duly sworn in, appeared in favor and stated as an educator, her dream of a daycare center would be an asset for the community and citizens.

No one appeared in opposition and the public hearing closed at 8:18 p.m.

Council Member Bates asked if extending hours of operation would better serve the community. Ms. Smith stated extending operation until 11:00 p.m. would better accommodate parents who work second shifts.

MOTION: Council Member Massey moved to follow the recommendation of the Zoning Commission with conditions to include extending hours of operation to 11:00 p.m.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

G. Consider an amendment to the Fayetteville Code of Ordinances, Section 30-258(5) Zoning, Signs Permitted in the Historic Downtown District, to allow information signs used exclusively for towing notification increased in size from two square feet to a maximum size of two feet by two feet.

Mr. Teal stated tow-away signs require a minimum size of two feet by two feet to be in compliance with North Carolina General Statute. Mr. Teal explained adoption of this amendment makes the sign ordinance for tow-away signs consistent with the General Statute. Mr. Teal stated the Planning Commission recommends approval of the amendment. This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing opened and closed at 8:22 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE VIII, ADVERTISING AND SIGN REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NC. ORDINANCE NO. S2007-033

MOTION: Council Member Bates moved to approve the an amendment to the Fayetteville Code of Ordinances, Section 30-258(5) Zoning, Signs Permitted in the Historic Downtown District.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

4. BOARDS AND COMMISSIONS

NOMINATIONS – Second Week

BOARD OF ADJUSTMENT - 1 vacancy – 0 nominations needed – 1 nomination made

Shirley Gamble was nominated for a first term by Council Member Worthy.

NOMINATIONS – First Week

SENIOR CITIZENS ADVISORY COMMISSION – 5 vacancies – 5 nominations needed – 0 nominations made

Chris Sliwa was nominated for a first term by Council Member Worthy.

Glenda Harris was nominated for a first term by Council Member Haire.

Sylvia Williams was nominated for a second term by Council Member Evans.

John R. (Bob) White was nominated for a second term by Council Member Massey.

Lois Whitmeyer was nominated for a second term by Council Member Gonzalez.

William (Bill) Duke was nominated for a second term by Council Member Bates.

FAIR HOUSING BOARD - 1 vacancy due to resignation of position with term expiring in November 2007 – 1 nomination needed – 0 nominations made

No nominations were made.

NOMINATIONS

TAXICAB REVIEW BOARD– 1 alternate vacancy – 1 nomination needed – 0 nominations made

Victor J. Crisco was nominated for an alternate first term by Council Member Haire.

INFORMATION ONLY – No Action Needed

SENIOR CITIZENS ADVISORY COMMISSION – 1 vacancy due to replacement of position with term expiring in September 2008

5. CLOSED SESSION FOR CONSULTATION WITH ATTORNEY

MOTION: Council Member Gonzalez moved to go into closed session for consultation with attorney.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

The regular session recessed at 8:30 p.m.

MOTION: Council Member Meredith moved to reconvene in open session.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

The regular session reconvened at 8:45 p.m.

There being no further business, the meeting adjourned at 8:47 p.m.