

STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

IN RE: ROBERT W. NIXON :
: **ORDER DENYING A CONDITIONAL**
: **USE PERMIT**
APPLICATION # 2015-17-BOA :

THE BOARD OF ADJUSTMENT for the City of Kannapolis, North Carolina having held a public hearing on January 19, 2016 to consider Application Number 2015-17 BOA submitted by Robert W. Nixon, a request for an Order for a Conditional Use Permit for the property located at 3773 Kannapolis Parkway, Kannapolis, North Carolina.

The following were accepted by the Board as a part of the record in the matter:

1. Conditional Use Permit application
2. Conceptual Site Plan
3. Architectural Elevations
4. Zoning Map
5. Aerial Map
6. 2015 Future Land Use Map
7. Notice of Public Hearing
8. List of Adjacent Property Owners
9. CUP Sign Notification Photo+

Having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT:

The Board considered the approval criteria required by Section 3.5.3 of the Unified Development Ordinance:

1. The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.
 - (a) The proposed use for a dense mix of single-family attached homes and townhomes conflict with the existing rural large lot residential uses adjoining on the south side of the project area.
 - (b) The absence of greenspace for the proposed project is not in general conformance with the City Land Use Plan.

2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

- (a) The proposed use is part of a larger plan to provide commercial uses at the intersection of Kannapolis Parkway and Rogers Lake Road as well as single-family development along the western portion of the site. The commercial uses are not defined or proposed. However, preliminary plans show a matching road cross-section, identical to the Rogers Lake Road section, to serve as access to the commercial parcels and the main entrance to the entire development. Furthermore, an alternate access point will be provided north of the main entrance to allow for additional access to the development and, specifically, to the single-family detached portion. Also, another access point will be provided along Kannapolis parkway south of the main entrance to allow for additional access to the proposed attached single-family attached homes and townhomes, as well as for the entire development. The two (2) additional access points will be designated as right-in/right-out due to the median located along Kannapolis Parkway. NCDOT has also approved the additional access points at their general location. Therefore, the proposed measures to be taken to provide ingress and egress to the site and to minimize traffic hazards and congestion on public roads, are considered adequate.

3. The proposed use shall be not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

- (a) As residential use, the Board does not find that the proposed development to be noxious or offensive or that it will produce vibration, noise, odor, dust, smoke or gas beyond traditional residential uses.

4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

- (a) The proposed use will further the goals of the 2015 Land Use Plan by providing an alternative use to planned detached single-family uses and existing commercial zoning. The use is part of a compact and walkable mixed-use development similar to the mixed-use development form envisioned for this section of Kannapolis Parkway. The proposed use provides a transition between the commercial zoning and existing rural residential uses to the south and will be served by an integrated transportation system. The development project is anticipated to be complemented by similar land uses within the Mixed-Use district recommended by the 2015 Land Use Plan as surrounding properties are rezoned in the future to accommodate development pressures. Therefore, establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger public health, safety, or general welfare.

- (a) There was no testimony offered as to any detriment to public safety, health and welfare. As a residential development the Board finds there is no danger or detriment to the overall public safety, health and welfare anticipated to result from

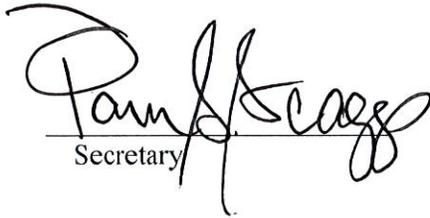
the proposed attached single-family attached homes and townhomes, provided that the site is constructed pursuant to the Unified Development Ordinance requirements and the conditions of approval.

