

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
AUGUST 24, 2015
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1); Kady-Ann Davy (District 2); H. Mitchell Colvin, Jr. (District 3); Chalmers McDougald (District 4); Robert T. Hurst, Jr. (District 5); William J. L. Crisp (District 6); Larry O. Wright, Sr. (District 7); Theodore Mohn (District 8); James W. Arp, Jr. (District 9)

Others Present: Theodore Voorhees, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Jay Reinstein, Assistant City Manager
Victor Sharpe, Community Development Director
Scott Shuford, Development Services Director
Karen Hilton, Planning and Zoning Manager
Craig Harmon, Senior Planner
Kevin Arata, Corporate Communications Director
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Pastor John Adderley, Convent Love Church.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor Robertson and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITION

Council Member Hurst announced the next Citizens Academy course will begin October 6, 2015, and stated this is a great way to learn about the services the City provides and a great way to get involved and take ownership of your community.

Council Member Wright announced the "End of Summer Blast" Ground Forces Army Band will be in concert on August 28, 2015, at 8:00 p.m. at Festival Park and the public is invited to this free concert.

Mayor Robertson presented a "Key to the City" to Colonel (Retired) Jeffrey Sanborn, and stated Colonel Sanborn served as the Fort Bragg Garrison Commander from June 2012 until June 2015. Mr. Theodore Voorhees, City Manager, gave recognition for the great accomplishments of Colonel Sanborn and thanked him for his partnership and great working relationship.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Colvin moved to approve the agenda with the removal of Item 9.01.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.0 CONSENT

MOTION: Council Member Crisp moved to approve the consent agenda, with the exception of Item 6.08; pulled for discussion and separate vote.
SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

6.01 P15-22F. The initial zoning and rezoning of property from A1 Agricultural (County) and HI Heavy Industrial zoning district to CC Community Commercial Zoning District, located at 2065 Cedar Creek Road, and being the property of Naman Wilmington II LLC - Ashoh Patel).

6.02 P15-20F. The rezoning of property from MU/CZ Mixed Use Conditional Zoning to LC Limited Commercial Zoning District, located at 4209 Bragg Boulevard, and being the property of Tommy Kendall.

6.03 P15-25F. The rezoning of property from SF-10 Single Family to OI Office and Institutional, located at 985 S. McPherson Church Road, and being the property of Samuel P. Guy, II.

6.04 Revisions of Chapter 14, Article VI, Regulation of Boarded Residential Structures

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SECTIONS OF ARTICLE VI, REGULATION OF BOARDED UP RESIDENTIAL STRUCTURES, OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2015-011

6.05 Revisions of Chapter 22, Article 1, Section 22-17, Notice to Abate Unlawful Conditions; Abatement by the City Where conditions of Matter Admit of No Delay; Penalty.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 22-17 OF CHAPTER 22, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2015-012

6.06 Rescinding of Demolition Ordinances

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE RESCINDING DEMOLITION ORDINANCE NO. NS2014- 011. RESOLUTION NO. R2015-046A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE RESCINDING DEMOLITION ORDINANCE NO. NS2014-039. RESOLUTION NO. R2015-047

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE RESCINDING DEMOLITION ORDINANCE NO. NS2014-020. RESOLUTION NO. R2015-048

6.07 Uninhabitable Structures Demolition Recommendations

231 B Street, District 2
1011 Branson Street, District 2
507 Person Street, District 2
411 Plummers Lane, District 2
2764 Rivercliff Road, District 2
2779 Rivercliff Road, District 2
2783 Rivercliff Road, District 2

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (231 B Street, PIN 0437-93-2796). ORDINANCE NO. NS2015-022

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (1011 Branson Street, PIN 0437-04-7020) ORDINANCE NO. NS2015-023

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (507 Person Street, PIN 0437-93-2025) ORDINANCE NO. NS2015-024

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (411 Plummers Lane, PIN 0437-84-8665) ORDINANCE NO. NS2015-025

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (2764 Rivercliffe Road, PIN 0448-09-7772)ORDINANCE NO. NS2015-026

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (2779 Rivercliff Road, PIN 0449-00-6304)ORDIANCE NO. NS2015-027

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 BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (2783 Rivercliff Road, PIN 0449-00-6454) ORDINANCE NO. NS2015-028

6.08 Pulled for discussion and separate vote by Council Member Crisp.

6.09 Capital Project Ordinance 2016-10 - Aquatic Center at College Lakes Recreation Center

Capital Project Ordinance 2016-10 will appropriate \$2,200,000.00 for construction of the Aquatic Center at College Lakes Recreation Center and related ancillary costs. Once funds are appropriated to the project, staff is completing the RFQ process for the selection of an architect to design, and is currently negotiating a service contract with the same team that designed the Westover Pool, but that contract cannot be executed until this budget ordinance is approved.

6.10 Capital Project Fund Amendments

Annexation Phase V Reserve Fund Budget Amendment #16 will transfer \$7,200,000.00 to the Annexation Phase V, Areas 16-17 CPF. After the transfer the fund balance will be \$53,374.00. Annexation Phase V, Areas 16-17 CPF, Budget Amendment #2 receives the \$7,200,000.00 as a funding source along with \$2,300,000.00 of anticipated 2016 bond proceeds. The initial budget was established with \$11,000,000.00 and was amended on October 8, 2014, to \$14,500,000.00 by the Public Works Commission (not approved by the City Council). Budget Amendment #2 will increase the total budget to \$20,500,000.00.

6.11 Special Revenue Fund Project Ordinance 2016-5 (2015 Badges for Baseball Program)

Special Revenue Fund Project Ordinance 2016-5 will appropriate a \$20,000.00 cash award and a \$1,250.00 in-kind award of equipment and materials to provide the Badges for Baseball youth mentoring program.

6.12 Bid recommendation for the purchase of I/O Underground Primary Distribution Cable awarded to WESCO Distribution Inc., lowest responsive responsible bidder, in the amount of \$370,000.00.

Bids were received on July 21, 2015, as follows:

WESCO Distribution Inc., Raleigh, NC	\$370,200.00
HD Supply Power Solutions, Wake Forest, NC	\$385,800.00
Stuart C. Irby, Rocky Mount, NC	\$480,000.00
Shealy Electrical Wholesalers, Greenville, SC	\$524,000.00

6.13 Bid recommendation for Cross Creek WRF Alkalinity Feed Improvements awarded to Water and Waste Systems Construction, the lowest responsive responsible bidder, in the amount of \$815,000.00.

Bids were received on May 5, 2015, as follows:

Water and Waste Systems construction, Inc., Garner, NC.....	\$815,000.00
TA Loving company, Goldsboro, NC.....	\$867,000.00
Dellinger, Inc., Monroe, NC.....	\$871,669.00
MB Kahn, Inc., Columbia, SC.....	\$883,700.00
State Utility Contractors, Monroe, NC.....	\$890,000.00

6.14 Bid recommendation for Annexation Phase V, Project VII, Area 16, Hampton Oaks and Southgate Subdivisions, to include Overlay awarded to State Utility Contractors, the lowest responsive responsible bidder, in the amount of \$6,622,701.00.

Bids were received on June 24, 2015, as follows:

State Utility Contractors, Inc., Monroe, NC	\$6,262,701.00
Billy Bill Grading, Fayetteville, NC	\$6,694,918.55
Devere Construction, Alpena, MI	\$7,462,302.00

6.15 Bid recommendation for Annexation Phase V, Project VII, Area 17 Section I, Blue Spring Woods, Beacon Hill and Emerald Gardens Subdivisions, to include Overlay awarded to State Utility Contractors, the lowest responsive responsible bidder, in the amount of \$4,335,346.00.

Bids were received on July 14, 2015, as follows:

State Utility Contractors, Inc., Monroe, NC	\$4,335,346.00
Billy Bill Grading, Fayetteville, NC	\$4,398,189.55
Hall Contracting Corporation, Charlotte, NC	\$6,841,242.05

6.16 Bid recommendation for Annexation Phase V, Project VII, Area 17 Section II, Blue Spring Woods, Beacon Hill and Emerald Gardens Subdivisions, to include Overlay awarded to Billy Bill Grading, the lowest responsive responsible bidder, in the amount of \$5,079,322.14

Bids were received on July 24, 2105, as follows:

Billy Bill Grading, Inc., Fayetteville, NC	\$5,079,322.14
State Utility Contractors, Inc., Monroe, NC	\$5,483,125.40

6.08 Approval of Pinewood Terrance Extension in Rayconda Subdivision, Capital Project Ordinance 2016-11 and Budget Ordinance Amendment 2016-1

Council Member Crisp pulled this item for discussion and separate vote.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AND ACCESS AGREEMENT AND ACQUIRE REAL PROPERTY KNOWN AS PROPOSED PINEWOOD TERRACE EXTENSION. RESOLUTION NO. R2014-049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE CONDEMNATION ACTION FOR THE SPITE STRIP AT THE END OF PINWOOD TERRACE. RESOLUTION NO. R2015-051

A RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF SIPLE AVENUE RESOLUTION NO. 2015-052

MOTION: Council Member Crisp moved to adopt the resolutions and approve holding a public hearing on September 28, 2015, on the closure of Siple Avenue.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

7.0 REPORTS FROM BOARDS AND COMMISSIONS

7.01 Joint Fayetteville-Cumberland County Senior Citizen Advisory Commission - Reports from Boards and Commissions

Mr. Carey Berg, Chair, presented the annual Joint Fayetteville-Cumberland County Senior Citizen Advisory Commission report.

7.02 Fayetteville Metropolitan Housing Authority Annual Report (FMHA)

Ms. Dawn Driggers, Executive Director of FMHA, presented the annual Fayetteville Metropolitan Housing Authority report.

8.0 PUBLIC HEARINGS

8.01 P15-21F. The issuing of a Special Use Permit for Transitional Housing, on a property located at 600 Hillsboro Street, and being the property of Catfish & Goldies Unlimited.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation, and stated a transitional housing facility shall be located at least 2,640 feet (approximately one-half mile) from any other group home, therapeutic home, halfway house, 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). There are two group homes within a half mile of this site, however, one is separated from this property by the Martin Luther King Express Way and the other is separated by a railroad track and both are also more than 1,200 feet from this location. Operation Inasmuch currently operates multiple facilities in close proximity to this location, including long-term housing, food services, and job and life training. On July 14, 2015, the Zoning Commission held a public hearing on this case. Commission Member Kevin Hight was recused from this case since his church is a major funding source for this proposed shelter and he used to sit on the church board. There were 8 signed up to speak in favor and 14 in opposition. Those speaking in favor gave a history of Operation Inasmuch and why they felt the need for the shelter and what it would provide. They spoke of the existing houses that Operation Inasmuch has in the area and the requirements that are in place and the same requirements would be put in place at the new location. They referred to reports estimating the number and location of homeless population needing services. They indicated that those to be served by the shelter were already living in makeshift shelters in the immediate area and there would not be additional people coming to the area for the shelter. Those speaking in opposition, while not opposed to the homeless shelter, did not want the homeless shelter in their neighborhood since Operation Inasmuch was there already and owned several homes in the area. They felt it was too much to put in a small part of the City. They also spoke of

the homeless hanging around after meals and one case where a church member had her purse "snatched" by a homeless person. Surrounding business owners spoke of having to "run off" homeless people from their businesses. The Zoning Commission was unable to reach a recommendation acceptable to a majority of its members on this case. A motion was made to deny this application and the Commission were deadlocked in their voting 2 to 2.

Mr. Harmon stated the two conditions of approval are the site plan and must meet all requirements of the Unified Development Ordinance (UDO). He stated the Special Use Permit must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
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
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

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

Mr. Irvin Burks, 1108 Branson Street, Fayetteville, NC 28305, spoke in favor.

Mr. Jose Cardona, 233 Addison Street, Fayetteville, NC 28314, spoke in favor.

Mr. Burton Lawson, 895 Middle Road, Fayetteville, NC 28312, spoke in favor.

Mr. Jim Brown, 601 Frink Street, Fayetteville, NC 28301, spoke in favor.

Mr. Larry Krieger, 2222 Meadowood Road, Fayetteville, NC 28303, spoke in favor.

Mr. Matthew Smith, 3101 Hyman Place, Fayetteville, NC 28303, spoke in favor.

Ms. Annette Ethridge, 1323 Carolee Court, Fayetteville, NC 28314, spoke in favor.

Mr. Brian Wellborn, 1411 Rim Road, Fayetteville, NC 28314, appeared in favor.

Mr. Wilbert Simmons, 538 Frink Street, Fayetteville, NC 28301, appeared in favor.

Ms. Barbara Speir, 223 Rivenoak Drive, Fayetteville, NC 28303, appeared in favor.

Mr. John Adderley, 420 Dunn Road, Fayetteville, NC 28312, appeared in favor.

Ms. Sue Byrd, 2516 Huntington Road, Fayetteville, NC 28303, appeared in favor.

Mayor Robertson called for a recess at 8:42 p.m.. Mayor Robertson reconvened the meeting at 8:50 p.m.

Mr. Artie Odom, 522 Hillsboro Street, Fayetteville, NC 28311, appeared in opposition.

Mr. Fredrick Barber, 325 Hilliard Drive, Fayetteville, NC 28311, appeared in opposition.

Ms. Tina Bethea, 436 Vista Drive, Fayetteville, NC 28305 appeared in opposition.

Ms. Barbara White, 607 Orange Street, Fayetteville, NC 28301, appeared in opposition.

Mr. Len Brown, 513 Frink Street, Fayetteville, NC 28301, appeared in opposition.

Ms. Jessie McKenney, 519 Eaton Street, Fayetteville, NC 28301, appeared in opposition.

Ms. Joann Adams, 210 Central Drive, Fayetteville, NC 28301, appeared in opposition.

Mr. Levincent Sutton, 800 E. Orange Street, Fayetteville, NC 28301, appeared in opposition.

Mr. Anthony Whiting, 309 Central Drive, Fayetteville, NC 28301, appeared in opposition.

Ms. Shiela Cuffey, 6619 Brannan Way, Fayetteville, NC 28314, appeared in opposition.

Mr. Benjamin Washington, 3915 Daytona Road, Fayetteville, NC 28311, appeared in opposition.

Ms. Mary English, 729 Hillsboro Street, Fayetteville, NC 28301, appeared in opposition.

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

Mayor Robertson called for a recess at 10:36 p.m. Mayor Robertson reconvened the meeting at 10:41 p.m.

Council Member Colvin thanked all of the citizens for their participation in the public hearing, and asked Mr. Harmon when the 2,640 feet separation ordinance was adopted. Mr. Harmon responded it was in 2012.

Council Member Wright stated he is split on making a decision on this item, and said there is additional information needed, but we cannot ask the subject matter experts the questions as they have not been sworn in; there have been critical and compassionate arguments from both sides this evening.

Council Member McDougald stated he has more questions than we have answers available, and questioned historic values; he stated we need expert witnesses, and does not see Council moving forward with this tonight.

MOTION: Council Member McDougald moved to table the item until additional information has been provided to answer all the questions we have, and only then, do we move forward.

SECOND: Council Member Wright

Mayor Robertson asked the City Attorney if an application for a Special Use Permit (SUP) can be postponed until a later date. Ms. Karen McDonald, City Attorney, responded the burden of proof is on the applicant to prove the SUP meets the standards.

Council Member McDougald stated he does not have sufficient information and therefore the hearing should be continued until a later date.

Mayor Robertson stated staff will need to know what additional information is required.

Council Member Crisp stated he has many of the same concerns that Council Member McDougald has raised.

Council Member Mohn questioned the definition or classification of a shelter and transitional housing.

Council Member Colvin stated he has questions related to revitalizing neighborhoods and economic development plans.

Council Member Arp gave thanks to everyone in the audience for their patience and compassion, and stated Council is trying to find the right way to find resolution.

FRIENDLY AMENDMENT:

Council Member Colvin made a friendly amendment to amend the motion to include sending questions to staff and bringing this item back to a work session within 90 days.

Council Members McDougald and Wright accepted the friendly amendment.

VOTE: UNANIMOUS (10-0)

8.02 P15-19F. The issuing of a Special Use Permit for outdoor dog runs/part-time kennels, located at 4209 Bragg Boulevard, and being the property of Tommy Kendall.

Mr. Craig Harmon, Senior Planner, presented this item and stated in 2009 this property was rezoned for a mixed use development that would have included both residential and commercial uses. Since that time the prospective owner/developer has died, leaving this property in a state of limbo. Currently the only thing that can be developed on this property is what was approved in 2009. This rezoning will allow this property to be developed commercially as is shown on the City's Land Use Plan and the property's zoning will revert to commercial as it was prior to 2009. The parking, restroom facilities, and office space are a major concern of staff. The applicant's current plans call for permanent offices and restrooms to be built in the future. The City's ordinances require the office space to be built as the main use of the property and that the dog park is built as an accessory use. Chapter 13, Health and Sanitation, of the City Code does not allow portable restrooms to be used as the main or only source of waste removal of a business. Permanent restrooms are required to be built before a Certificate of Occupancy (CO) can be issued. The plan submitted with this application shows 39 permanent parking spaces. This number equates to a maximum of approximately 156 people using the facility at one time. Any additional parking must be

paved and approved through the City's Technical Review Committee (TRC). He presented the following conditions of approval:

1. The site plan with changes to be approved through TRC to include:
 - (a) Permanent restroom facilities and office space that must be built at the start of the project and not as a future improvement.
 - (b) Increases in designated parking spaces if needed.
2. Landscaping to meet UDO standards.
3. Retain the existing vegetative buffer at the rear and along the right side of the property when facing the property from Bragg Boulevard.
4. All parking to be marked and paved. (No parking in the unmarked grass or dirt areas unless explicitly approved through the TRC process.)

Mr. Harmon continued and stated on July 14, 2015, the Zoning Commission held a public hearing regarding this case. There were no speakers in favor or in opposition. After the hearing was opened and closed the Commission discussed the issue that neither the owner, applicant, or anyone else representing this request came to the meeting to answer questions. It was the consensus of the Commission that anyone applying should at least show up for their hearing. The Commission voted 4 to 1 to recommend denial of this SUP. The City staff recommends APPROVAL of the proposed SUP based on the following:

1. The City's Land Use Plan calls for this property to be heavy commercial.
2. The Bragg Boulevard Corridor Plan calls for general retail on this site.
3. This property is surrounded by commercial uses or zoning.
4. The mixed use development that was planned for this site is no longer being pursued.
5. All of the conditions listed above being met.

Mr. Harmon stated the SUP must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;

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
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

Council Member Crisp asked what steps would have to be taken if additional parking is needed. Mr. Harmon responded the request would be submitted to the Technical Review Committee.

Council Member Wright asked if the only reason the Zoning Commission denied the request was because the applicant was not present to represent the case. Mr. Harmon stated that was the reason why they denied it.

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

Mr. Tommy Kendall, 3515 Farm Circle Road, Fayetteville, NC 28306, spoke in favor and stated he is the land owner and applicant.

Mr. John Russell, 101 Gundy Lane, Spring Lake, NC 28390, spoke in favor and expressed his desire to open outdoor dog runs/part-time kennel facility.

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

MOTION: Council Member Arp moved to approve the Special Use Permit for outdoor dog runs/part-time kennels, with conditions as presented by staff, upon finding that the proposed use meets all 8 standards for Special Use Permits, and that the Special Use Permit is consistent with applicable plans because (1) the City's Land Use Plan calls for heavy commercial and the City's Bragg Boulevard Plan calls for general commercial, (2) that all of the uses within this LC District fall into that category, (3) the proposed zoning is reasonable and in the public interest because the proposed zoning fits with the character of the area.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

8.03 Code amendment to (1) define and classify brewpubs and (2) limit ground floor residential uses on Hay, Person, Green and Gillespie Streets in the DT Downtown District.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated the brewpub definition codifies an interpretation made with one of the early microbreweries in the City. Since the brewing portion was less than one-half the gross area, it could be viewed as an accessory to the restaurant portion. This amendment captures that interpretation and allows a brewpub where standard restaurants are currently allowed. Research will continue on other scales of microbreweries. The restriction on residential on the ground floor of buildings was put in place several years ago to reinforce the active commercial uses along the primary N-S and E-W downtown streets. Its absence in the current Chapter 30 was noticed only with recent applications for redevelopment of a property on Person Street. That applicant has worked with the Historic Resources Commission to design ground floor flex space that presents a Person Street façade with the window area and display space comparable to a commercial business and development will be able to go forward regardless of the action on this amendment. The Planning Commission held a public hearing on July 21, 2015. There were no speakers in support or opposition and the Commission members unanimously recommended approval of the amendment.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing was opened and closed.

AN ORDINANCE TO AMEND CITY CODE ARTICLES 30-4 AND 30-9 TO DEFINE AND CLASSIFY BREWPUB AND TO LIMIT THE LOCATION OF RESIDENTIAL USES ON CERTAIN STREETS (HAY-PERSON AND GREEN-GILESPIE) IN THE DT DOWNTOWN ZONING DISTRICT. ORDINANCE NO. S2015-013

MOTION: Council Member Colvin moved to approve the proposed amendment to define and classify brewpubs and to prohibit ground floor residential use on Hay, Person, Green, and Gillespie Streets in the downtown zoning district as consistent with adopted plans and meeting the criteria for amendments to Chapter 30.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

