



**Board of Adjustment  
July 14, 2020 Meeting**

**Staff Report**

**TO:** Board of Adjustment

**FROM:** Gretchen Coperine, AICP, Assistant Planning Director

**SUBJECT:** **Case# BOA-2020-07: Parcel on NE corner of Rogers Lake Rd. and Kannapolis Pkwy. Conditional Use Permit (CUP)**  
**Applicant: Sterling Development LLC**

**Request for a Conditional Use Permit to allow multi-family residential in the General Commercial (C-2) zoning district.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City’s exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Conditional Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Conditional Use Permit
4. Motion to Issue Order of Approval.

**B. Required Votes to Pass Requested Action**

A majority vote is required to approve, approve with conditions, or deny the requested actions.

**C. Background**

The applicant, Sterling Development, LLC, is requesting a Conditional Use Permit (CUP) to allow construction of a 270-unit apartment community in the C-2 (General Commercial) zoning district, located on the NE corner of Rogers Lake Rd. and Kannapolis Pkwy., further identified as Cabarrus County Parcel Identification Number 5602-39-3995.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family detached in the C-2 zoning district. The subject property is approximately 26.08 +/- total acres.

**D. Fiscal Considerations**

None

**E. Policy Issues**

Article 3.5 of the UDO requires that the Board of Adjustment shall only approve a conditional use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

**Staff Findings of Fact** - Based on application review

Yes No

**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.**

The subject property is within the "Primary Activity Center" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Primary Activity Center Character Area allows multifamily residential uses.

The proposed use is compatible with the character intent of the Primary Activity Center Character Area, as well as, complementary to the existing multi-family use on the south side of Rogers Lake Road (i.e., Vive) and the future mixed commercial uses on the SE corner of Rogers Lake Road and Kannapolis Pkwy.

**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.**

The site will continue take direct access off two (2) existing driveways on Rogers Lake Road. A Traffic Impact Analysis was provided for the proposed development, which recommended the following improvement:

***Rogers Lake Road and Furlong Way/Access A***

- Construction of the southbound approach of Access A with one ingress and two egress lanes consisting of a 100-foot right-turn lane, a shared left/through lane, and a 100-foot internal protected stem (IPS).
- Stripe the additional pavement on the westbound approach of Rogers Lake Road to include a right-turn lane with 150 feet of storage.
- Restripe the northbound left-turn lane along Furlong Way to include a shared left/through lane.

***Rogers Lake Road and Access B***

- Construction of the southbound approach of Access B with one egress lane and a 100-foot IPS.

Also, as a condition of approval, all roadway improvements shall be made per the final TIA once approved.

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

No vibration, noise, odor, dust, smoke or gas associated with the proposed residential use is expected.

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

The proposed plan would not impede development of the surrounding properties.

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

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed development is subject to all the requirements of the Unified Development Ordinance.

**Compliance with any other applicable Sections of this Ordinance.**

The proposed use shall comply with all sections of the City of Kannapolis Unified Development Ordinance, conditions of approval, and any other applicable local, state and federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all UDO requirements, including compliance with the Technical Review Committee site plan review and approval process, must be met.

**F. Legal Issues**

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether a conditional use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a conditional use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

**Yes**      **No**

**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.**

**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.**

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

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

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

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**Compliance with any other applicable Sections of this Ordinance.**

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### **G. Recommendation**

Based on the above findings, staff recommends **approval with conditions** of the Conditional Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, state and federal requirements.

#### **Conditions of Approval proposed by staff:**

1. The uses permitted with this rezoning shall only include 270 apartments, in general conformance with the plan submitted with this CUP.
2. The site concept plan and elevations are illustrative. Final design of the project, as reviewed by staff, shall be subject to meeting all city standards.
3. All roadway improvements, road intersections or where development has access and/or street frontage shall be approved by NCDOT and the City, as recommended per the recommendations on the final Traffic Impact Analysis for this development.
4. Development shall comply with current Land Development Standards Manual.
5. The developer will construct curb and gutter and sidewalk along the entire road frontage where development has access and/or street frontage. The improvements will be constructed to NCDOT and City standards.
6. The lane widths, sidewalks, pavement structure, road alignment, and road grades shall be constructed to current City standards.
7. Roads and parking lots shall comply with all Fire Codes and Autoturn shall be run for an SU-30 and Bus-45 (mimics ladder truck).
8. Streams and wetlands shall be identified by a qualified person and all buffers shown in accordance with Article 4 of the Kannapolis UDO. Construction of buildings, roads, and other structures must comply with AE Zone & RSOD Buffer requirements or be relocated.
9. A Stormwater Management Permit will be required for this Development in accordance with Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be provided for all stormwater structures and SCM's. Stormwater SCM's cannot be constructed in the undisturbed buffer.
10. Water and sewer main extensions will be required for this project. The developer shall be responsible for designing, permitting and constructing water and sewer mains in accordance with City and WSACC standards.
11. All water and sewer mains shall be publicly maintained and located within a public right-of-way or utility easement. The water and sewer mains shall be located in the roadway under the pavement per the City's Typical Utility Layout.
12. Easements for Sanitary Sewer lines, Water lines and Storm Sewer pipes need to be a minimum of 20-feet wide. Additional width may be required depending on the depth of the line. Sanitary sewer lines and storm sewer lines shall be located within Common Open Space (easements centered on property lines shall not be permitted). Viable access shall be provided along all

easements with a grade no greater than 15% for maintenance vehicles and cross slopes shall not exceed 5%.

13. The Fire Department shall approve locations of all hydrants.

***The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Conditional Use Permit.***

**H. Attachments**

1. Conditional Use Permit Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use Map
5. Site Plan
6. List of notified properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

**I. Issue Reviewed By:**

City Attorney	X
Planning Director	X
Director of Engineering	X
City Manager	X



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |                                     |                                  |                          |
|------------------------|-------------------------------------|----------------------------------|--------------------------|
| Variance               | <input type="checkbox"/>            | SIA Application                  | <input type="checkbox"/> |
| Conditional Use Permit | <input checked="" type="checkbox"/> | Nonconformity Adjustment         | <input type="checkbox"/> |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | <input type="checkbox"/> |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | <input type="checkbox"/> |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | <input type="checkbox"/> |

Applicant: STERLING DEVELOPMENT, LLC Owner: MPV KELLSWATER, LLC

Address: 3900 EDISON LAKES PKWY STE 201 Address: 2400 SOUTH BLVD  
MISHAWAUKA, IN 46545 CHARLOTTE, NC 28203

Telephone: 574-247-3281 Telephone: 704-561-5238

Email: phesse@thesterlinggrp.com Email: kchapman@mpvre.com

Legal relationship of applicant to property owner: PURCHASER

Property Location/Address: 5200 ROGERS LAKE RD, KANNAPOLIS, NC 28081

Tax Parcel Number: 04-050-0011.00 Zoning District: C-2 Acreage of Site: 26.08

PATRICIA HESS  
Applicant Name (Print)

Property Owner Name (Print)

SEE NEXT PAGE

Applicant Signature & Date

Property Owner Signature & Date

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.*

For Staff Use Only:

Filing Fee: \$600.-

Receipt # M-11328

Application No.: POA-2020-07

Date Submitted (Complete): 2/18/2020



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |                                     |                                  |                          |
|------------------------|-------------------------------------|----------------------------------|--------------------------|
| Variance               | <input type="checkbox"/>            | SIA Application                  | <input type="checkbox"/> |
| Conditional Use Permit | <input checked="" type="checkbox"/> | Nonconformity Adjustment         | <input type="checkbox"/> |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | <input type="checkbox"/> |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | <input type="checkbox"/> |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | <input type="checkbox"/> |

Applicant: STELLING DEVELOPMENT, LLC Owner: MPV KELLSWATER, LLC

Address: 3900 EDISON LAKES PKWY SE 201 Address: 2400 SOUTH BLVD  
MISHAWAUKA, IN 46545 CHARLOTTE, NC 28203

Telephone: 574-247-3281 Telephone: 704-561-5238

Email: phess@thesterincgrp.com Email: kchapman@mpvrc.com

Legal relationship of applicant to property owner: PURCHASER

Property Location/Address: 5200 ROGERS LAKE RD., KANNAPOLIS, NC 28081

Tax Parcel Number: 04-050-0011.00 Zoning District: C-2 Acreage of Site: 26.08

PATRICIA HESS  
Applicant Name (Print)

Ken Chapman  
Property Owner Name (Print)

[Signature]  
Applicant Signature & Date

[Signature] 2/17/2020  
Property Owner Signature & Date

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For Staff Use Only:

Filing Fee: \_\_\_\_\_

Receipt # \_\_\_\_\_

Application No.: \_\_\_\_\_

Date Submitted (Complete): \_\_\_\_\_



## CITY OF KANNAPOLIS PLANNING DEPARTMENT

### CONDITIONAL USE PERMIT APPLICATION

I, Patrick Hess, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: Multifamily Residential.

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

270 unit multifamily residential development consisting of (11) 3-story residential buildings, a (1) story clubhouse/lease center, a maintenance building, and resident site amenities (pool, dog park, grilling stations).

### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

The proposed multifamily residential development is consistent with the listed "primary uses" identified at the Rogers Lake Rd/Kannapolis Pkwy. Primary Activity Center in the 2030 Comprehensive Plan. Site will have code compliant landscaping.

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

Ingress and egress to the site is designed to minimize traffic congestion by following mitigation recommendations laid out in Traffic Impact Analysis submitted as part of this application.

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

The proposed multifamily residential use will not have levels of noise or pollution outside of everyday norms.

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

The proposed multifamily residential use is complementary of the adjacent property already developed and will contribute to and drive demand for development of nearby parcels currently being marketed for commercial use.

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

The development, maintenance, and operation of the property is focused on promoting the well-being of residents and the general public. On-site management and maintenance will ensure upkeep of the property for the benefit of both residents and the public.

**F. Compliance with any other applicable Sections of this Ordinance.**

Development will comply with all requirements for: multifamily development outlined in Article 11 of the Unified Development Ordinance, the Throughfare Protection Overlay District, and all other applicable standards.

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.



Signature of Applicant

2/17/2020

Date

The Board may place conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.

**Required as part of Conditional Use Permit Submittal:**

Fee: Please refer to fee schedule to determine applicable fees.

Fees are nonrefundable and help to cover administrative and notification costs.

Site plan in conformance with criteria listed in Appendix B.4.

Tax cards for all adjacent property owners



# Vicinity Map

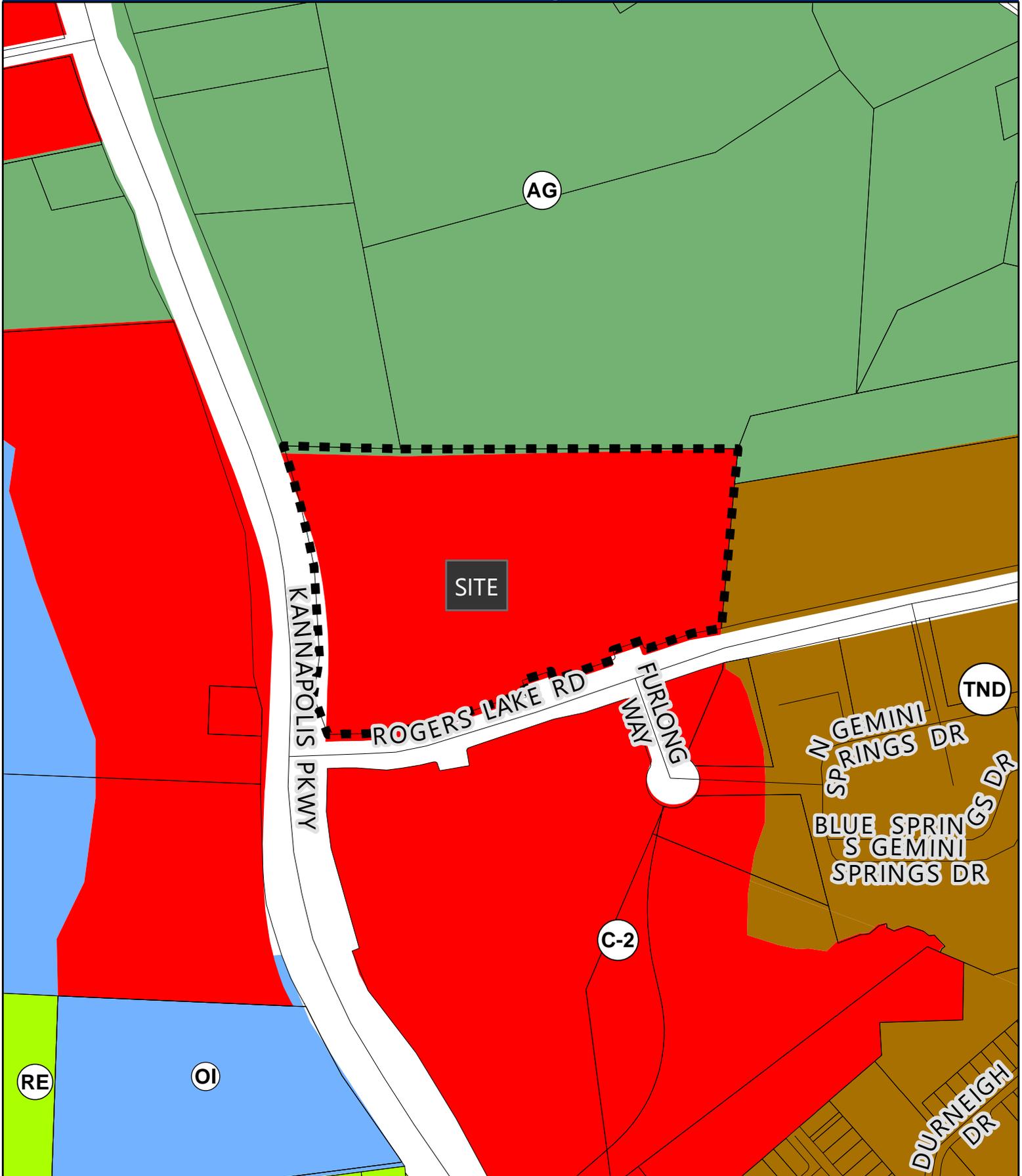
Case Number: BOA-2020-07  
Applicant: Sterling Development, LLC  
5010 Rogers Lake Rd





# Kannapolis Current Zoning

Case Number: BOA-2020-07  
Applicant: Sterling Development, LLC  
5010 Rogers Lake Rd



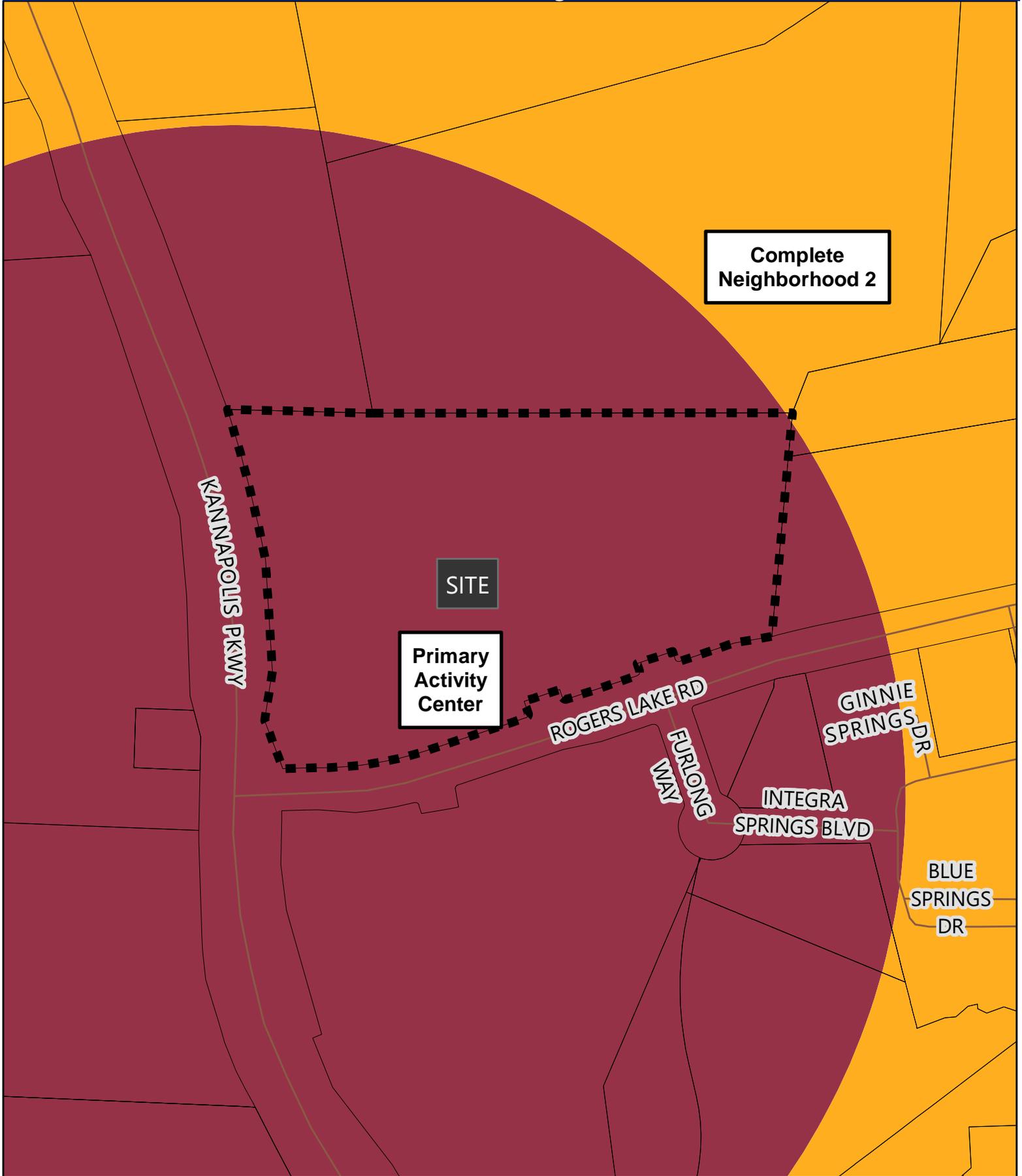


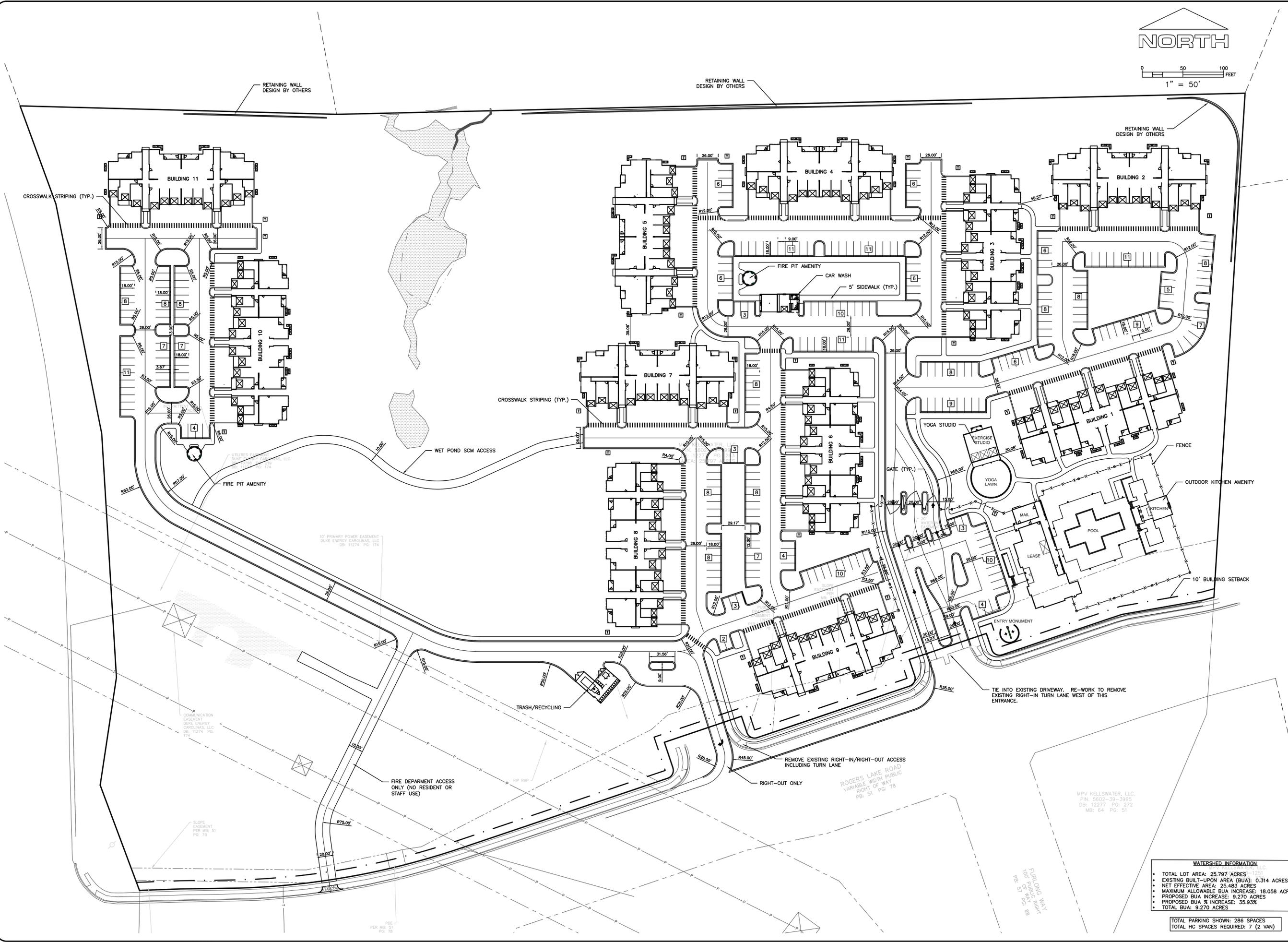
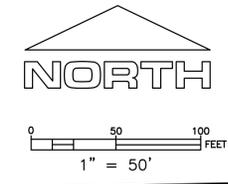
# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-07