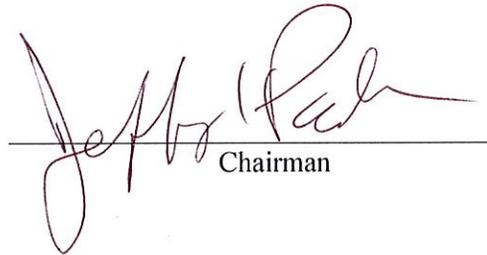
6. Compliance with any other applicable Sections of this Ordinance.
 - (a) The proposed use will be required to comply with Section 15.1. Coddle Creek Thoroughfare Protection (CCTP) Overlay District of the UDO. THE CCTP Overlay affects development within 200 feet of Kannapolis Parkway. Nearly a third (1/3) of proposed attached single family attached homes and townhomes will be subject to the CCTP Overlay District requirements. The submitted Architectural Drawings show the proposed residential units to be in compliance with the provisions of the Overlay.

Based on the above Findings of Fact the Board CONCLUDES that the Conditional Use Permit should not be approved for failure to find in favor of Fact #1 as stated above.

Therefore, the Board denies the Conditional Use Permit.

This the 16 day of February, 2016.


Secretary


Chairman

STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

IN RE: RICHARD RAFFALDT

APPLICATION # 2015-16 BOA

:
: **ORDER FOR CERTIFICATE**
: **OF NON-CONFORMITY**
: **ADJUSTMENT**

THE BOARD OF ADJUSTMENT for the City of Kannapolis, North Carolina having held a public hearing on January 19, 2016 to consider Application Number 2015-16 BOA submitted by Richard Raffaldt, a request for an Order for Certificate of Non-Conformity Adjustment for property located at 817 Fisher Street (and the adjacent lot), Kannapolis, North Carolina.

The following were accepted into evidence to constitute a part of the record in this matter:

1. Application
2. Letter from Zachary D. Gordon, Planning Director to Richard Raffaldt, dated 8/19/15.
3. Aerial Map
4. Zoning Map
5. Future Land Use Map
6. Proposed Site Improvements Plan
7. Letter to abutting property owners
8. List of abutting property owners
9. Posted zoning sign

Having heard and reviewed all of the evidence and arguments presented at the hearing, the Board makes the following **FINDINGS OF FACT**:

1. Does the nonconformity create noise above and beyond levels considered normal to the area?
 - (a) The applicant has been operating his landscaping business since just prior to the adoption of zoning regulations in 1988. While there has been an expansion of this business since 1988, the Board does not believe that any increase in noise has risen beyond levels that would be considered normal for the area.
2. Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?
 - (a) The applicant's landscaping business generates a low volume of traffic (typically one truck travelling to and from the site on a daily basis) and that even with the expansion of this business, the volume of traffic has not changed significantly, nor does the Board believe that there is a potential for traffic volumes higher than surrounding land uses.

3. Does the nonconformity generate any other negative effects including but not limited to dust, air pollution, foul smell, etc.?
 - (a) It does not appear that the applicant's landscaping business generates any appreciable negative environmental effects such as dust, air pollution or odor.
4. Does the nonconformity detract from the prevailing property values?
 - (a) A review of the County tax assessor records does not appear to indicate that the existing landscaping business detracts from the values of adjoining properties.
5. Does the nonconformity compliment or detract from the overall aesthetic character of the area?
 - (a) The applicant has previously installed fencing and landscaping to screen his landscaping business from adjoining properties and is intending to supplement these improvements with additional screening as noted on the enclosed "Proposed Site Improvements" plan.

Based on the above Findings of Fact the Board CONCLUDES the Certificate of Nonconformity Adjustment should be approved.

Therefore, the Board approves the Certificate of Nonconformity Adjustment to retain the landscaping business located at 817 Fisher Street (and adjoining property as noted above) with all current site improvements, subject to the following conditions:

1. There be no further expansion of the applicant's landscaping business at this location without the necessary approvals;
2. All enhancements shown on the "Proposed Site Improvements" plan, submitted as part of the applicant's CONA request, are installed within 6 months of any final order granted by the Board of Adjustment for this approval; and
3. Setback compliance for storage building.

This the 10 day of February, 2016.


Secretary


Chairman