8.04 Code Amendment to various sections for parking standards for trailers, campers, and RVs in residential zoning districts.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item and stated regulation of trailers and RVs has been a challenge for City Council for years. In 2008 the Council required all RVs to be parked in the rear yard or off site with some exceptions for temporary use. Most recently, in November 2014 staff proposed changes addressing utility trailers in a set of miscellaneous changes; the change would have allowed one single-axle trailer to be parked in the front yard if there was no reasonable access to the rear yard. That portion of the miscellaneous changes was pulled and eventually denied in December 2014. City Council discussed the topic three more times in April and May. Staff believes the attached amendment represents the direction from Council in May 2015 which is to allow recreational vehicles and single-axle boats and utility trailers in front and corner side yards provided they are parked on asphalt or concrete surfaces, with multi-axle boats or utility trailers able to be considered and allowed through a waiver process. A chart summarizing standards in some other North Carolina communities is included in the agenda packet. Existing regulations, located in three different chapters of the City Code, were presented along with the draft amendment. A fourth section, Section 30-5.A, limits the allowed parking area (see amendment adopted August 10, 2015). Since the total parking area is limited, staff does not propose a maximum number of vehicles allowed. Issues include where and on what surfaces, how many, condition, and what types and sizes of vehicles. Concerns expressed at public hearings included the negative impacts on adjacent property values and quality of life when oversized trucks or RVs and poorly maintained trailers with miscellaneous equipment piled on them were evident in front and side yards in a neighborhood. Others noted the benefits of having ready access to the repair or yard maintenance equipment for small businesses run from the home. The Joint Appearance Commission recommended limited parking of trailers or RVs of modest size, and only one, in the front or corner side yards. The process for requests to park multi-axle trailers/vehicles in front or side yards should include opportunities for adjacent property owners to comment. It cannot be viewed as a hardship, so it needs a process other than a variance or appeal to the Board of Adjustment. The Neighborhood Compatibility Permit appears most appropriate. That involves notices to adjacent property owners, a hearing at the Planning Commission, and a relatively quick decision-making process, with compatibility with the community as a primary goal and the ability to set conditions to mitigate specific impacts.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing was opened and closed.

Council Member Arp stated there are still a lot of unanswered questions on this item and given the late hour now is not the time to discuss them.

MOTION: Council Member Arp moved to table the item to the earliest available meeting.

SECOND: Council Member Wright

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

8.05 Annexation of the Naman Wilmington II LLC Property

Mr. David Nash, Planner II, presented this item and stated a limited liability corporation named Naman Wilmington II LLC has requested that a very small property, consisting of .314 acres, be annexed into the City of Fayetteville. The property is located along the northern side of Cedar Creek Road at Judson Church Road. The annexation public hearing has been scheduled for August 24, 2015. The staff recommends approval of the annexation request and the initial zoning recommended by the Zoning Commission and staff. Naman Wilmington II LLC owns two properties along the northern side of Cedar Creek Road at Judson Church Road. One property, consisting of 3.82 acres, is already inside the City. A hotel used to be on this property, but the owner has demolished it. The owner plans to build two new hotels on this property. A second property, consisting of .314 acres, is not inside the City. This property was used as part of a parking lot for the former hotel. This second property is located in the Fayetteville Municipal Influence Area (MIA). It is assumed that the overall development site for the two new hotels will include both the first property already inside the City and the second property not yet inside the City. It is also assumed that the owner will use PWC water and sewer for the two new hotels to be built on the development site. Because the second property is in the Fayetteville MIA, and because it is assumed the owner will use PWC water and sewer for the overall development site, the owner is required to have the second property annexed, pursuant to City Council Policy No. 150.2. On June 20, 2015, Mr. Michael Adams, surveyor for the owner, submitted a petition requesting that the second property be annexed as a contiguous area. The PIN for the property is 0455-47-6968; the property consists of .314 acres. On July 14, 2015, the Zoning Commission held an initial zoning public hearing for this area.

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

Mr. Mike Adams, 1306 Fort Bragg Road, Fayetteville, NC 28305, surveyor for the owner, appeared in favor.

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

MOTION: Mayor Pro Tem Davy moved to adopt the proposed annexation ordinance annexing the area effective August 24, 2015, and establish the initial zoning consistent with the prior action on the zoning area.

SECOND: Council Member McDougald

VOTE: UNANIMOUS (10-0)

9.0 OTHER ITEMS OF BUSINESS

9.01 Request by Pearce's Mill Fire Department for a Waiver of the Annexation Requirement Contained in City Council Policy No. 150.2

This item was removed from the agenda by Council Member Crisp.

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 11:42 p.m.