

City of Fayetteville Staff Review Form

2021-0065

Legistar File ID

2/2/2021

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Kit Williams

1/22/2021

CITY ATTORNEY (021)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

AN ORDINANCE TO AMEND § 166.24 URBAN THOROUGHFARE TO MOVE USE UNIT 8, SINGLE-FAMILY DWELLINGS AND USE UNIT 9, TWO FAMILY DWELLINGS FROM PERMITTED USES TO CONDITIONAL USES

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>NA</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE
CITY ATTORNEY

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Jonathan Curth, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **January 22, 2021**

RE: **Conditional Uses for Single Family and Duplex Dwellings**

Urban Thoroughfare

Pursuant to the City Council's directions, I have divided Kyle Smith's three proposals in one ordinance to three separate ordinances. His proposal to move Use Unit 18 (gas stations and drive-in restaurants) from a use by right to a conditional use in Community Services is now its own ordinance as an amendment to the pending ordinance. This will be on Unfinished Business as a proposed amendment to the pending ordinance. I have also drafted two new ordinances which will be on New Business, but can be moved to a final reading by the City Council if so desired.

The new ordinance attached to this memo deals with **Urban Thoroughfare**, and concerns whether or not to make **single-family and two-family dwellings** Conditional Uses rather than Permitted Uses (or uses by right).

I have tried to place as much reasonable justification for this change as possible in the WHEREAS clauses of the ordinance since all these changes have some possibility of legal challenge. I have tried to give each as much armor as possible to discourage or defeat any such legal challenge.

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 166.24 URBAN THOROUGHFARE TO MOVE USE UNIT 8, SINGLE-FAMILY DWELLINGS AND USE UNIT 9, TWO FAMILY DWELLINGS FROM PERMITTED USES TO CONDITIONAL USES

WHEREAS, the City Council adopted City Plan 2040 with objectives to promote context sensitive corridor planning and prioritize multi-modal street designs that treat walkability and cycling as core functions (Goal 3); and

WHEREAS, City Plan 2040 includes a growth concept map designating areas of the city intended to develop into pedestrian-friendly, mixed-use nodes served by current or future transit service; and

WHEREAS, the Urban Thoroughfare zoning district has often been approved by the City Council for areas where high density mixed-use development has been determined by the City Council to be desirable to encourage a mixture of residential uses including high density, apartment-style residential developments and fairly intense commercial uses built in a traditional urban form; and

WHEREAS, Urban Thoroughfare districts are designed for much greater density than Use Unit 8, Single-family dwellings and Use Unit 9, Two-family dwellings provide so too many of these low density developments could defeat the zoning purpose of Urban Thoroughfare for high density commercial and multi-family uses and fail to reserve sufficient space for future commercial development; and

WHEREAS, Use Units 8 & 9 should be only Conditional Uses in Urban Thoroughfare and not Permitted Uses because the Conditional Use Permit process allows the Planning Commission to consider the purposes of City Plan 2040 and to hear from the neighbors and others about whether the proposal fits the neighborhood's needs and wants or whether a more dense residential or commercial development would be advisable.

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

Section 1 : That the City Council of the City of Fayetteville, Arkansas hereby amends § 161.24 **Urban Thoroughfare** by removing Use Unit 8, Single-family dwellings and Use Unit 9, Two-family dwellings from subsection (B)(1) *Permitted Uses* and adding them to subsection (B)(2) *Conditional Uses*.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby recognizes the vested rights of property owners who have purchased property for development based on existing zoning standards, and hereby exempts all unexpired large scale developments, small site improvement plans, large site improvement plans, preliminary plats, final plats, concurrent plats, and building permits approved within six (6) months following the enactment of this ordinance. This exemption shall include any approved renewals or extensions pursuant to § 166.20 of the Unified Development Code and all subsequent phases of plats subject to this exemption.

PASSED and **APPROVED** this _____ day of _____, 2021.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer