

City of Fayetteville Staff Review Form

2021-0064

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 §166.22 COMMUNITY SERVICES 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:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

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

Community Services

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 **Community Services**, 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.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §166.22 COMMUNITY SERVICES 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 Community Services zoning district is often applied to areas where mixed-use development is desirable because its stated purpose is to encourage a mixture of residential and commercial uses in a traditional urban form; and

WHEREAS, recent examples of development in Community Services districts utilizing only Use Unit 8, Single-Family Dwellings, in patterns indistinguishable from neighboring residential zones have failed to produce the intended variety of housing types or reserve space for future commercial development to serve a growing residential area; and

WHEREAS, the Conditional Use Permit process allows the Planning Commission to hear from the neighbors and public to ensure development of these zoning districts will promote the mixed-use objectives of Community Services and the City's Long Range 2040 Plan as well as better serve the neighborhood's needs for nearby and compatible commercial services.

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 § 161.22 **Community Services** 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: