

AGENDA REQUEST FORM

FOR: Council Meeting of August 18, 2020

FROM: Council Member Kyle Smith


ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO REQUEST THAT CITY STAFF STUDY AND PRESENT AN ORDINANCE ELIMINATING DISCRETIONARY PROCEEDINGS FOR RELIGIOUS USES TO THE EXTENT POSSIBLE, PROVIDE FOR REGULATIONS BASED ON THE SIZE AND INTENSITY OF THE PROPOSED USE, AND EMPLOY NON-SECTARIAN LANGUAGE

APPROVED FOR AGENDA:

Approved by email.
City Council Member Kyle Smith

8/15/2020
Date


Asst. City Attorney Blake Pennington
(as to form)

8/15/2020
Date

Pennington, Blake

From: Kyle Smith <citycouncil@kyle4fay.org>
Sent: Wednesday, August 05, 2020 7:56 AM
To: Pennington, Blake; Williams, Kit; Stoll, Garner; Norton, Susan
Subject: Religious Land Use Regulations

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Thank you to Susan and Garner for working with me to lay out a collaborative process by which we can review the issue of zoning churches that has caused us more than a few headaches in the last year. After considering several options, Garner suggested a resolution of intent asking planning staff to synthesize something from the various proposals that have been floated.

Below is my DRAFT resolution text. I welcome any feedback before we lock it in, but I would like to submit this for the Aut 11/18 agenda cycle if I haven't already missed a deadline for its publication. The one thing I feel like is missing is a timeline or deadline for the work to be back in front of City Council. Ideally, I would like to have it scheduled so a final vote falls in the 2020 year, but I wasn't sure how to write that in without being overly detailed.

WHEREAS the Fayetteville Unified Development Code (UDC) recognizes that a development's impact on traffic and quiet enjoyability of neighboring properties can vary depending on the size of a commercial structure, configuration of its parking, and scale of other design elements, but makes no such size-based distinction for religious uses, and

WHEREAS the Religious Land Use and Institutionalized Persons Act (RLUIPA) specifically permits land use regulation of religious institutions through rules of general applicability but prohibits regulation that relies on individualized assessments of religious uses, and

WHEREAS the UDC has only one zone specifically designated for religious use, and many zones that require individualized Conditional Use Permits to authorize religious land use, and

WHEREAS the strict application of UDC design standards to religious institutions may from time to time conflict with their First Amendment rights to religious expression if not accommodated consistent with the provisions of RLUIPA, and

WHEREAS the term "church," used extensively throughout the UDC, refers to buildings used for Christian worship and should be replaced with a neutral term inclusive of the all religious gathering places regardless of sectarian or denominational affiliation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to amend the Unified Development Code to implement objective criteria for regulation of religious land uses based on size and neighborhood impact consistent with existing commercial standards, to eliminate discretionary proceedings for religious uses to the extent practical, and to employ non-sectarian language.

Section 2: That the City Council of the City of Fayetteville, Arkansas requests Mayor Jordan utilize appropriate staff to work with the Planning Commission or Ordinance Review Committee and to consult with local religious leaders to determine appropriate objective criteria for classifying intensity of religious land use, and to develop processes and appropriate exemptions that allow Planning Commission to execute their oversight duties consistent with the Religious Land Use and Institutionalized Persons Act.

Kyle Smith

Council Member

Ward 4 Position 2

City of Fayetteville, Arkansas

citycouncil@kyle4fay.org

479.274.8881

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