Applicant: Sterling Development, LLC

5010 Rogers Lake Rd





North Carolina One-Call Center  
 2 DAYS BEFORE DIGGING IN  
 CALL 1-800-632-4949  
 CONTRACTORS SHALL CONTACT  
 EVERY 10 DAYS FOR AN UPDATE  
 TO UTILITY LOCATIONS.  
 Call BEFORE you DIG!  
 "It's The Law"

REVISION	DATE	DESCRIPTION

**ROGERS LAKE MULTI-FAMILY**  
 SITE LAYOUT PLAN  
 5200 ROGERS LAKE RD. KANNAPOLIS, NC 28081  
 STERLING DEVELOPMENT, LLC  
 PROJECT MANAGER: NB  
 APPROVED BY: NB  
 PROJECT START: 10.25.2019  
 CESI PROJECT NO. 190494.000  
 DRAWN BY: KWU  
 CHECKED BY: KWU

**CESI** CIVIL  
 GEOTECHNICAL  
 SURVEYING  
 PO BOX 268  
 CONCORD, NC 28026-0268  
 P. 704.786.5404  
 F. 704.786.7454  
 www.cesigs.com  
 NCBELS CORP. NO. C-0263  
 ©COPYRIGHT 2012

ENGINEERS SEAL  
  
 2/18/2020

**WATERSHED INFORMATION**  
 • TOTAL LOT AREA: 25.797 ACRES - 1251  
 • EXISTING BUILT-UPON AREA (BUA): 0.314 ACRES  
 • NET EFFECTIVE AREA: 25.483 ACRES  
 • MAXIMUM ALLOWABLE BUA INCREASE: 18.058 ACRES  
 • PROPOSED BUA INCREASE: 9.270 ACRES  
 • PROPOSED BUA % INCREASE: 35.93%  
 • TOTAL BUA: 9.270 ACRES

TOTAL PARKING SHOWN: 286 SPACES  
 TOTAL HC SPACES REQUIRED: 7 (2 VAN)

**C200**

<b>AcctName1</b>	<b>MailAddr1</b>	<b>MailCity</b>	<b>MailState</b>	<b>MailZipCod</b>
RAY & WILLENE HOLLAND	4465 ISENHOUR RD	KANNAPOLIS	NC	28081
INTEGRA POE LP	4890 W KENNEDY BLVD STE 240	TAMPA	FL	33609
NORRIS & DIANNE JAMES	4709 KANNAPOLIS PKWY	KANNAPOLIS	NC	28081
TEDDY & JANET JORDAN	4235 ISENHOUR ROAD	KANNAPOLIS	NC	28081
MPV KELLSWATER LLC	2400 SOUTH BLVD	CHARLOTTE	NC	28203
UPLANDS COMPANY INC	2600 S CANNON BLVD STE	KANNAPOLIS	NC	28083
STERLING DEVELOPMENT, LLC ATTN: PATRICK HESS	3900 EDISON LAKES PKWY SUITE 201	MISHAWAKA	IN	46545



June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, July 14, 2020 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-07 – Conditional Use Permit (CUP) – 5200 Rogers Lake Road.**

This public hearing is to consider a request for a Conditional Use Permit (CUP) to allow for a 270-unit multi-family residential development. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family residential in the C-2 (General Commercial) zoning district. The subject property is located at 5200 Rogers Lake Road, measures approximately 26.08 +/- acres and is further identified as Cabarrus County Parcel Identification Number(s) 5602-39-3995. **(Please see reverse side of this letter for vicinity map showing the location of this property).**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Gretchen Coperine, AICP  
Assistant Planning Director

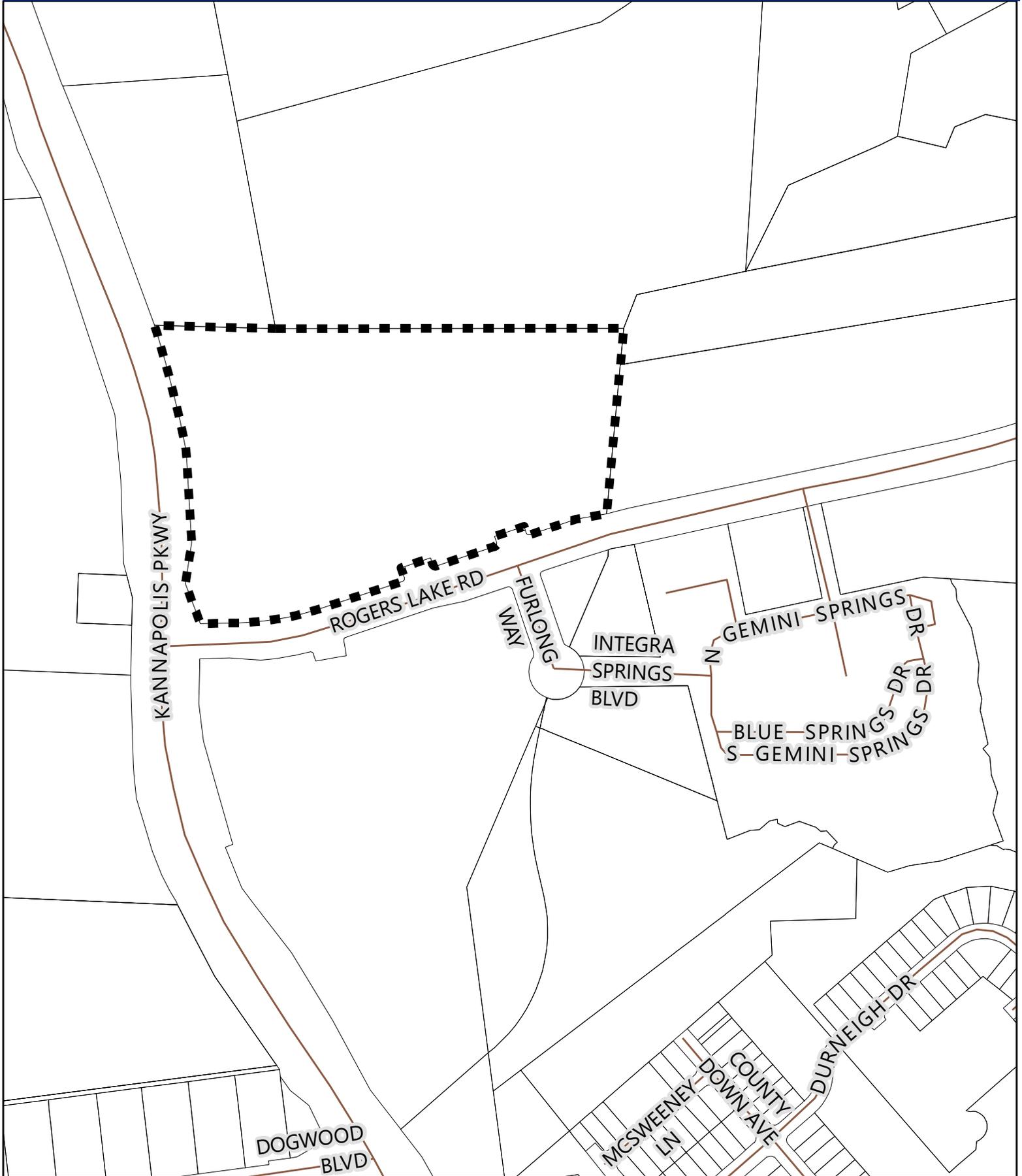
Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event.



# Conditional Use Permit

Case Number: BOA-2020-07  
Applicant: Sterling Development, LLC  
5200 Rogers Lake Rd





**BOARD OF**

**ADJUSTMENT**

**PUBLIC HEARING  
INFORMATION**

**CALL 704-920-4350**

**CASE #BOA - 2020 - 07**



**Board of Adjustment  
July 14, 2020**

**Staff Report**

**TO:** Board of Adjustment  
**FROM:** Ryan Lipp, Senior Planner  
**SUBJECT:** Case# BOA-2020-09: Variance – 708 Buick Avenue

**Request for variance from the provisions of Article 4, Table 4.7-1 of the Unified Development Ordinance (UDO) of the minimum lot size and rear setback from what is required in the Residential Village (RV) Zoning District to allow for a lot line adjustment.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record
2. Motion to approve/revise Findings of Fact proposed by Planning Staff
3. Motion to approve (approve with conditions) (deny) the issuance of the variance
4. Motion to issue Order for Approval

**B. Required Votes to Pass Requested Action**

Six votes are required to approve or deny the requested actions.

**C. Background**

The applicant, Marie Dellinger, is requesting a variance from Article 4, Table 4.7-1 of the Unified Development Ordinance, which requires a minimum lot size of 7,500 feet and the minimum rear setback of 5 feet for properties located within the Residential Village (RV) zoning district in order to adjust lot lines on two (2) parcels located at 708 Buick Ave, further identified as Cabarrus County Parcel Identification Numbers 5613-65-8638 and 5613-65-7579. The subject properties are approximately .28 +/- acres.

The applicant is requesting a variance in order to adjust the lot lines on the subject properties to separate two homes the currently occupy the same parcel. Without the variance, the City is unable to approve the lot line adjustment. The Residential Village (RV) zoning district requires a minimum lot size of 7,500 square feet. The current parcel is approximately 11,894 square feet, and once adjusted, each parcel will be approximately 4,184 square feet and 7,710 square feet, respectively. Furthermore, one the of existing homes is 0.1 feet off the rear property line. A minimum setback of 5 feet is required by the UDO. Both homes have existed in their current configuration since 1950s.

**D. Fiscal Considerations**

None

**E. Policy Issues**

**Staff Findings of Fact - Based on application review**

Yes      No

**Unnecessary hardship would result from the strict application of the ordinance.**

The current homes have existed on the subject parcel since the 1950s. The owner of the property is requesting the variance in order to adjust the parcel lines so that each existing home is on a separate parcel. Without the proposed variance, the City would be unable to approve the lot line adjustment, as the newly created lots and existing structures would violate the current ordinance regulations for minimum rear setback and minimum lot size.

**The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

The location of the homes and the current lot configuration have not changed since the 1950s.

**The hardship did not result from actions taken by the applicant or the property owner.**

The applicant acquired the parcel in the current configuration. There is no record of any actions of the owner that caused the hardship. The parcels have existed in their current configuration since the 1950s.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved and will preserve its spirit.**

The variance is consistent with the spirit, purpose, and intent of the UDO. The variance will bring the existing homes more into conformance as there is currently two homes on a single parcel. The variance would also allow for the elimination of a non-buildable lot.

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether a variance is warranted, the Board members must decide that each of the four criteria as outlined below has been met. If the Board members concur completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board members wish to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the four criteria below. Should a variance be approved, the Board members may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes      No

**Unnecessary hardship would result from the strict application of the ordinance.**

**The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

**The hardship did not result from actions taken by the applicant or the property owner's own actions.**

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

**F. Legal Issues**

None

**G. Recommendation**

Based on the above findings, staff recommends **approval** of the variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

**H. Attachments**

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Proposed Subdivision
6. List of Notified Properties
7. Notice to Adjacent Properties
8. Posted Public Notice

**I. Issue Reviewed By:**

Planning Director	X
City Manager	X
City Attorney	X



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |                                     |                                  |       |
|------------------------|-------------------------------------|----------------------------------|-------|
| Variance               | <input checked="" type="checkbox"/> | SIA Application                  | _____ |
| Conditional Use Permit | _____                               | Nonconformity Adjustment         | _____ |
| Subdivision Exception  | _____                               | Watershed Boundary Modification  | _____ |
| Zoning Text Amendment  | _____                               | Zoning Map Amendment             | _____ |
| Appeal                 | _____                               | Conditional Zoning Map Amendment | _____ |

Applicant: Marie Dellinger

Owner: Leanne Anderson, Manager  
Teal Home Solutions, LLC

Address: 1005 Dakota Street  
Kannapolis, NC 28083

Address: 2310 Roberta Road  
Concord, NC 28027

Telephone: 321-276-9979

Telephone: 704-968-2078

Email: Marie.Mess48@gmail.com

Email: Leanne@TEALhomesolutions.com

Legal relationship of applicant to property owner: mother

Property Location/Address: 708 Buick Avenue, Kannapolis, NC 28083

Tax Parcel Number: 5613658638 Zoning District: RV Acreage of Site: \_\_\_\_\_

Marie Dellinger  
Applicant Name (Print)

Leanne Anderson  
Property Owner Name (Print)

Marie Dellinger 2/17/2020  
Applicant Signature & Date

[Signature] 2/18/2020  
Property Owner Signature & Date

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For Staff Use Only:

Filing Fee: \$ 325. -

Receipt # M-11325

Application No.: 200A-2020-06

Date Submitted (Complete): 2/18/2020



**CITY OF KANNAPOLIS PLANNING DEPARTMENT**

**APPLICATION FOR A VARIANCE**

I, Marie Dellinger, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Administrator, I am prohibited from using the parcel of land described in the attached form (General Application Form) in a manner shown by the plot plan attached to that form. I request a Variance from the following provisions of the ordinance (cite paragraph numbers): Article 6.3.1

so that the above-mentioned property can be used in a manner indicated by the plot plan attached to the General Application Form or, if the plot plan does not adequately reveal the nature of the Variance, as more fully described herein:

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**Factors Relevant to the Issuance of a Variance**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Under the State Enabling Act, the Board is required to reach four conclusions before it may issue a Variance: (1.) that unnecessary hardship would result from the strict application of the ordinance; (2.) that the hardship results from conditions that are peculiar to the property, such as location, size, or topography; (3.) that the hardship did not result from actions taken by the applicant or the property owner; and (4.) the requested variance is consistent with the spirit, purpose, and intent, of the ordinance, such that public safety is secured, and substantial justice is achieved. In the spaces provided below, indicate the *facts* that you intend to show and the *arguments* that you intend to make to convince the Board that it can properly reach these four required conclusions.

**1. Unnecessary hardship would result from the strict application of the ordinance.**

It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property. [It is *not* sufficient that failure to grant the Variance simply makes the property less valuable.] (State facts and arguments in support of this conclusion.)

1 single-family home per parcel per UDD and currently there are 2 structures. Splitting the parcel will create non-conforming lots.

2. **The hardship results from conditions that are peculiar to the property, such as location, size, or topography.** Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. (State facts and arguments to show that the Variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the Variance is granted, will not substantially detract from the character of the neighborhood.)

Existing non-conforming lot.

3. **The hardship did not result from actions taken by the applicant or the property owner.** The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (State facts and arguments in support of this conclusion.)

Non-conforming lot existing prior to purchase of lot.

4. **The requested Variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.** (State facts and arguments to show that, on balance, if the Variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Marie Dellinger  
Applicant Name (Print)

2/17/2020  
Date

Marie Dellinger  
Applicant Signature

2/17/2020  
Date

**Note:** The Board may impose reasonable conditions upon the granting of any Variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice has been done.

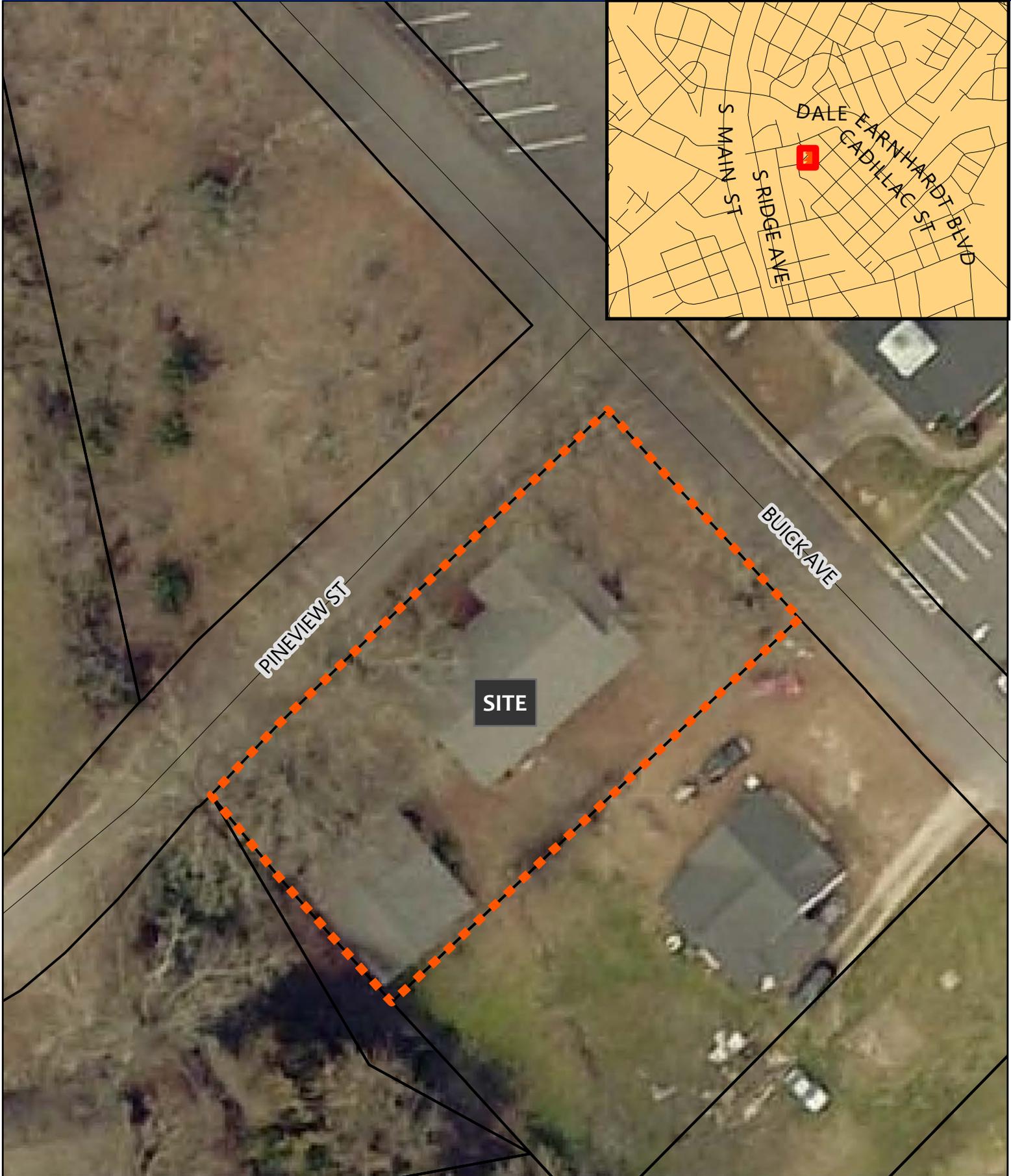
Calls or conversations with Board of Adjustment members prior to the meeting may disqualify members from participation at the Board meeting. For the testimony of supporters not to be considered hearsay, they must be present at the meeting. Petitions and written consent may be accepted by the Board, but cannot be used as a basis for decision.

**Fee:** Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.



# Vicinity Map

Case Number: BOA-2020-09  
Applicant: Marie Dellinger  
708 Buick Ave.



PINEVIEW ST

BUICK AVE

SITE

S MAIN ST

S RIDGE AVE

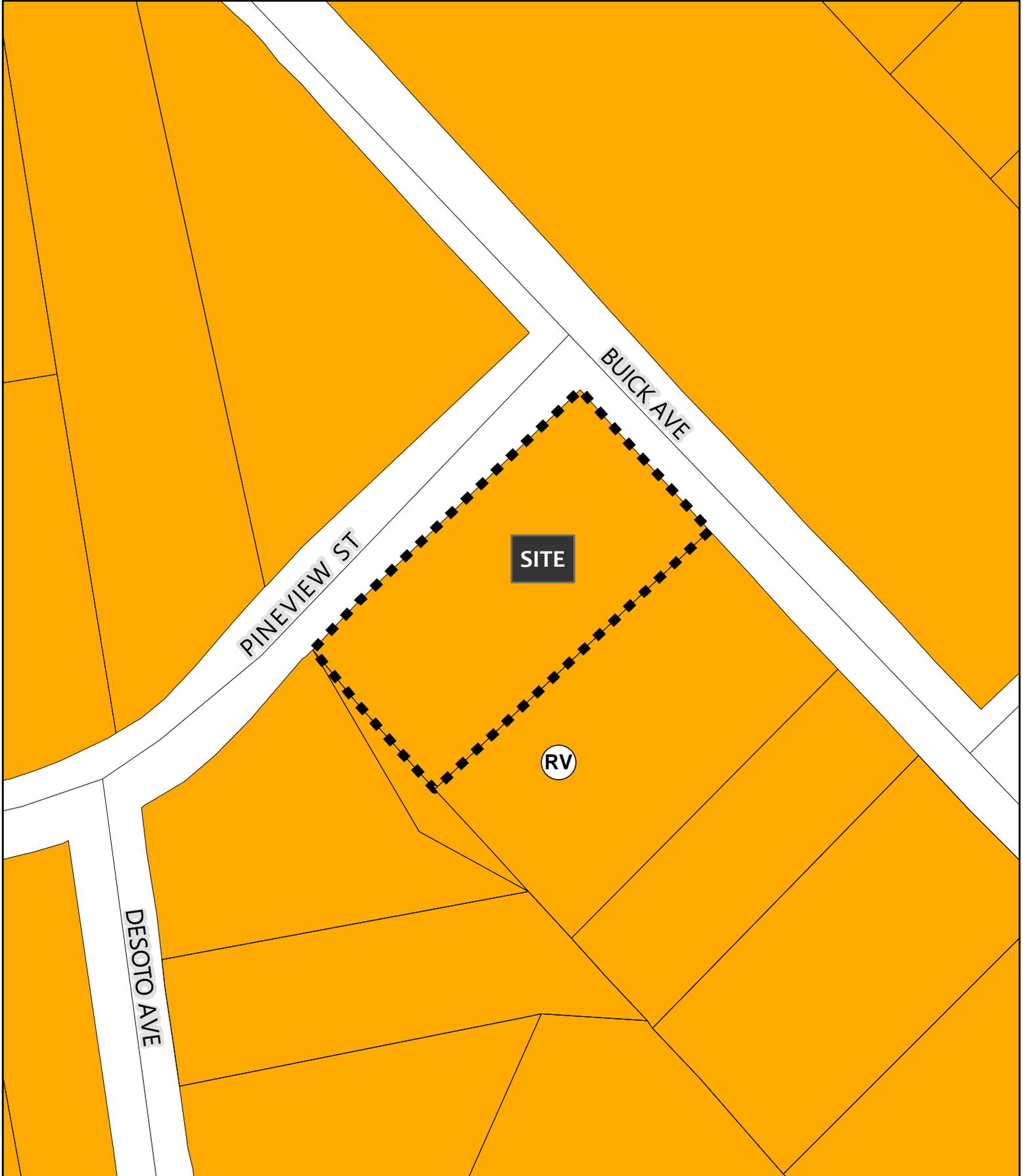
DALE

EARNHARDT BLVD  
CADILLAC ST



# Kannapolis Current Zoning

Case Number: BOA-2020-09  
Applicant: Marie Dellinger  
708 Buick Ave.



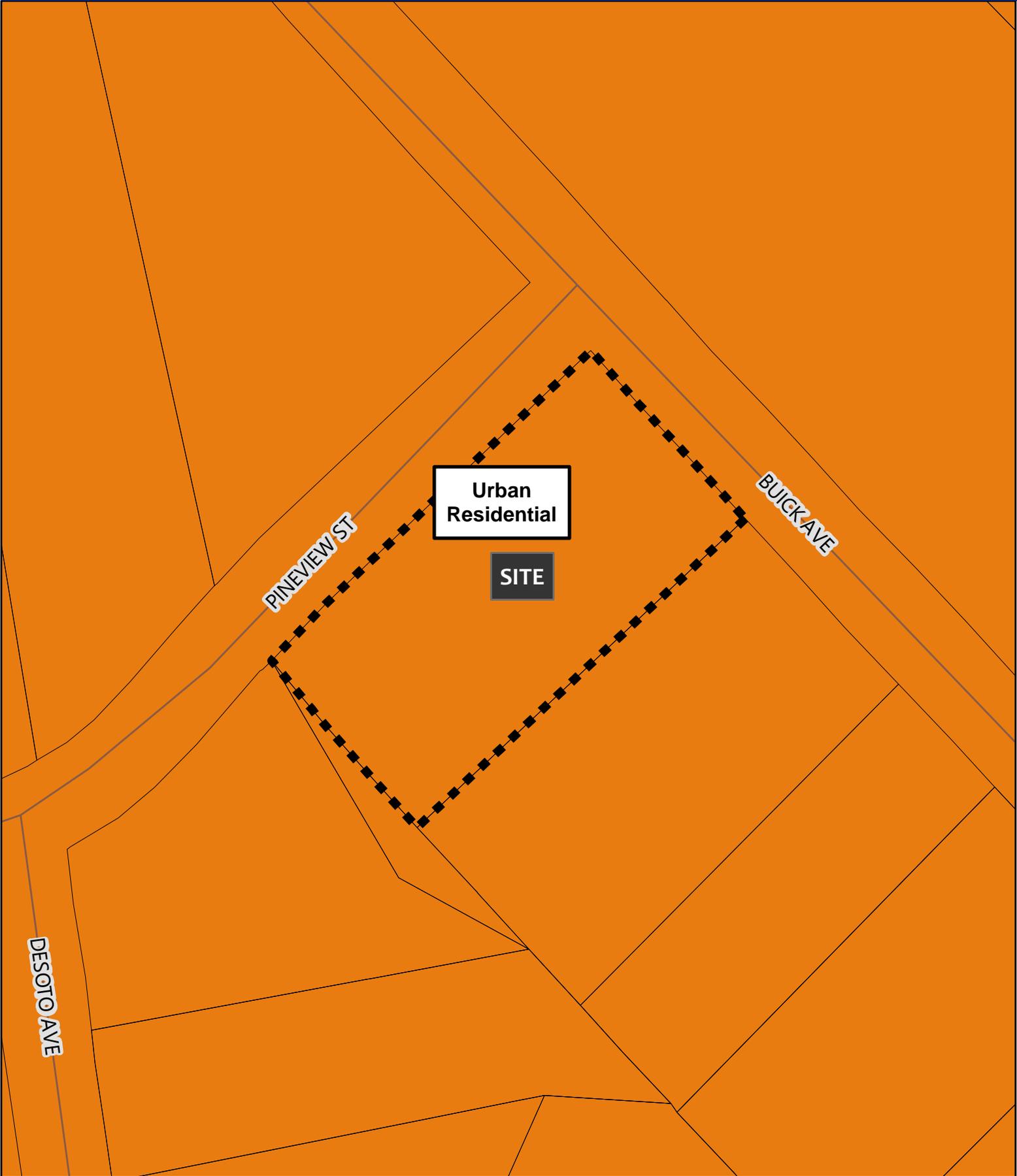


# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-09

Applicant: Marie Dellinger

708 Buick Ave.



**LEGEND**

- = Existing Right of way
- = Subject Property
- = Deed Line (Surveyed)
- - - = Deed Line (NOT Surveyed)
- OHU — = Overhead Utilities Lines
- X - X - = Chain Link Fence
- EIR = Existing Iron Rod, as described (FOUND)
- EIP = Existing Iron Pipe, as described (FOUND)
- NIR = New Iron Rebar, 1/2" (SET)
- △ = Existing Nail
- ▲ = Nail (SET)
- NTS = Not to scale
- ⊙ = Sewer Manhole
- ⊙ CO = Sewer Clean Out
- ⊙ = Utility Pole
- ⊙ = Light Pole
- EP = Edge of Pavement

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED IN THE JURISDICTION OF THE CITY OF KANNAPOLIS AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT AND ESTABLISH MINIMUM LOT SIZE AND BUILDING SETBACK LINES AS NOTED.

OWNER \_\_\_\_\_ DATE \_\_\_\_\_

**CERTIFICATE OF FINAL PLAT APPROVAL**

BY AUTHORITY OF THE CITY OF KANNAPOLIS SUBDIVISION REGULATIONS, THIS FINAL PLAT FOR TEAL HOME SOLUTIONS, LLC. SUBDIVISION IS HEREBY APPROVE

DATE \_\_\_\_\_ DIRECTOR OF PLANNING \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, \_\_\_\_\_, REVIEW OFFICER OF CABARRUS COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED, MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

**NOTES:**

1. THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA ACCORDING TO FIRM PANEL 3710561300K EFFECTIVE DATE NOVEMBER 16, 2018.
2. THE AREA OF LOTS DETERMINED BY COORDINATE METHOD.
3. PROPERTY IS ZONED: RV, FRONT SETBACK: 20', SIDE YARD 7' & REAR YARD 5'. MINIMUM LOT SIZE 7500 SF. CONTACT CITY OF KANNAPOLIS PLANNING & ZONING FOR FURTHER RESTRICTIONS.
4. NO PUBLISHED HORIZONTAL CONTROL MONUMENTS RECOVERABLE WITHIN 2000' OF PROPERTY.
5. THIS PLAT MAYBE SUBJECT TO ANY EASEMENTS, AGREEMENTS, OR RIGHT-OF-WAYS OF RECORDS PRIOR TO THE DATE OF THIS SURVEY.
6. BOUNDARY DETERMINED BY INFORMATION FOUND ON CABARRUS CO. GIS & REGISTER OF DEEDS & ON MONUMENTS FOUND IN THE FIELD.
7. PARCEL #5613-65-7579 (PART OF LOT #41) IS TO BE COMBINED WITH THE REMAINDER OF PARCEL #5613-65-8638 to total 0.10 acres ±.

I MATTHEW M. CUNNINGHAM HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE BY ME OR UNDER MY SUPERVISION; DEED DESCRIPTION RECORDED IN BOOK 14011, PAGE 49; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION AS NOTED ON PLAT; THAT THE RATIO OF PRECISION IS 1:10,000+; I FURTHER CERTIFY TO (F)(1.1) (A) THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND. THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS \_\_\_\_\_ DAY OF APRIL, 2020.

Professional Land Surveyor L-4393

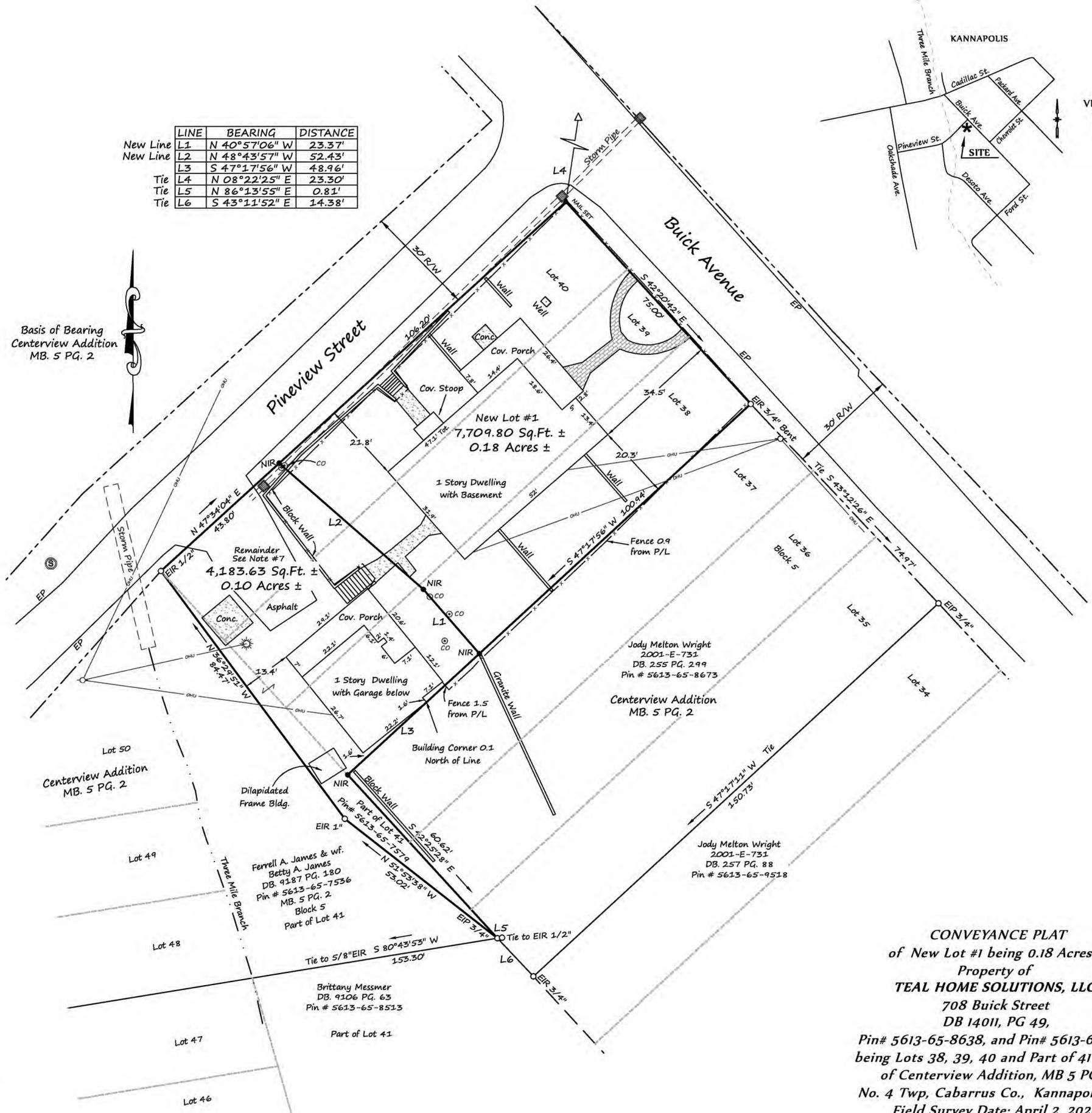
THE WORDS "CERTIFY", "CERTIFICATE" OR "CERTIFICATION" AS USED HEREON ARE UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR, BASED UPON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SUCH, DO NOT CONSTITUTE A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.

**MC**  
**LS**  
MATTHEW M. CUNNINGHAM  
PROFESSIONAL LAND SURVEYOR  
14050 CULP ROAD  
GOLD HILL, NC 28071  
704-467-2296

**PRELIMINARY MAP  
NOT TO BE USED FOR  
SALES, CONVEYANCE OR  
RECORDATION**  
M. CUNNINGHAM

LINE	BEARING	DISTANCE
New Line L1	N 40°57'06" W	23.37'
New Line L2	N 48°43'57" W	52.43'
L3	S 47°17'56" W	48.96'
Tie L4	N 08°22'25" E	23.30'
Tie L5	N 86°13'55" E	0.81'
Tie L6	S 43°11'52" E	14.38'

Basis of Bearing  
Centerview Addition  
MB. 5 PG. 2



Jody Melton Wright  
2001-E-731  
DB. 255 PG. 299  
Pin # 5613-65-8673

Centerview Addition  
MB. 5 PG. 2

Jody Melton Wright  
2001-E-731  
DB. 257 PG. 88  
Pin # 5613-65-9518

Ferrell A. James & wf.  
Betty A. James  
DB. 9187 PG. 180  
Pin # 5613-65-7536  
MB. 5 PG. 2  
Block 5  
Part of Lot 41

Brittany Messmer  
DB. 9106 PG. 63  
Pin # 5613-65-8513

Part of Lot 41

**CONVEYANCE PLAT**  
of New Lot #1 being 0.18 Acres ±  
Property of  
**TEAL HOME SOLUTIONS, LLC**  
708 Buick Street  
DB 14011, PG 49,  
Pin# 5613-65-8638, and Pin# 5613-65-7579  
being Lots 38, 39, 40 and Part of 41 Block 5  
of Centerview Addition, MB 5 PG 2  
No. 4 Twp, Cabarrus Co., Kannapolis, NC  
Field Survey Date: April 2, 2020  
Map Prepared: April 15, 2020

Scale: 1" = 20'  
Job No. 2020-05

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
2017-2 IH BORROWER LP				
C/O INVITATION HOMES	1717 MAIN ST STE 2000	DALLAS	TX	75201
CALVARY BAPTIST CHURCH KAN INC	703 BUICK AVENUE	KANNAPOLIS	NC	28083
CELIA ADAME DE AGUILERA	704 PACKARD AVE	KANNAPOLIS	NC	28083
JAMES C DEMING	702 PACKARD AVE	KANNAPOLIS	NC	28083
CHRISTOPHER S GAINEY	809 DESOTO AVE	KANNAPOLIS	NC	28083
MAZALEE C GALLOWAY ESTATE				
C/O GAYNELL FUNDERBURK	704 ROGERS LAKE ROAD	KANNAPOLIS	NC	28081
LILLIE C HOLCOMBE	804 BUICK AVE	KANNAPOLIS	NC	28083
LOUIE P IV & LEIGH HUNTER	134 SPRINGWAY DR	KANNAPOLIS	NC	28081
FERRELL & BETTY JAMES ESTATE				
C/O REBEKAH JAMES	1902 TROUTMAN HILL RD	KANNAPOLIS	NC	28083
DOROTHY C KINCAID LF EST				
C/O JEFFREY H KINCAID	1480 SAW RD	CHINA GROVE	NC	28023
BRITTANY MESSMER	803 DESOTO AVE	KANNAPOLIS	NC	28083
JEFFREY & MARI REID	708 PACKARD AVE	KANNAPOLIS	NC	28083
RENAISSANCE PROPERTIES INC				
C/O MR. GERALD W. HARGIS	780 BROWN RD	CHINA GROVE	NC	28023
MICHAEL & ELLA RICE	800 BUICK AVENUE	KANNAPOLIS	NC	28083
SOL MARIE PROPERTIES LLC	1005 DAKOTA ST	KANNAPOLIS	NC	28083
JAMES & SUSAN VARNER	710 CAMPBELL RD	KANNAPOLIS	NC	28081
JODY WRIGHT	710 BUICK AVE	KANNAPOLIS	NC	28083
TEAL HOME SOLUTIONS, LLC				
ATTN: LEANNE ANDERSON	2310 ROBERTA RD	CONCORD	NC	28027



KANNAPOLIS  
Planning

June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing at 6:00 PM on Tuesday July 14, 2020 at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-09 - Variance – 708 Buick Ave.**

This public hearing is to consider a request for a variance from Article 4, Table 4.7-1. of the Unified Development Ordinance, which requires minimum dimensional requirements for property located in the Residential Village (RV) zoning district. The applicant is requesting a variance from the minimum lot size and side yard setbacks which will allow subdividing the property into two (2) parcels. The subject property is approximately .25 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Numbers 5613-65-8638. **(Please see reverse side of this letter for vicinity map showing the location of this property.)**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,



Ryan Lipp  
Senior Planner

Enclosure

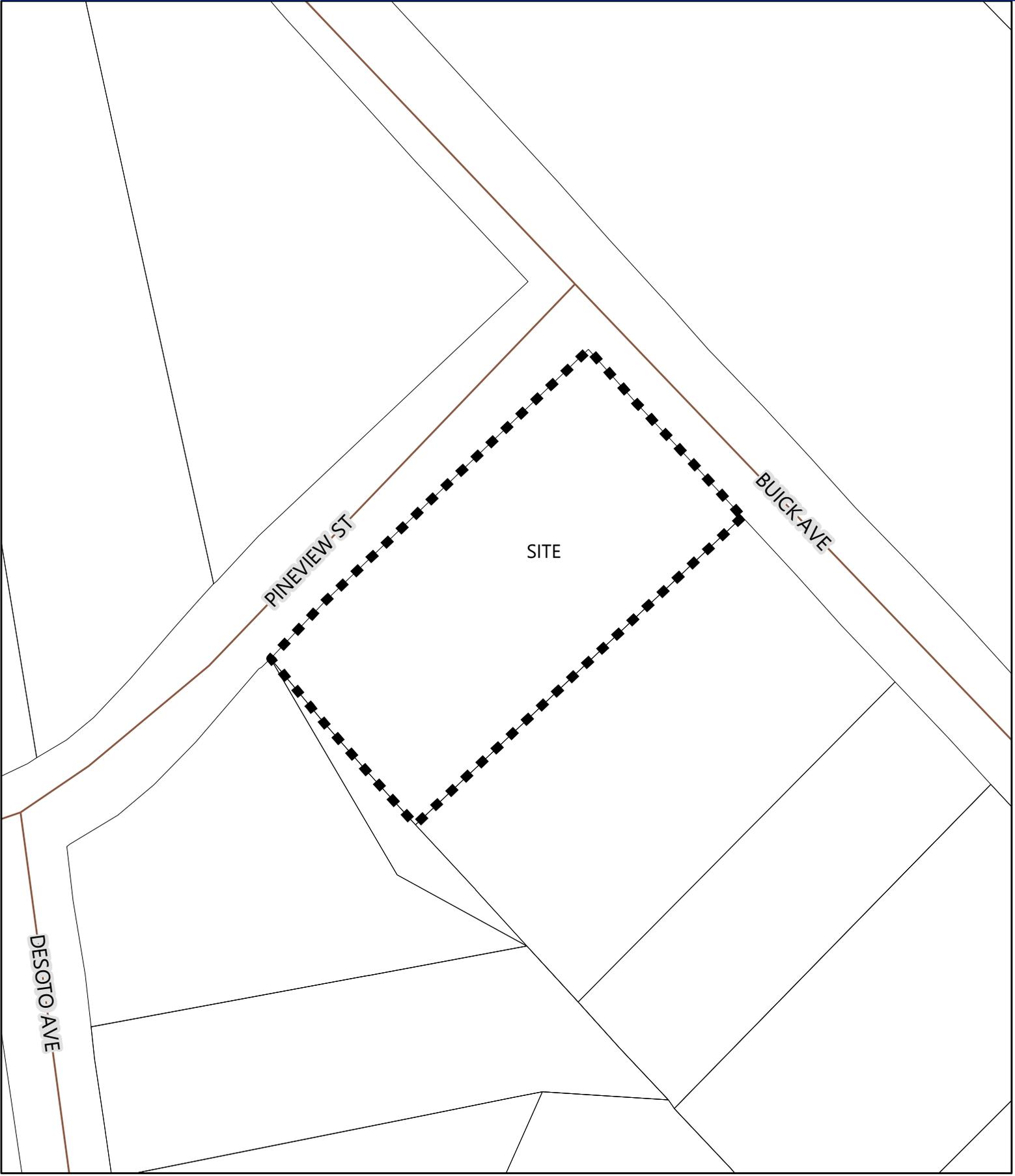
Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event



# Variance

Case Number: BOA-2020-09  
Applicant: Marie Dellinger  
708 Buick Ave.

N





**BOARD OF**

**ADJUSTMENT**

**PUBLIC HEARING  
INFORMATION**

**CALL 704-920-4350**

**CASE #BOA - 2020 -09**

PINEVIEW ST





**Board of Adjustment  
July 14, 2020**

**Staff Report**

**TO:** Board of Adjustment  
**FROM:** Ryan Lipp – Senior Planner  
**SUBJECT:** Case# BOA-2020-11: Variance – 411 Kimball Avenue

**Request for variance from the provisions of Article 4, Table 4.7-1 of the Unified Development Ordinance (UDO) of minimum front setback from what is required in the Residential Village (RV) Zoning District to allow for a subdivision.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record
2. Motion to approve/revise Findings of Fact proposed by Planning Staff
3. Motion to approve (approve with conditions) (deny) the issuance of the variance
4. Motion to issue Order for Approval

**B. Required Votes to Pass Requested Action**

Six votes are required to approve or deny the requested actions.

**C. Background**

The applicant, Matthew Erich, is requesting a variance from Article 4, Table 4.7-1 of the Unified Development Ordinance in order to subdivide one (1) parcel into two (2) located at 411 Kimball St, further identified as Rowan County Parcel Identification Number 152-106. The subject property is approximately .217 +/- acres. There is currently a home on the lot. Without the variance, the City is unable to approve the subdivision of the lot. The Residential Village (RV) zoning district requires a minimum front setback of 20 feet. The existing home is 5.9 feet off the front lot line.

**D. Fiscal Considerations**

None

**E. Policy Issues**

**Staff Findings of Fact - Based on application review**

Yes      No

**Unnecessary hardship would result from the strict application of the ordinance.**

The current structure has existed in its current configuration since the 1920s. The owner of the property is requesting the variance in order to subdivide the structure onto a separate parcel. Without the proposed variance, the City would be unable to approve the plat, as the structure would violate the current ordinance regulations for minimum front setback.

**The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

The location of the structure has not changed since the 1920s.

**The hardship did not result from actions taken by the applicant or the property owner.**

The applicant acquired the parcel in the current configuration. There is no record of any actions of the owner that caused the hardship. The location of the structure has been unchanged since the 1920s.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved and will preserve its spirit.**

The variance is consistent with the spirit, purpose, and intent of the UDO. The variance will bring the existing homes more into conformance with the UDO, as well as, eliminate an unbuildable lot.

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether a variance is warranted, the Board members must decide that each of the four criteria as outlined below has been met. If the Board members concur completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board members wish to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the four criteria below. Should a variance be approved, the Board members may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes      No

**Unnecessary hardship would result from the strict application of the ordinance.**

**The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

**The hardship did not result from actions taken by the applicant or the property owner's own actions.**

\_\_\_\_\_

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

\_\_\_\_\_

\_\_\_\_\_

**F. Legal Issues**

None

**G. Recommendation**

Based on the above findings, staff recommends **approval** of the variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

**H. Attachments**

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Proposed Subdivision
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

**I. Issue Reviewed By:**

Planning Director	X
City Manager	X
City Attorney	X



**Planning and Zoning Commission and Board of Adjustment  
General Application Form**  
*(Not for Site Plan Review Submittals)*

Type of Action Requested (Check One):

- |                        |                                     |                                  |       |
|------------------------|-------------------------------------|----------------------------------|-------|
| Variance               | <input checked="" type="checkbox"/> | SIA Application                  | _____ |
| Conditional Use Permit | <input type="checkbox"/>            | Nonconformity Adjustment         | _____ |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | _____ |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | _____ |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | _____ |

Applicant: Matthew Erich Owner: Same

Address: 19037 Chandlers Landing Dr Address: \_\_\_\_\_  
Cornelius, NC 28031 \_\_\_\_\_

Telephone: 317-435-9781 Telephone: \_\_\_\_\_

Email: merich@callmylist.com Email: \_\_\_\_\_

Legal relationship of applicant to property owner: Same

Property Location/Address: 411 Kimball

Tax Parcel Number: 152 106 Zoning District: RV Acreage of Site: .217

Matthew Erich \_\_\_\_\_  
Applicant Name (Print) Property Owner Name (Print)

\_\_\_\_\_  
Applicant Signature & Date Property Owner Signature & Date

***The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.***

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For Staff Use Only:

Filing Fee: \_\_\_\_\_ Receipt # \_\_\_\_\_

Application No.: \_\_\_\_\_ Date Submitted (Complete): \_\_\_\_\_



**CITY OF KANNAPOLIS PLANNING DEPARTMENT**

**APPLICATION FOR A VARIANCE**

I, Matthew Erich, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Administrator, I am prohibited from using the parcel of land described in the attached form (General Application Form) in a manner shown by the plot plan attached to that form. I request a Variance from the following provisions of the ordinance (cite paragraph numbers): Table 4.6-1 - front and side setbacks

so that the above-mentioned property can be used in a manner indicated by the plot plan attached to the General Application Form or, if the plot plan does not adequately reveal the nature of the Variance, as more fully described herein:

- A variance will be needed to rectify the non-conformities for setback encroachment into the front and side setback of the lot lines closest to Kimball St. This will need to be done prior to the plat being approved

**Factors Relevant to the Issuance of a Variance**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Under the State Enabling Act, the Board is required to reach four conclusions before it may issue a Variance: (1.) that unnecessary hardship would result from the strict application of the ordinance; (2.) that the hardship results from conditions that are peculiar to the property, such as location, size, or topography; (3.) that the hardship did not result from actions taken by the applicant or the property owner; and (4.) the requested variance is consistent with the spirit, purpose, and intent, of the ordinance, such that public safety is secured, and substantial justice is achieved. In the spaces provided below, indicate the *facts* that you intend to show and the *arguments* that you intend to make to convince the Board that it can properly reach these four required conclusions.

**1. Unnecessary hardship would result from the strict application of the ordinance.**

It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property. [It is *not* sufficient that failure to grant the Variance simply makes the property less valuable.] (State facts and arguments in support of this conclusion.)

Can't subdivide without the variance

2. **The hardship results from conditions that are peculiar to the property, such as location, size, or topography.** Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. (State facts and arguments to show that the Variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the Variance is granted, will not substantially detract from the character of the neighborhood.)

Existing since approximately 1968

3. **The hardship did not result from actions taken by the applicant or the property owner.** The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (State facts and arguments in support of this conclusion.)

Purchased property in 2019

4. **The requested Variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.** (State facts and arguments to show that, on balance, if the Variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Will not be able to subdivide property to remove SFR from the mobile home park

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Matthew Erich

Applicant Name (Print)

2/28/2020

Date

Applicant Signature

Date

**Note:** The Board may impose reasonable conditions upon the granting of any Variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice has been done.

Calls or conversations with Board of Adjustment members prior to the meeting may disqualify members from participation at the Board meeting. For the testimony of supporters not to be considered hearsay, they must be present at the meeting. Petitions and written consent may be accepted by the Board, but cannot be used as a basis for decision.

**Fee:** Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

**STAFF USE ONLY**

Scheduled meeting date: \_\_\_\_\_

Dates advertised in newspaper: \_\_\_\_\_ and \_\_\_\_\_

Date written notices mailed: \_\_\_\_\_

**Board Decision:** \_\_\_\_\_

**Conditions:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date written notice of decision sent to applicant: \_\_\_\_\_



# Vicinity Map

Case Number: BOA-2020-11  
Applicant: Matthew Erich  
411 Kimball St.

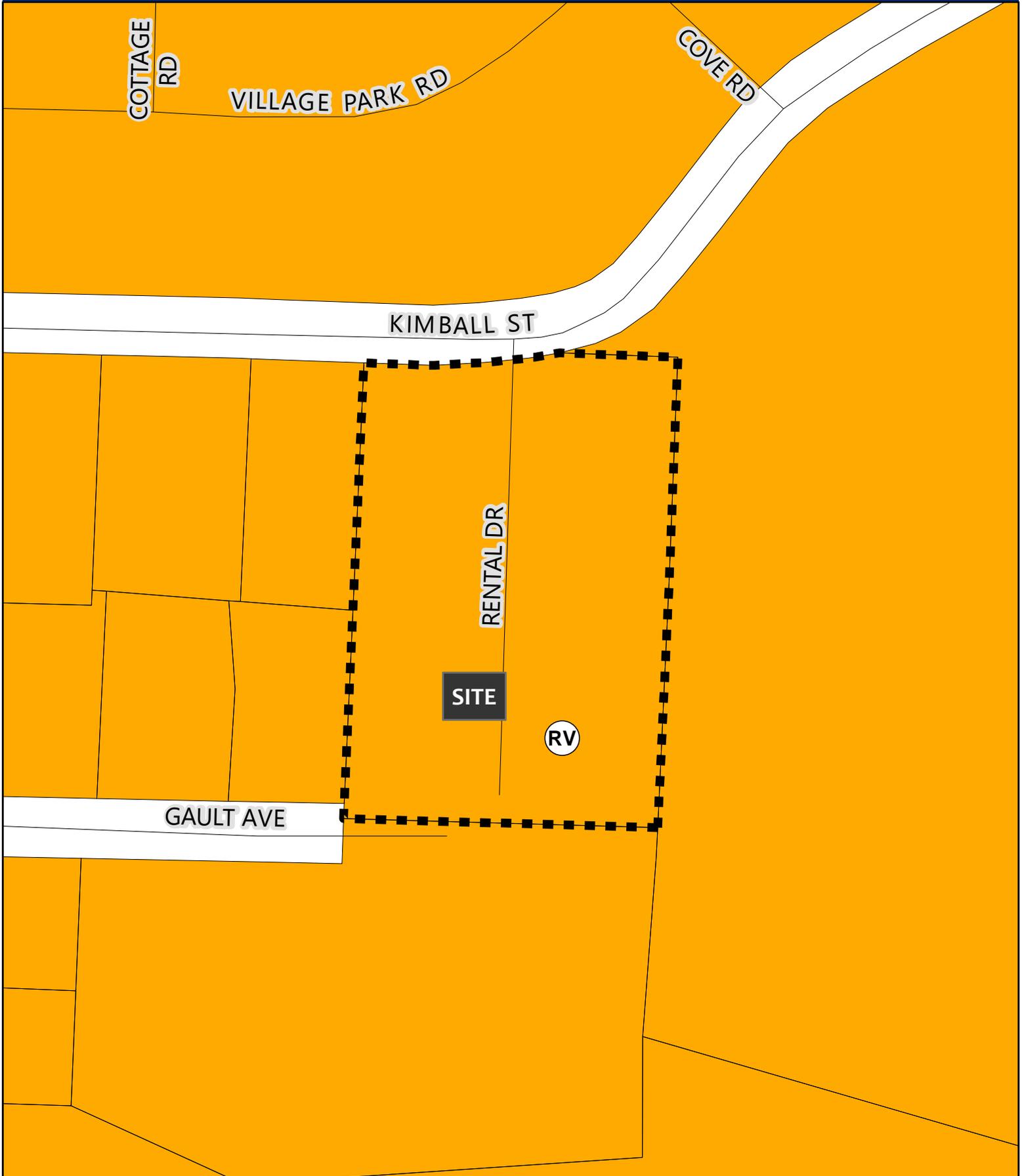




# Kannapolis Current Zoning

Case Number: BOA-2020-11

Applicant: Matthew Erich  
411 Kimball St.





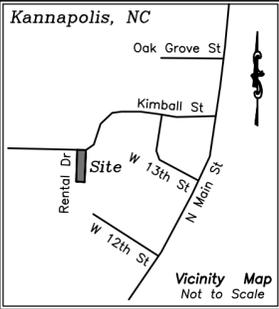
# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-11

Applicant: Matthew Erich

411 Kimball St.

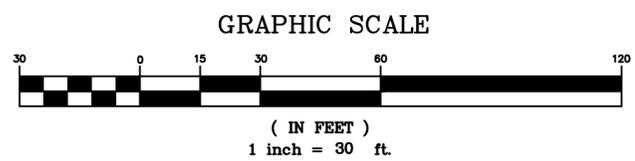




I, Mark S. Pence, Hereby certify that this map was drawn from an actual survey made under my direct supervision (Deed Description recorded in Deed Book 1324 Page 88; that the Ratio of Precision 1:20,000 as calculated, that the boundaries not surveyed are shown as broken lines plotted from information as referenced herein; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this the 29th day of January 2017.

That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

N. C. Professional Land Surveyor L-3680



- Notes:
- \* Tax Parcel #152 106
  - \* Total Site Acreage = 1.476 Acres (64,310 SF)
  - \* Site Zoning: RV
  - \* Setbacks Per Zoning:
    - Front = 20'
    - Side = 7'
    - Rear = 5'
  - \* Minimum Lot Size = 7,500 SF
  - \* Minimum Lot Width = 60'
  - \* 2 new lots are created on this plat.
  - \* No new streets are created on this plat.
  - \* Property lies in the City of Kannapolis

Flood Note:

- \* This property is not located within a special Flood Hazard Zone according to the Flood Insurance Rate Map (Community Panel) 3710561400K, Dated 11-16-2018.

Watershed:

- \* This site does lie in the WS-II Balance of Watershed of the Yadkin/ Coddle Creek Watershed.

Surveyor Notes:

- \* This property is subject to all easements, rights-of-ways and restrictions of record.
- \* #4 Rebars to be set at all new property corners.
- \* No NCGS Control Monument located within 2,000' of subject property.

Easement Statement:

Encroachment of any structures or landscaping, including, but not limited to, driveways, pools, fences, trees, wells, reservoirs, or other obstructions, which interfere with free, easy, and clear access to utilities on any easement, are prohibited. However, certain structures, filling, or grading may be permitted upon execution of an express Encroachment Agreement. The City of Kannapolis may authorize an Encroachment Agreement, but only after review and approval of detailed plans.

Public Utility Easement Statement

All open space depicted or identified on this plat shall be subject to and encumbered by a general public utility easement in gross benefiting the City of Kannapolis. The City of Kannapolis, its agents, employees, successors, and assigns shall have the right of ingress, egress, and regress over and upon any property designated on this plat as open space for the purpose of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining and otherwise keeping open and in good repair any public municipal utility including, but not limited to, water systems, sanitary sewer systems, and public stormwater systems.

Plat Review Officer Certificate

State of North Carolina  
County of Rowan

I, \_\_\_\_\_, Review Officer of Cabarrus County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer \_\_\_\_\_ Date \_\_\_\_\_

Certificate of Final Plat Approval

By authority of the City of Kannapolis Subdivision Regulations, this final plat for the Matthew C. Erich Subdivision is hereby approved.

Date \_\_\_\_\_ Director of Planning \_\_\_\_\_

Date \_\_\_\_\_ City Engineer \_\_\_\_\_

Date \_\_\_\_\_ Public Works Director \_\_\_\_\_

Certificate of Ownership & Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Kannapolis, and that I hereby submit this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, walks, parks, open space and easements, except those specifically indicated as private, and that I will maintain all such areas until accepted by the City of Kannapolis, and further that I hereby guarantee that I will correct defects or failure of improvements in such areas for a period of one year commencing after a certificate of approval has been executed by the city, or after final acceptance of required improvements, whichever occurs later.

Owner - Matthew C. Erich \_\_\_\_\_ Date \_\_\_\_\_

State of North Carolina  
County of Iredell

I, Joyce Rietman, a Notary Public of the County and State aforesaid, certify that Matthew C. Erich did personally appear before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp and seal.  
This \_\_\_\_th Day of \_\_\_\_\_ 2020.

Notary Public: \_\_\_\_\_

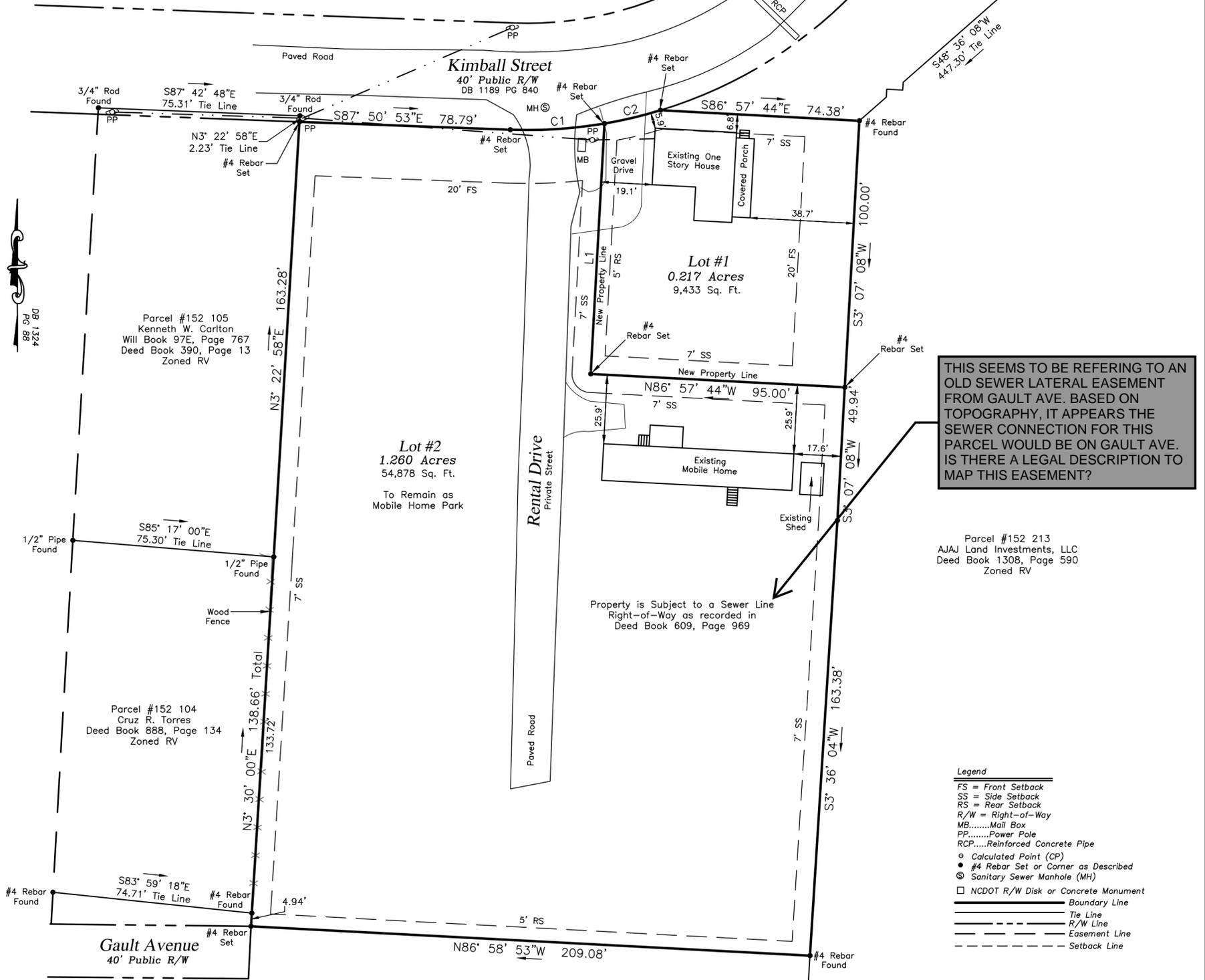
My Commission Expires : 12/15/2023

Job No: 200105

PLEASE INCLUDE THE FOLLOWING NOTES:

--SANITARY SEWER CLEAN OUTS AND WATER METERS SHALL NOT BE LOCATED WITHIN DRIVEWAYS.

--APPROVAL OF THIS PLAT DOES NOT PERMIT THE OWNER THE RIGHT TO ALTER PIPE, FILL, OR RELOCATE ANY EXISTING DRAINAGE FEATURE LOCATED ON THE PROPERTY WITHOUT SUBMITTING ENGINEERING PLANS FOR REVIEW AND APPROVAL TO THE CITY OF KANNAPOLIS AND OTHER APPROPRIATE AGENCIES.



THIS SEEMS TO BE REFERRING TO AN OLD SEWER LATERAL EASEMENT FROM GAULT AVE. BASED ON TOPOGRAPHY, IT APPEARS THE SEWER CONNECTION FOR THIS PARCEL WOULD BE ON GAULT AVE. IS THERE A LEGAL DESCRIPTION TO MAP THIS EASEMENT?

Parcel #152 213  
AJAJ Land Investments, LLC  
Deed Book 1308, Page 590  
Zoned RV

- Legend
- FS = Front Setback
  - SS = Side Setback
  - RS = Rear Setback
  - R/W = Right-of-Way
  - MB.....Mail Box
  - PP.....Power Pole
  - RCP.....Reinforced Concrete Pipe
  - o Calculated Point (CP)
  - #4 Rebar Set or Corner as Described
  - ⊙ Sanitary Sewer Manhole (MH)
  - NCDOT R/W Disk or Concrete Monument
  - Boundary Line
  - Tie Line
  - - - - - R/W Line
  - - - - - Easement Line
  - - - - - Setback Line

Curve Table

Curve	Radius	Length	Chord Direction	Chord Length
C1	170.00'	35.32'	N86° 14' 08"E	35.25'
C2	170.00'	21.52'	S76° 39' 29"W	21.50'

Line Table

Line	Direction	Length
L1	N3° 07' 08"E	93.94'

Minor Subdivision Plat of  
1.476 Acres located on Kimball Street,  
prepared for Matthew C. Erich

China Grove Township Kannapolis, NC Rowan County  
Scale 1" = 30' Date of Plat, January 29th, 2020  
Tax Parcel: #152 106, Deed Book 1324, Page 88  
Owner: Matthew C. Erich  
19037 Chandlers Landing Drive, Cornelius, NC 28031  
Site Address: 411 Rental Drive, Kannapolis, NC 28081

**PIEDMONT DESIGN ASSOCIATES, P.A.**  
ENGINEERING - SURVEYING - PLANNING  
Suite 101 Westfield Center, 125 E. Plaza Dr., Mooresville, N.C. 28115  
Phone (704) 664-7888 Fax (704) 664-1778  
Corporate License #C-1007

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
COTTAGE COVE LLC				
C/O NODEL PARKS	3000 TOWN CTR SUITE 540	SOUTHFIELD	MI	48075-1173
RONALD PERRY	2015 W C ST	KANNAPOLIS	NC	28081-9383
ESTEBAN TAVIRA & ELOISA RODRIQUEZ	422 GAULT AVE	KANNAPOLIS	NC	28081-2209
CRUZ R TORRES	416 GAULT AVE	KANNAPOLIS	NC	28081-2209
KENNETH CARLTON				
C/O DANNY PAYNE	4504 VINCENT ST	KANNAPOLIS	NC	28081-0000
TERRY ALLMAN	1133 MISTY TUNNEL LN	MOORESVILLE	NC	28115-4302
LAWRENCE JR & SHARON MASON	411 GAULT AVE	KANNAPOLIS	NC	28081-2200
ALICIA DIXON	421 GAULT AVE	KANNAPOLIS	NC	28081-2200
N KANNAPOLIS BAPTIST CHURCH	312 LOCUST ST	KANNAPOLIS	NC	28081-2270
N KANNAPOLIS WESLEYAN	314 W 12TH ST	KANNAPOLIS	NC	28081-2276
ANTONIO ADAME	207 KIMBALL ST	KANNAPOLIS	NC	28081-0000
ENRIQUE RUBIO	421 KIMBALL ST APT D	KANNAPOLIS	NC	28081-2289
MATTHEW ERICH	19037 CHANDLERS LANDING DR.	CORNELIUS	NC	28031



June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing at 6:00 PM on Tuesday July 14, 2020 at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-11 - Variance – 411 Kimball St.**

This public hearing is to consider a request for a variance from Article 4, Table 4.7-1. of the Unified Development Ordinance, which requires minimum dimensional requirements for property located in the Residential Village (RV) zoning district. The applicant is requesting a variance from the front and side yard setbacks which will allow subdividing the property in two (2) parcels. The subject property measures approximately .21 +/- acres and is more specifically identified as Rowan County Parcel Identification Numbers 152 106. **(Please see reverse side of this letter for vicinity map showing the location of this property.)**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OVSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Ryan Lipp  
Senior Planner

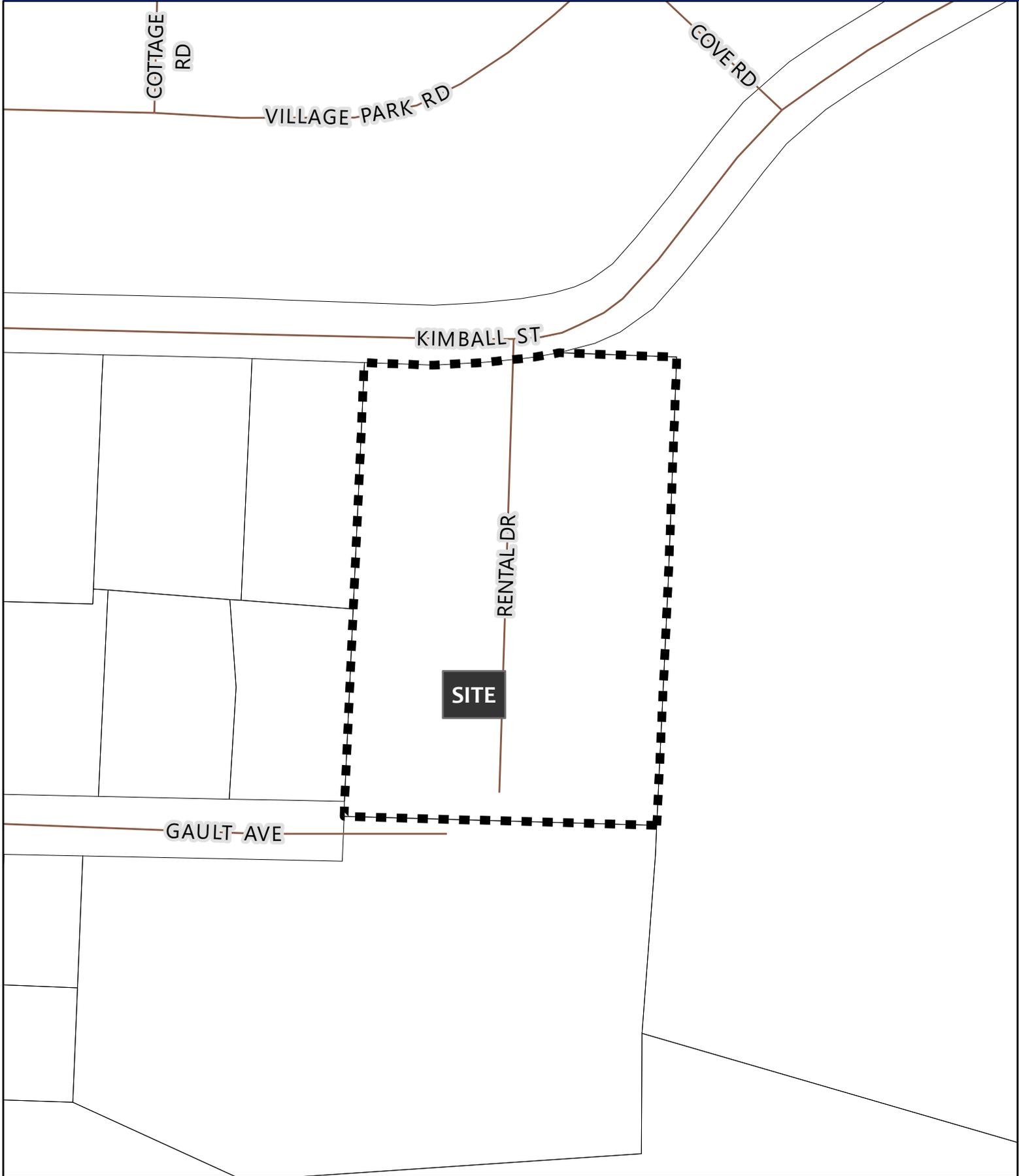
Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tcline@kannapolisnc.gov](mailto:tcline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event



# Variance

Case Number: BOA-2020-11  
Applicant: Matthew Erich  
411 Kimball St.



KANSAS  
**BOARD OF**  
  
**ADJUSTMENT**  
PUBLIC HEARING  
INFORMATION  
CALL 704-920-4350  
CASE # 10A-2970-11





**Board of Adjustment  
July 14, 2020**

**Staff Report**

**DATE:** July 6, 2020  
**TO:** Board of Adjustment  
**FROM:** Gretchen Coperine, AICP, Assistant Planning Director  
**SUBJECT:** Case # BOA-2020-12 701 Smith Street CONA

**Request for a Certificate of Nonconformity Adjustment to allow for an expansion of a non-conforming accessory structure.**

**A. Action Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record
2. Motion to approve/revise findings of fact proposed by Planning Staff
3. Motion to approve, approve with conditions, or deny the applicant's request for a Certificate of Nonconformity Adjustment

**B. Required Votes to Pass Requested Action**

A majority vote is required to approve or deny the requested actions.

**C. Background**

The applicant, Olga Lidia Moreno, is requesting a Certificate of Nonconformity Adjustment (CONA), to allow for the expansion of an existing non-conforming storage accessory structure. The existing space is 22 feet x 10 feet. The new space is proposed to be 22 feet x 8 feet.

The existing structure is located at 701 Smith Street. The parcel on which it is located is identified as Cabarrus County Parcel Identification Number (PIN) 5613969776 (approximately 0.22 acres). This parcel is currently zoned RV (Residential Village).

The Unified Development Ordinance (UDO) Article 4, Table 4.7-1 *Dimensional and Density Standards* requires the following setbacks for accessory structures in the RV zone: 5 feet at the side and 5 feet at

the rear. The existing non-conforming accessory structure is closer than 5 feet on the east property line. In order to expand the structure, a CONA is required. The expansion will not be any closer to the property line than the existing.

#### **D. Policy Issues**

**Section 13.1.6.1** of the UDO states: *A Certificate of Nonconformity Adjustment shall be required to enlarge, expand or otherwise alter any Nonconforming Use or Structure as set forth in this Section 13.1. A Certificate of Nonconformity Adjustment shall be issued by the Board of Adjustment subject to the requirements of this section.*

**Section 13.1.6.3** of the UDO states that: *The decision to approve or deny will be made based on the following criteria:*

**Noise - Does the nonconformity create noise above and beyond levels considered normal to the area?**

Staff Assessment

There are no anticipated noise impacts associated with the proposed use.

**Traffic - Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?**

Staff Assessment

The expansion will not generate additional traffic.

**Other measurable, physical effects - Does the nonconformity generate any other negative effects including but not limited to: dust, air pollution, foul smell, etc.?**

Staff Assessment

No negative effects are anticipated.

**Surrounding property values - Does the nonconformity detract from the prevailing property values?**

Staff Assessment

The proposed expansion is not anticipated to detract from surrounding property values.

**Aesthetics - Does the nonconformity compliment or detract from the overall aesthetic character of the area?**

Staff Assessment

The overall character of the area is residential. The proposed expansion will continue to be consistent with the aesthetic character of the area.

#### **E. Legal Issues**

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether to grant a Certificate of Nonconformity Adjustment, the Board must find that each of the five criteria noted above have been met. If the Board concurs with the staff assessments

for each of the criteria, then no additional findings of fact are necessary and the Board may adopt the staff findings as part of its decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the five criteria below.

Should a certificate of nonconformity adjustment be approved, the Board may impose such reasonable conditions as will ensure that the use of the property to which the certificate applies will be as compatible as practicable with the surrounding properties. Any approval granted will “run with the land” and subject all future property owners to the same restrictions.

Yes      No

           **Noise - Does the nonconformity create noise above and beyond levels considered normal to the area?**

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           **Traffic - Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?**

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           **Other measurable, physical effects - Does the nonconformity generate any other negative effects including but not limited to: dust, air pollution, foul smell, etc.?**

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           **Surrounding property values - Does the nonconformity detract from the prevailing property values?**

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           **Aesthetics - Does the nonconformity detract from the prevailing property values?**

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**F. Recommendation**

Based upon an assessment of the criteria noted above, **staff recommends approval** of the applicant’s request for a Certificate of Nonconformity Adjustment to allow for the expansion of a non-conforming accessory structure on Cabarrus County Parcel Identification Number (PIN) 5613969776.

*However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly to either approve, approve with conditions, or deny the request for a Certificate of Nonconformity Adjustment.*

**G. Attachments**

1. CONA Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. List of notified properties
6. Letter to Adjacent Properties
7. Posted Public Notice

**H. Issue Reviewed By:**

Planning Director	X
City Attorney	X

\$325.<sup>00</sup>  
April 21, 2020  
Due by March 21, 2021



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |       |                                  |                                     |
|------------------------|-------|----------------------------------|-------------------------------------|
| Variance               | _____ | SIA Application                  | _____                               |
| Conditional Use Permit | _____ | Nonconformity Adjustment         | <input checked="" type="checkbox"/> |
| Subdivision Exception  | _____ | Watershed Boundary Modification  | _____                               |
| Zoning Text Amendment  | _____ | Zoning Map Amendment             | _____                               |
| Appeal                 | _____ | Conditional Zoning Map Amendment | _____                               |

Applicant: Olga Lidia Moreno Owner: Self  
 Address: 701 Smith St. Address: \_\_\_\_\_  
Kannapolis NC 28083  
 Telephone: 704 351-4706 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_ Email: \_\_\_\_\_

Legal relationship of applicant to property owner: Self  
 Property Location/Address: 701 Smith St.

Tax Parcel Number: \_\_\_\_\_ Zoning District: \_\_\_\_\_ Acreage of Site: \_\_\_\_\_

Olga Lidia Moreno Olga Lidia Moreno  
 Applicant Name (Print) Property Owner Name (Print)

X Olga Moreno X Olga Moreno 03/06/20  
 Applicant Signature & Date Property Owner Signature & Date

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.*

For Staff Use Only:  
 Filing Fee: \$325 - Receipt # M-11344  
 Application No.: BOA-2020-12 Date Submitted (Complete): 3.13.20

Last updated: 10/27/2015  
**received**  
**3.13.20**



**City of Kannapolis - Request for Certificate of Nonconformity Adjustment**

I, Olga Lidia Moreno, hereby petition the Board of Adjustment for a **CERTIFICATE OF NONCONFORMITY ADJUSTMENT** as required by Section 13.1.6 of the Unified Development Ordinance to enlarge, expand, or otherwise alter a Nonconforming Use or Structure.

The current use of the property is described as follows:

Storage structure 22 L x 10 W

The location of the nonconforming use or structure is indicated on the accompanying site plan. The degree of nonconformity with respect to the dimensional and design regulations of the Ordinance is more fully described as follows:

Back yard of the house 27ft away from the main Dwelling.

The nature of the proposed enlargement, expansion, or alteration is described as follows:

Expand a space to gather in a closed space.

**APPROVAL CRITERIA**

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a certificate of nonconformity adjustment. The Unified Development Ordinance requires that the applicant demonstrate positive responses to several questions to obtain a certificate of nonconformity adjustment. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that the proposed enlargement, expansion, or alteration can properly address the following questions:

**A. Does the nonconformity create noise above and beyond levels considered normal to the area?**

No this will be a closed room to gather w/ friends. in the space.

**B. Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?**

NO

**C. Does the nonconformity generate any other negative effects, including, but not limited to, dust, air pollution, foul smell, etc.?**

NO

**D. Does the nonconformity detract from the prevailing property values?**

NO.

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

R. Ogo Masuno  
Signature of Property Owner

3/6/2020  
Date

The Board of Adjustment may add conditions regarding what the nonconformity owner/operator must do to the property for certification. For example, landscaping or fencing may be required or a shift of operations away from adjoining properties may be stipulated.

**Fee:** Please refer to fee schedule to determine applicable fees.  
Fees are nonrefundable and help to cover administrative and notification costs.

---

**STAFF USE ONLY**

Scheduled meeting date: \_\_\_\_\_  
Dates advertised in newspaper: \_\_\_\_\_ and \_\_\_\_\_  
Date written notices mailed: \_\_\_\_\_

**Board decision:** \_\_\_\_\_

**Conditions:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date written notice sent to applicant: \_\_\_\_\_



# Vicinity Map

Case Number: BOA-2020-12

Applicant: Olga Lidia Moreno

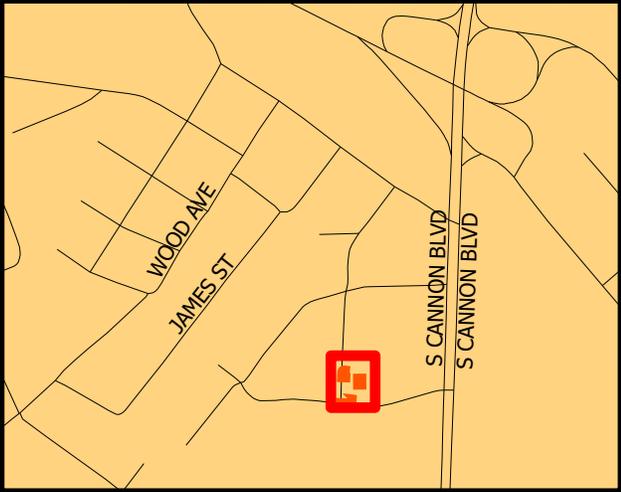
701 Smith St



JOHNDY AVE

SITE

SMITH ST



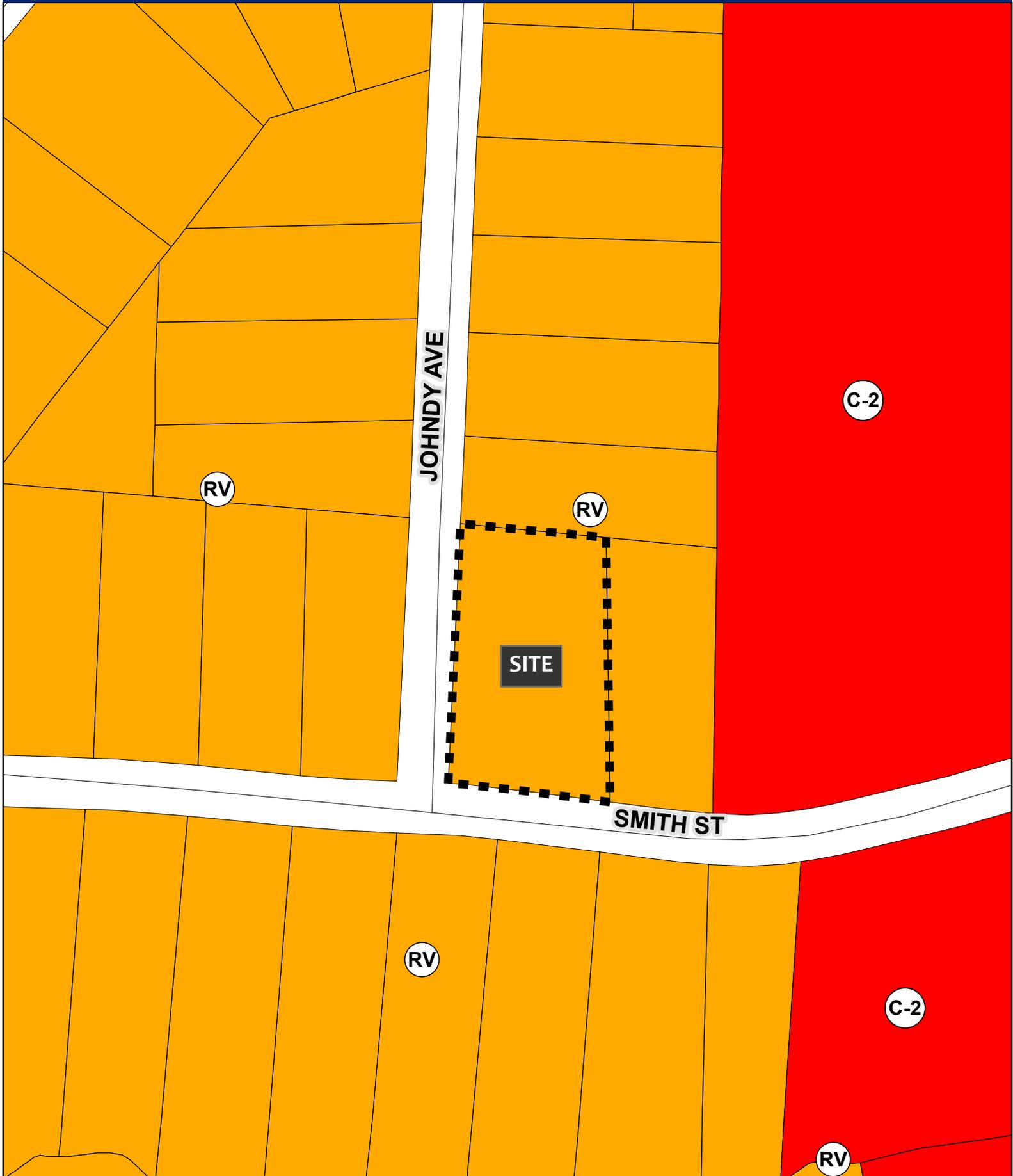


# Kannapolis Current Zoning

Case Number: BOA-2020-12

Applicant: Olga Lidia Moreno

701 Smith St





# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-12  
Applicant: Olga Lidia Moreno  
701 Smith St



AcctName1	MailAddr1	MailCity	MailState	MailZipCod
MARTHA MACON & POLLY TROTT	500 S CANNON BLVD	KANNAPOLIS	NC	28083
DAVID MILLER REALTY & INVESTMENT INC	1640 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28083
KANNAPOLIS REAL ESTATE AGENCY	500 S CANNON BLVD	KANNAPOLIS	NC	28083
MYRTLE G LITTLE LF EST	636 SMITH ST	KANNAPOLIS	NC	28083
HABITAT FOR HUMANITY IRIS HUNTER	8 CHURCH ST S	CONCORD	NC	28025
C/O WANDA BROWN	546 MCFARLAND DR	NEWARK	DE	19702
MICHELLE LITTLE	639 SMITH ST	KANNAPOLIS	NC	28083
CAROLYN CONTRERAS-GUZMAN	13902 ROANOKE ST	WOODBIDGE	VA	22191
BRIAN & LORRAINE MACLEOD	PO BOX 214	MOUNT MOURNE	NC	28123
ROBERT & TAMMIE PHIFER	635 SMITH ST	KANNAPOLIS	NC	28083
JOURNEY CAPITAL LLC	6220 HUDSPETH RD	HARRISBURG	NC	28075
ADNAN & ZENITA AGOVIC	700 SMITH ST	KANNAPOLIS	NC	28083
SARAH GLENN	1101 SKYLAND STREET	KANNAPOLIS	NC	28081
TERRY PARHAM	490 CHALK MAPLE RD	CHINA GROVE	NC	28023
AMY BANKHEAD STANFRED DUREN	210 JOHNDY STREET	KANNAPOLIS	NC	28083
C/O ROBERT DUREN C R STEWART	4007 COCKLEREECE DR	GREENSBORO	NC	27405
C/O LEONARD STEWART	P O BOX 16301	SANTA FE	NM	87506
ALAN & KATHLEEN SCALES	212 JOHNDY AVE	KANNAPOLIS	NC	28083
OLGA MORENO	701 SMITH ST	KANNAPOLIS	NC	28083
SOMERSON STELLA	702 SMITH ST	KANNAPOLIS	NC	28083
J CARLYLE RUTLEDGE ESTATE C/O MARTHA MACON	500 S CANNON BLVD	KANNAPOLIS	NC	28083
LISA LITTLE & JULIA LITTLE	636 SMITH ST	KANNAPOLIS	NC	28083
FAMILY TRUST OF JAMES WILLIAMS C/O ELIZABETH ROSE	204 JOHNDY AVE	KANNAPOLIS	NC	28083
SOCAP WILSON LLC	PO BOX 1110	INDIAN TRAIL	NC	28079
ALLEN R JOHNSON JR	652 WILSON ST	KANNAPOLIS	NC	28083



June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, July 14, 2020 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-12 – Certificate of Nonconformity Adjustment (CONA) – 701 Smith St.**

Under the terms of the Unified Development Ordinance (UDO), a CONA is required to enlarge, expand, or otherwise alter any nonconforming use or structure. The applicant is requesting to expand an existing nonconforming accessory building on property located at 701 Smith Street. The property is zoned RV (Residential Village), measures approximately .21 +/- acres, and is more specifically identified as Cabarrus County Parcel Identification Number 5613-96-9776. **(Please see reverse side of this letter for vicinity map showing the location of this property.)**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Gretchen Coperine, AICP  
Assistant Planning Director

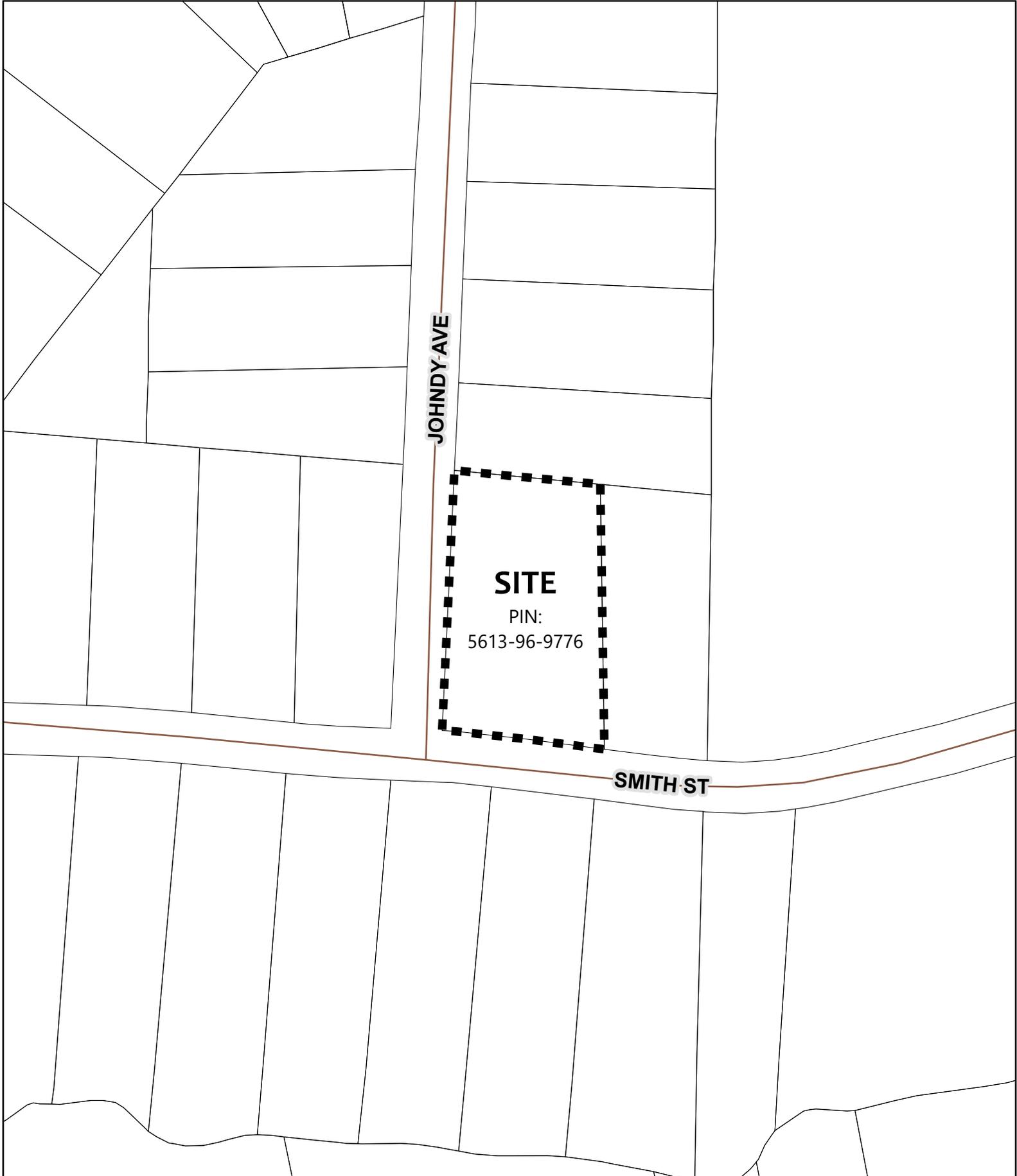
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# Certificate of Nonconformity Adjustment

Case Number: BOA-2020-12  
Applicant: Olga Lidia Moreno  
701 Smith St



JOHNSON  
SMITH

BOARD OF  
ADJUSTMENT  
PUBLIC HEARING  
INFORMATION  
CALL TATE OR  
TAMM 801-671-1111

1068



**Board of Adjustment  
July 14, 2020 Meeting**

**Staff Report**

**TO:** Board of Adjustment

**FROM:** Gretchen Coperine, AICP, Assistant Planning Director

**SUBJECT:** **Case# BOA-2020-13: Parcel on Irene Avenue  
Conditional Use Permit (CUP)  
Applicant: Workforce Solutions LLC**

**Request for a Conditional Use Permit to allow multi-family residential in the Residential Village (RV) zoning district.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Conditional Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Conditional Use Permit
4. Motion to Issue Order of Approval.

**B. Required Votes to Pass Requested Action**

A majority vote is required to approve, approve with conditions, or deny the requested actions.

**C. Background**

The applicant, Workforce Development, LLC, is requesting a Conditional Use Permit (CUP) to allow construction of a 72-unit apartment community in the RV (Residential Village) zoning district, located on the north side of Irene Ave, east of N. Cannon Blvd., further identified as Cabarrus County Parcel Identification Number 5623-15-2751. The subject parcel is within the Lake Fisher Watershed Protected Area, which restricts development to no more than 24% max built-upon area. The attached site plan is below that maximum development percentage. The parcel is also located partially within floodplain. Any development will be subject to all floodplain regulations.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family in the RV zoning district. The subject property is approximately 8.045 +/- total acres.

**D. Fiscal Considerations**

None

**E. Policy Issues**

Article 3.5 of the UDO requires that the Board of Adjustment shall only approve a conditional use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

**Staff Findings of Fact** - Based on application review

Yes    No

       **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.**

The subject property is within the "Complete Neighborhood 1" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Complete Neighborhood 1 Character Area allows multifamily residential uses.

The proposed use is compatible with the character intent of the Complete Neighborhood 1. The multi-family use serves as a transitional use between the commercial uses along N. Cannon Blvd., and the lower density residential development to the east.

       **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.**

The site will continue take direct access off Irene Avenue. A Traffic Impact Analysis (TIA) was not warranted by the development, however access and roadway improvements will be reviewed and approved by the City.

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

No vibration, noise, odor, dust, smoke or gas associated with the proposed residential use is expected.

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

The proposed plan would not impede development of the surrounding properties.

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

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed development is subject to all the requirements of the Unified Development Ordinance.

**Compliance with any other applicable Sections of this Ordinance.**

The proposed use shall comply with all sections of the City of Kannapolis Unified Development Ordinance, conditions of approval, and any other applicable local, state and federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all UDO requirements, including compliance with the Technical Review Committee site plan review and approval process, must be met.

**F. Legal Issues**

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether a conditional use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a conditional use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

**Yes**

**No**

**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.**

**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.**

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

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

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

**Compliance with any other applicable Sections of this Ordinance.**

### G. Recommendation

Based on the above findings, staff recommends **approval with conditions** of the Conditional Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, state and federal requirements.

#### Conditions of Approval proposed by staff:

1. The uses permitted with this rezoning shall only include 72 apartments, in general conformance with the plan submitted with this CUP.
2. The site concept plan and elevations are illustrative. Final design of the project, as reviewed by staff, shall be subject to meeting all city standards.
3. Roadway improvements are required (LDSM detail #101) to Fairview St & Sweet Gum St.
4. Water & sewer extensions are required to serve the site. Utilities will require public easements, easement plat, and easement agreement.
5. Each building can be metered (no master meters).
6. Use Bus-45 for turning template (mimics ladder truck).
7. A Stormwater Operations & Maintenance Agreement will be required prior to CO.
8. The Fire Department shall approve locations of all hydrants.

*The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Conditional Use Permit.*

### H. Attachments

1. Conditional Use Permit Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use Map
5. Site Plan
6. Elevations
7. List of notified properties
8. Notice to Adjacent Property Owners
9. Posted Public Notice

### I. Issue Reviewed By:

City Attorney	X
Planning Director	X
Director of Engineering	X
City Manager	X



Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

- Variance
Conditional Use Permit (checked)
Subdivision Exception
Zoning Text Amendment
Appeal
SIA Application
Nonconformity Adjustment
Watershed Boundary Modification
Zoning Map Amendment
Conditional Zoning Map Amendment

Applicant: Workforce Solutions, LLC Owner: City of Kannapolis, North Carolina
Address: PO Box 2063 Address: 401 Laureate Way
Jamestown, NC 27282 Kannapolis, NC 28081
Telephone: 336.625.7641 Telephone: 704.920.4300
Email: pbreeder@wkfsllc.com Email: mlegg@kannapolisnc.gov

Legal relationship of applicant to property owner: Applicant currently has a purchase agreement to purchase property.

Property Location/Address: Located East of S. Cannon Blvd off Fairview St. at the end of Irene Ave.
PIN:

Tax Parcel Number: 5623-15-2751-0000 Zoning District: RV Acreage of Site: 8.045 +/- acres

Requesting Zoning (if applicable):

Workforce Solutions, LLC - Patty Reeder, Member City of Kannapolis, North Carolina - Michael B. Legg, City Manager
Applicant Name (Print) Property Owner Name (Print)
Applicant Signature & Date 3.23.2020 Property Owner Signature & Date 3.23.20

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review must be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: Receipt #
Application No.: BOA-2020- Date Submitted (Complete):



## CONDITIONAL USE PERMIT APPLICATION

I, Workforce Solutions, LLC, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: Multifamily Development.

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

Our firm is proposing the development of a 72 unit multifamily community. Our plan includes (3) three-story residential buildings consisting of 1, 2, and 3 bedroom apartments, detailed in our plans. Additionally, our plans call for a single story community building consisting of the manager's office, community room, laundry facility, and business center.

### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

Our plan conforms with the nature of the neighborhood with a mixture of single family, commercial/retail and multifamily within close proximity of the site. As detailed in our plans our community will be an attractive addition to both the city and the neighborhood. Our proposed residential buildings will be three stories in height (approximately 40').

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

After meeting with various members of the City staff we feel that our plans address any traffic issues that may be of concern. Currently we plan for two points of ingress/egress (Irene Avenue & Fairview Street) which we feel will adequately handle traffic concerns related to this development. Prior to construction our plans will go before NCDOT as well as municipal departments for review and approval.

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

Once the development is complete (post construction) our development will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas. Our property will be in harmony with the surrounding and neighboring uses as a dynamic addition to an already well established neighborhood.

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

As stated in Section C, our proposed use will be a dynamic addition to the area and will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. We feel our proposed community will be well received by the community and neighbors.

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

As we move forward with the development of our proposed community we will comply with all requirements set forth by the City of Kannapolis, Cabarrus County, and the North Carolina DOT, as well as any other applicable agencies.

Should any additional action such as any traffic improvements or mitigation design requirement need to be made we will adhere to those requirements. In the event further action is required, additional correspondence will be provided.

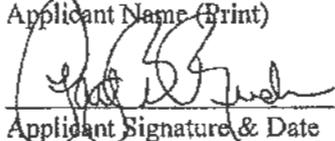
**F. Compliance with any other applicable Sections of this Ordinance.**

Our development will be in compliance with all Sections of the Ordinance.

*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

Workforce Solutions, LLC - Patty Reeder, Member

Applicant Name (Print)

 3.23.2020  
Applicant Signature & Date

City of Kannapolis, North Carolina - Michael B. Legg, City Manager

Property Owner Name (Print)

 3.23.20  
Property Owner Signature & Date

**Required as part of Conditional Use Permit Submittal:**

- The Board of Adjustment may add conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.
- Fee: Please refer to fee schedule on the City's website to determine applicable fees. Fees are nonrefundable and help to cover administrative and notification costs.
- Site plan in conformance with criteria listed in Appendix B.4.
- Tax cards for all adjacent property owners.



# Vicinity Map

Case Number: BOA-2020-13  
Applicant: Workforce Solutions, LLC.  
Verona St.

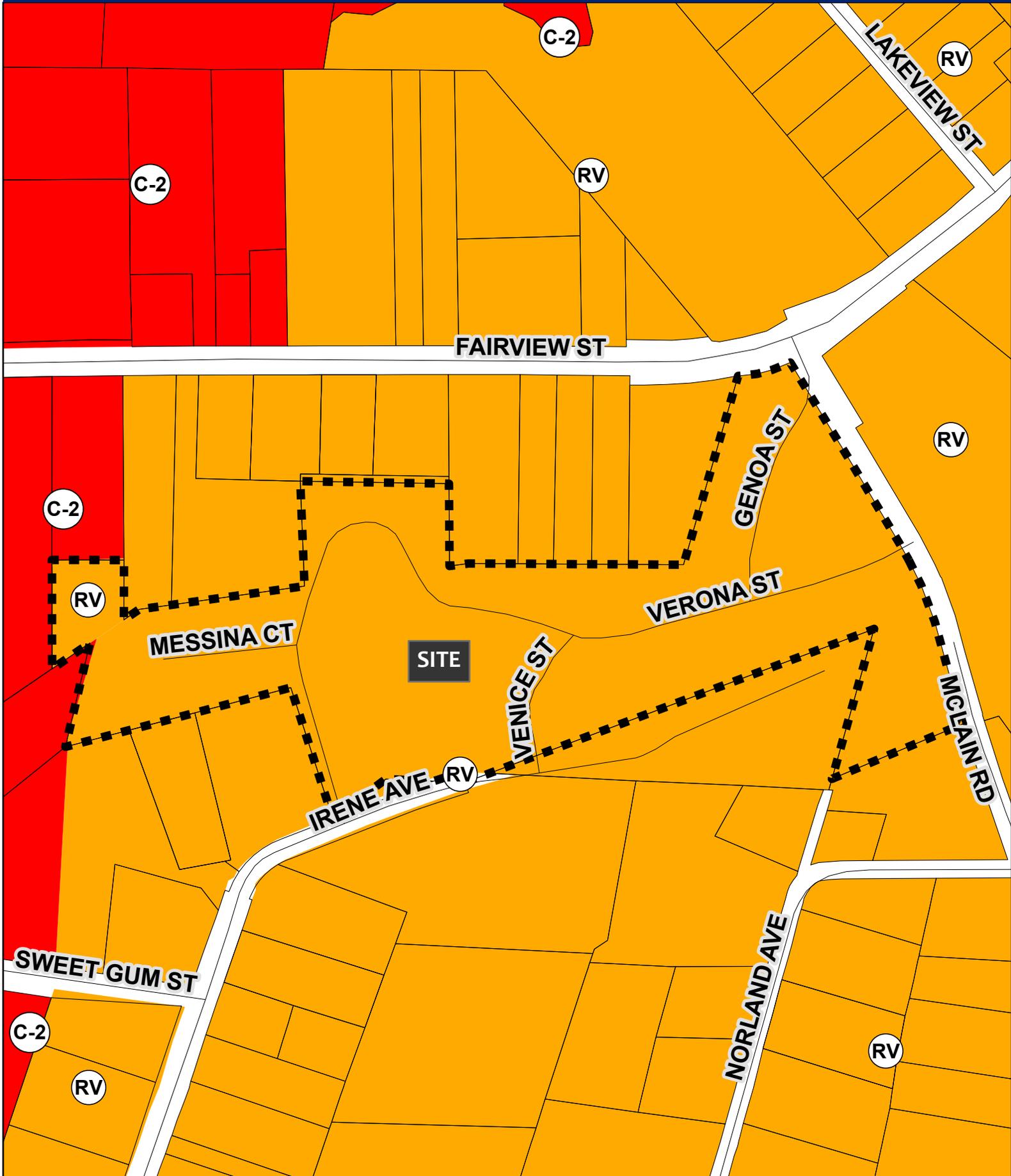




# Kannapolis Current Zoning

Case Number: BOA-2020-13

Applicant: Workforce Solutions, LLC.  
Verona St.

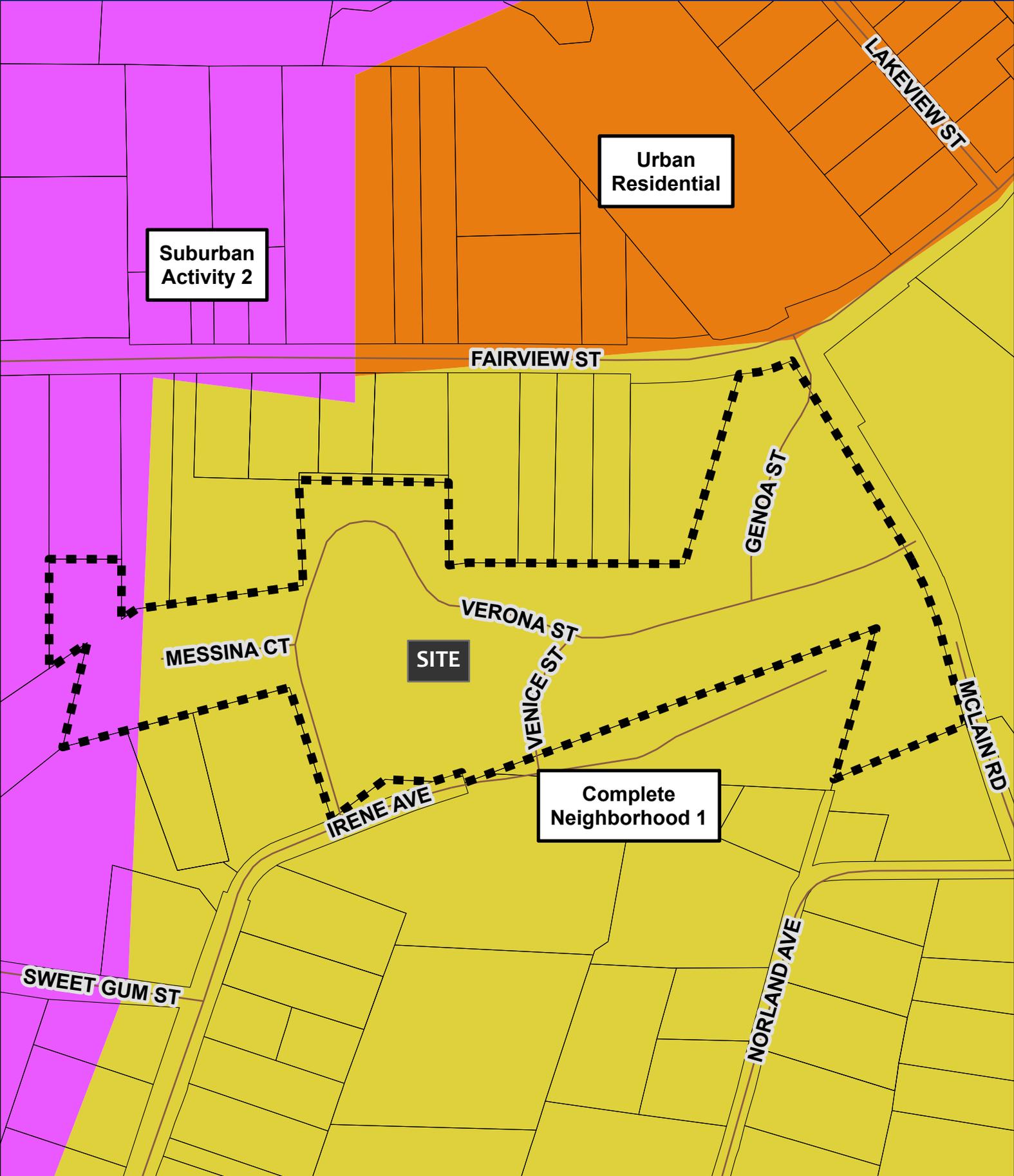


# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-13

Applicant: Workforce Solutions, LLC.

Verona St.



Suburban Activity 2

Urban Residential

Complete Neighborhood 1

SITE

LAKEVIEW ST

FAIRVIEW ST

GENOA ST

MESSINA CT

VERONA ST

VENICE ST

IRENE AVE

MCCLAIR RD

SWEET GUM ST

NORLAND AVE

**SITE INFORMATION:**

SITE: 8.05 ACRES  
 IMPERVIOUS SURFACE: 2.3 ACRES (31% OF THE TOTAL SITE AREA;  
 IMPERVIOUS SURFACE CANNOT EXCEED 45%)  
 DENSITY: 8.94 UNITS/ACRES  
 BUILDINGS: (1) 1 STORY CLUBHOUSE  
 (3) 3-STORY APARTMENT BUILDING  
 SPRINKLERS: 13R  
 PARKING SPACES: 144 REQUIRED SPACES @ 2 PER UNIT  
 144 PROVIDED SPACES

ZONING: RV  
 SETBACKS: FRONT = 20'  
 SIDE = 20'  
 REAR = 20'

**UNIT INFORMATION:**

Unit Type	Unit Heated Area	Unit Net Area	No. of Units	Heated Total	Net Total
1 BEDROOM "A1"	705	742	12	8460	8904
2 BEDROOM "B1"	967	1,015	36	34812	36540
3 BEDROOM "C1"	1,124	1,177	24	26976	28248
<b>TOTAL</b>			<b>72</b>	<b>70248</b>	<b>73692</b>

**REQUIRED SITE AMENITIES:**

- A. PLAYGROUND - (W/ MIN. 1 BENCH)
- B. MULTI-PURPOSE ROOM (MIN. 250 SQ. FT.)
- C. COVERED PICNIC AREA - (150 SQ.FT. W/ 2 TABLES & GRILL)

**ADDITIONAL AMENITIES:**

- D. OUTDOOR SITTING AREAS W/ BENCHES - (MIN. 3 LOCATIONS)
- E. COVERED PATIO WITH SEATING - (MIN. 150 SQ. FT.)
- F. RESIDENT COMPUTER CENTER - (MIN. 2 COMPUTERS)

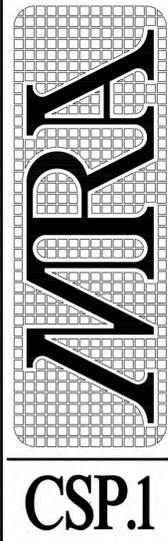
# MAPLE RIDGE

## KANNAPOLIS, NORTH CAROLINA



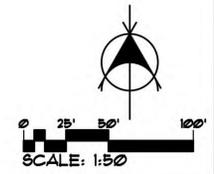
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MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.  
 215 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3329 404-373-2800  
 MAPLE RIDGE  
 KANNAPOLIS, NC

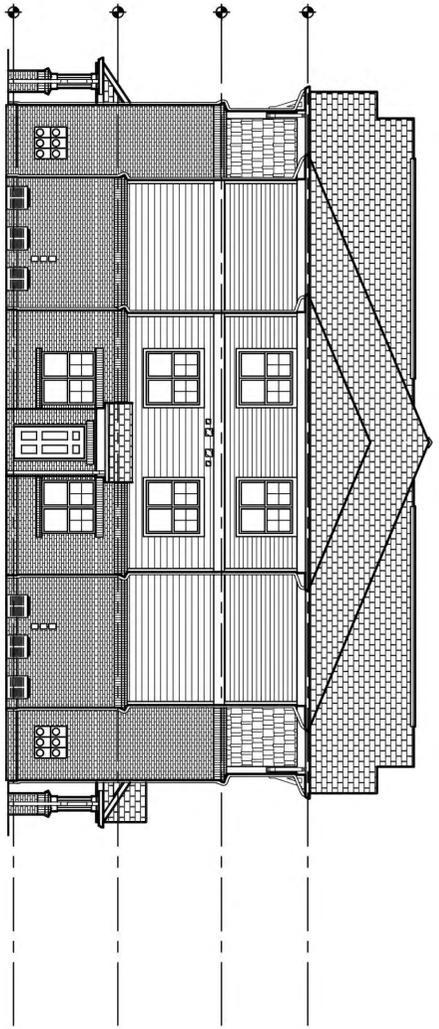


ARCHITECTURAL SITE PLAN

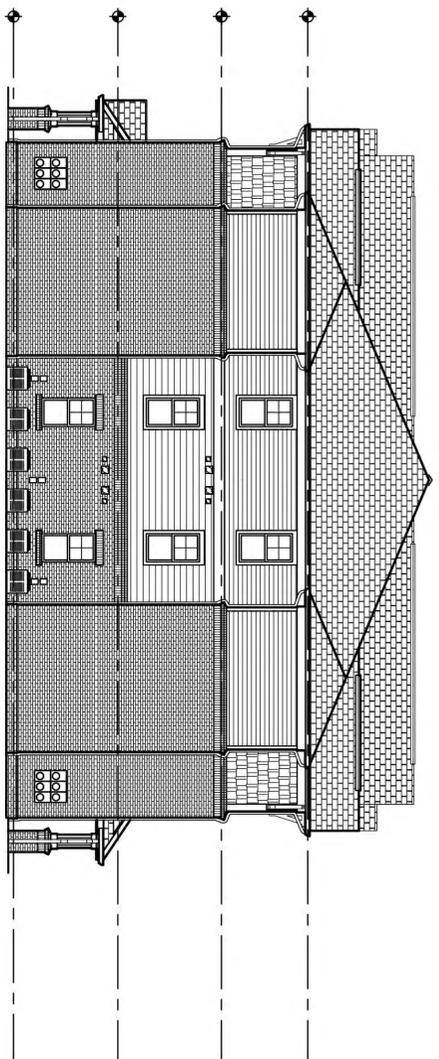
NOT RELEASED FOR CONSTRUCTION



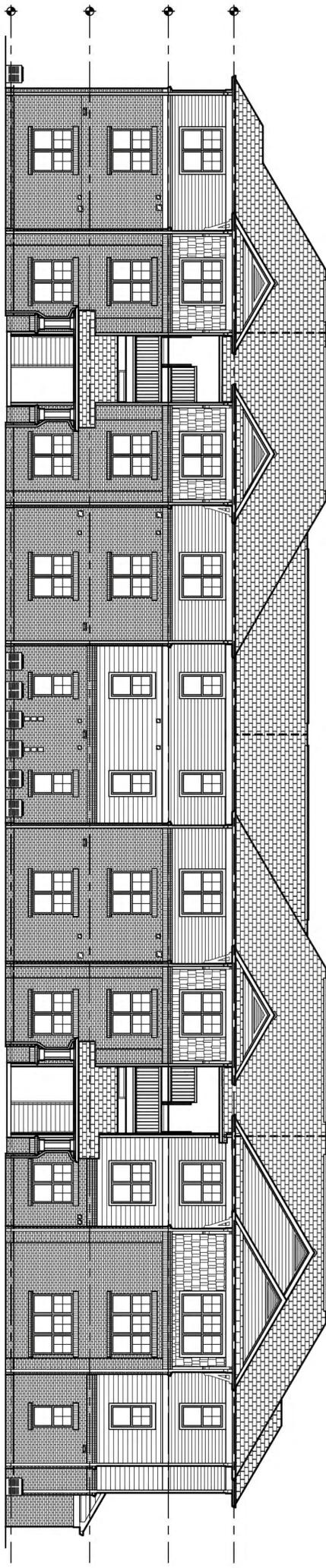
PROJECT	2017-098
DATE	1-15-20
DRAWN BY / CHECKED BY	IM



4 BUILDING 100 - SIDE ELEVATION  
1/8" = 1'-0"



3 BUILDING 100 - SIDE ELEVATION  
1/8" = 1'-0"

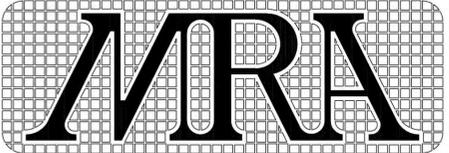


2 BUILDING 100 - REAR ELEVATION  
1/8" = 1'-0"



1 BUILDING 100 - FRONT ELEVATION (PARKING LOT)  
1/8" = 1'-0"

- ANTI-RINGAL 30 YEAR ARCHITECTURAL SHINGLES
- DECORATIVE BRACKET
- FIBER CEMENT SHAKE SIDING
- FIBER CEMENT SIDING
- BRICK VENEER



MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.  
215 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3329 404-373-2800

MAPLE RIDGE  
KANNAPOLIS, NC

BUILDING 100 - ELEVATIONS

PROJECT  
2017-098  
DATE  
1-15-20  
DRAWN BY / CHECKED BY  
IM

REVISIONS		

A3.1

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
A B GULLEDGE JR ESTATE				
C/O DOROTHY GULLDGE	106 EVANDALE RD	KANNAPOLIS	NC	28081
MICHAEL ADAMSKI	808 FAIRVIEW ST	KANNAPOLIS	NC	28083
SCOTT & TINA BYRNE	1112 S WINDSOR DR	KANNAPOLIS	NC	28081
MANUEL CALDERON JR	804 FAIRVIEW ST	KANNAPOLIS	NC	28083
CRAFTER'S WOODS LLC	318 HICKORY WOOD DR	KANNAPOLIS	NC	28083
EDDIE& CONNIE DURHAM	1311 LOWRANCE AVE	KANNAPOLIS	NC	28081
FOUR LANE BAPTIST MISSION				
C/O GRY SCOGGINS	425 OAK AVE	KANNAPOLIS	NC	28081
JAMES K FURR LF EST	2100 PENNINGER RD	CONCORD	NC	28025
G & M ALLEN PROPERTIES LLC	8918 CHERRYS FORD CT	HARRISBURG	NC	28075
GABRIEL & SOPHIE GONZALEZ	824 FAIRVIEW ST	KANNAPOLIS	NC	28083
FRIEDA HOLTZHAUSEN	1106 MCLAIN RD	KANNAPOLIS	NC	28083
MARY JONES	826 FAIRVIEW ST	KANNAPOLIS	NC	28083
JUNIPER PROPERTIES LLC	100 S LINK AVE	SALISBURY	NC	28144
MARGARET LAUZON & BARBARA GRANT	6917 LEBANON RD	MINT HILL	NC	28227
MITCHELLLUNSFORD	831 FAIRVIEW ST	KANNAPOLIS	NC	28083
LUCINA MARTINEZ	627 IRENE AVE	KANNAPOLIS	NC	28083
MANUEL MARTINEZ	1500 KINGSTON DR	KANNAPOLIS	NC	28083
MIDTRAIL ASSOCIATES LLC NC LLC				
ATTN: ROBERT G ROVEGNO	4021 NORTHWOOD PL	THE VILLAGES	FL	32163
ELIZABETH S PORTER	1043 MCLAIN ROAD	KANNAPOLIS	NC	28081
CLAIRE ROLLINS	608 NORLAND AVE	KANNAPOLIS	NC	28083
RUBEN ROMERO	2491 WILLOW POND LN SE	CONCORD	NC	28025
KENNETH & SHARON SCOGGINS	285 PAULOWNIA DR	CHINA GROVE	NC	28023
SECOND BAPTIST CHURCH				
C/O GARY SCOGGINS	425 OAK AVENUE	KANNAPOLIS	NC	28081
RAY & MARIE SIMS JR	816 FAIRVIEW STREET	KANNAPOLIS	NC	28083
SUTHERLAND'S RENTALS 115 SHAMROCK LLC	P O BOX 1317	TROUTMAN	NC	28166
NICKOLAS J SWEENEY	701B IRENE AVE	KANNAPOLIS	NC	28083
DIXIE E WIGGINS				
C/O DIXIE ANN HUNEYCUTT	796 NORLAND AVE	KANNAPOLIS	NC	28083
BRUCE L WOODARD	846 FAIRVIEW ST	KANNAPOLIS	NC	28083
WORKFORCE SOLUTIONS LLC	PO BOX 2063	JAMESTOWN	NC	27282



June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, July 14, 2020 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-13 – Conditional Use Permit (CUP) – Maple Ridge**

This public hearing is to consider a request for a Conditional Use Permit (CUP) to allow for a 72-unit multi-family residential development. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family residential in the RV (Residential Village) zoning district. The subject property is located at 817 Genoa Street. The property measures approximately 8.045 +/- acres and is further identified as Cabarrus County Parcel Identification Number(s) 5623-15-2715. **(Please see reverse side of this letter for vicinity map showing the location of this property).**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Gretchen Coperine, AICP  
Assistant Planning Director

Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event.

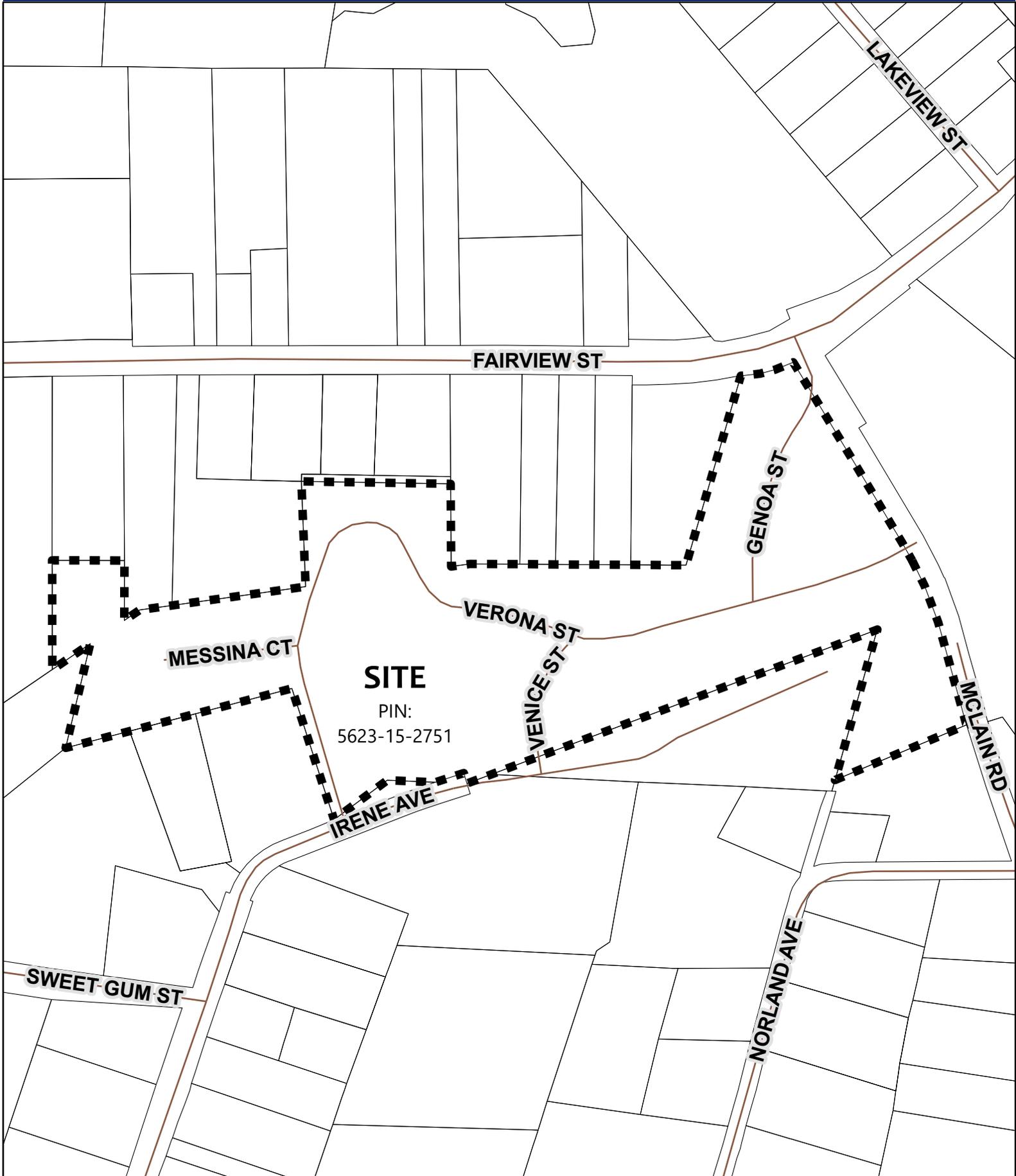


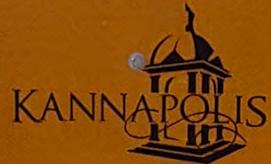
# Conditional Use Permit

Case Number: BOA-2020-13

Applicant: Workforce Solutions, LLC.

Verona St.





**BOARD OF**

**ADJUSTMENT**

**PUBLIC HEARING  
INFORMATION**

**CALL 704-920-4350**

**CASE #BOA - 2020 -13**



A yellow sign with a red diagonal stripe and black text. At the top is the Kannapolis logo. The text on the sign reads: "BOARD OF ADJUSTMENT PUBLIC HEARING INFORMATION CALL 704-920-4350 CASE # BOA - 2020 -13". The sign is mounted on a metal post next to a wooden utility pole.

KANNAPOLIS  
**BOARD OF**  
**ADJUSTMENT**  
PUBLIC HEARING  
INFORMATION  
CALL 704-920-4350  
CASE # BOA - 2020 -13



**Board of Adjustment  
July 14, 2020 Meeting**

**Staff Report**

**TO:** Board of Adjustment

**FROM:** Gretchen Coperine, AICP, Assistant Planning Director

**SUBJECT:** **Case# BOA-2020-14: Parcels on the north side of Cold Water Ridge, east of Doffer Lane Conditional Use Permit (CUP)**  
**Applicant: Urquhart Development LLC**

**Request for a Conditional Use Permit to allow multi-family residential in the General Commercial (C-2) zoning district.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Conditional Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Conditional Use Permit
4. Motion to Issue Order of Approval.

**B. Required Votes to Pass Requested Action**

A majority vote is required to approve, approve with conditions, or deny the requested actions.

**C. Background**

The applicant, Urquhart Development, LLC, is requesting a Conditional Use Permit (CUP) to allow construction of a 74-unit apartment community in the C-2 (General Commercial) zoning district, located on the north side of Cold Water Ridge and east of Doffer Lane, further identified as Cabarrus County Parcel Identification Numbers 5622-48-9964, 5622-59-1003, 5622-59-2141, 5622-59-3270, & 5622-59-5209. The subject properties are within the Lake Fisher Watershed Critical and Protected Areas, which restricts development to no more than 24% maximum built-upon area. The attached site plan shall be developed within the maximum built-upon area allowed at the time of site plan approval.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family in the RV zoning district. The subject property is approximately 5.41 +/- total acres.

**D. Fiscal Considerations**

None

**E. Policy Issues**

Article 3.5 of the UDO requires that the Board of Adjustment shall only approve a conditional use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

**Staff Findings of Fact -** Based on application review

Yes    No

       **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.**

The subject property is within the "Suburban Activity 1" Character Area as designated on the Future Land Use and Character Map in the *Move Knapolis Forward 2030 Comprehensive Plan*. The Suburban Activity 1 Character Area allows multifamily residential uses.

The proposed use is compatible with the character intent of the Suburban Activity 1. The multi-family use serves as a complementary use to the commercial development in the surrounding area.

       **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.**

The site will continue to take direct access off Cold Water Ridge. A Traffic Impact Analysis (TIA) was not warranted by the development, however access and roadway improvements will be reviewed and approved by NCDOT and the City.

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

No vibration, noise, odor, dust, smoke or gas associated with the proposed residential use is expected.

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

The proposed plan would not impede development of the surrounding properties.

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

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed development is subject to all the requirements of the Unified Development Ordinance.

**Compliance with any other applicable Sections of this Ordinance.**

The proposed use shall comply with all sections of the City of Kannapolis Unified Development Ordinance, conditions of approval, and any other applicable local, state and federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all UDO requirements, including compliance with the site plan review and approval process, must be met.

**F. Legal Issues**

**Board's Findings of Fact - Based on application review and public hearing.**

In order to determine whether a conditional use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a conditional use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

**Yes**

**No**

**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.**

**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.**

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

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

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

**Compliance with any other applicable Sections of this Ordinance.**

### G. Recommendation

Based on the above findings, staff recommends **approval with conditions** of the Conditional Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, state and federal requirements.

#### Conditions of Approval proposed by staff:

1. The uses permitted with this rezoning shall only include 74 apartments, in general conformance with the plan submitted with this CUP.
2. The site concept plan and elevations are illustrative. Final design of the project, as reviewed by staff, shall be subject to meeting all city standards.
3. Use Bus-45 for turning template (mimics ladder truck).
4. A Stormwater Operations & Maintenance Agreement will be required prior to CO.
5. The Fire Department shall approve locations of all hydrants.

*The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Conditional Use Permit.*

### H. Attachments

1. Conditional Use Permit Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use Map
5. Site Plan
6. Elevations
7. List of notified properties
8. Notice to Adjacent Property Owners
9. Posted Public Notice

### I. Issue Reviewed By:

City Attorney	X
Planning Director	X
Director of Engineering	X
City Manager	X



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

Variance	_____	SIA Application	_____
Conditional Use Permit	<input checked="" type="checkbox"/>	Nonconformity Adjustment	_____
Subdivision Exception	_____	Watershed Boundary Modification	_____
Zoning Text Amendment	_____	Zoning Map Amendment	_____
Appeal	_____	Conditional Zoning Map Amendment	_____

Applicant: Urquhart Development LLC      Owner: Arbor Lane Investments Inc  
Address: 309 N. Bloodworth Street      Address: 630 Windsor Place  
Raleigh, NC 27601      Concord, NC 28025  
Telephone: (919) 270-0121      Telephone: (704) 782-y7777 ext 2  
Email: tomu@mindspring.com      Email: t.propst@southcentralproperties.com

Legal relationship of applicant to property owner: option holder

Property Location/Address: 2622 Coldwater Ridge Drive

Tax Parcel Number: 04-096G-0007 00 to 04-096G-0011 05 \_\_\_\_\_      Zoning District: C-2      Acreage of Site: 5.45

Requesting Zoning (if applicable): \_\_\_\_\_

Urquhart Development, LLC

Arbor Lane Investments Inc

Applicant Name (Print)

Property Owner Name (Print)

Thomas W. Urquhart      4/1/2020

T David Propst      4/13/20

Applicant Signature & Date

Property Owner Signature & Date

Thomas W. Urquhart

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review **must** be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.*

**For Staff Use Only:**

Filing Fee: \_\_\_\_\_      Receipt # \_\_\_\_\_

Application No.: \_\_\_\_\_      Date Submitted (Complete): \_\_\_\_\_



## CONDITIONAL USE PERMIT APPLICATION

I, Thomas W. Urquhart, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: 72 apartment units.

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

Develop 72 apartment units in four two-story or three-story buildings and a single story common building on 5 parcels of land

This is directly across Coldwater Ridge Drive from the Coldwater Ridge Apartments and will be of a similar but not exactly the same style.

### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

There are other multifamily developments directly across the street and to the Southwest and West.

Most of these units are of similar character and style.

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

Our development will front on Coldwater Ridge Drive with two entrances. Coldwater Ridge Drive is

a wide street commercial street with sidewalks on both sides and it feeds into two throughfares;

Dale Earnhardt Blvd to the north and Roxie Street to the southwest.

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

The project will produce no offensive noises, odors, smoke or dust.

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

The project is the perfect transition from the retail to the south and east to the single family to the north.

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

The complex will not have a detrimental effect on public health or safety. It will add much needed housing to the Kannapolis market which has prove health benefits

**F. Compliance with any other applicable Sections of this Ordinance.**

The complex will be designed and constructed to meet all applicable sections of the ordinance.

*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

Urquhart Development, LLC

Applicant Name (Print)

*Thomas W. Urquhart, 4/1/2020*

Applicant Signature & Date

Thomas W. Urquhart, Manager

Arbor Lane Investments Inc.

Property Owner Name (Print)

*David Propst 4/3/20*

Property Owner Signature & Date

David Propst

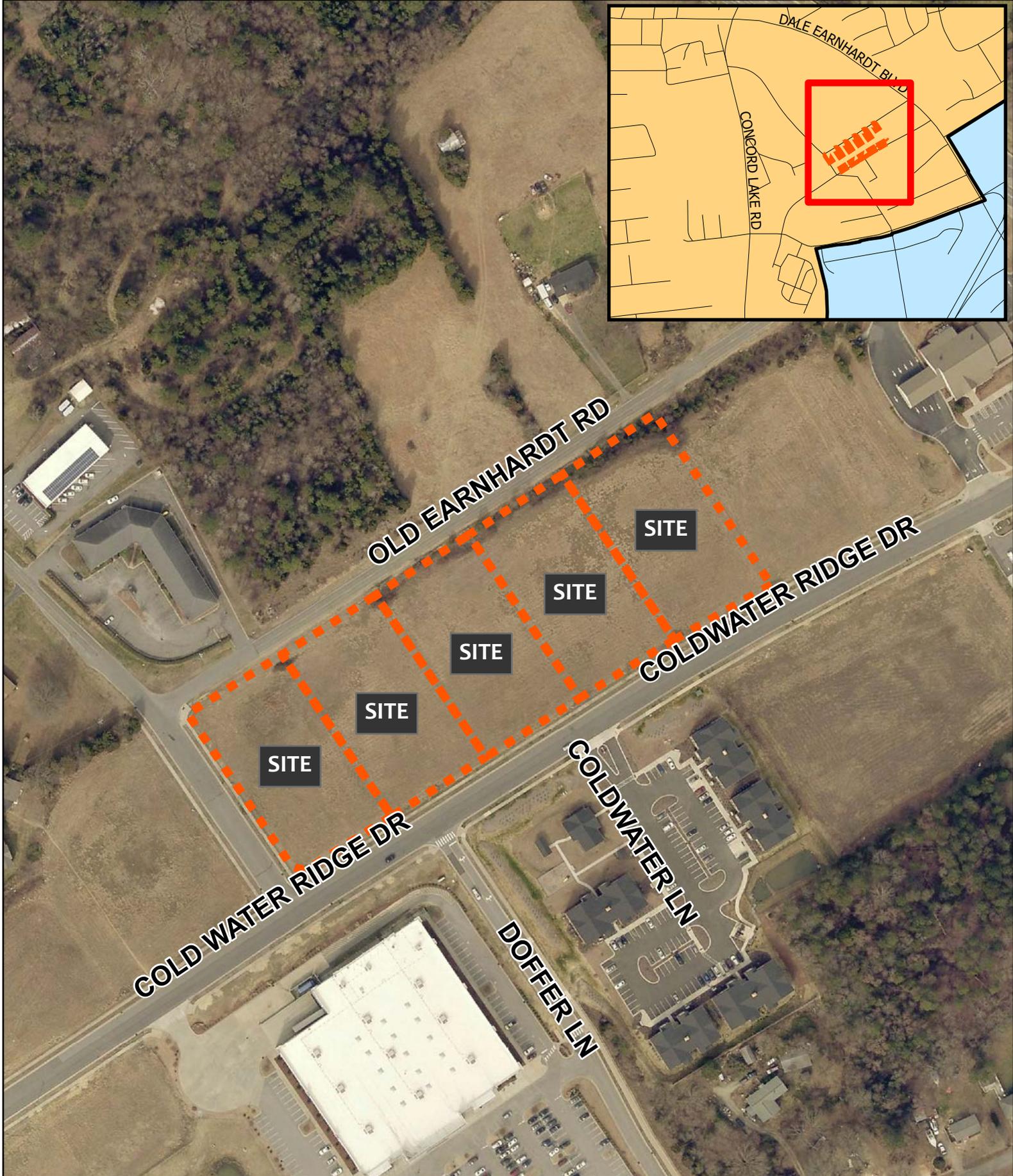
**Required as part of Conditional Use Permit Submittal:**

- The Board of Adjustment may add conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.
- Fee: Please refer to fee schedule on the City's website to determine applicable fees. Fees are nonrefundable and help to cover administrative and notification costs.
- Site plan in conformance with criteria listed in Appendix B.4.
- Tax cards for all adjacent property owners.



# Vicinity Map

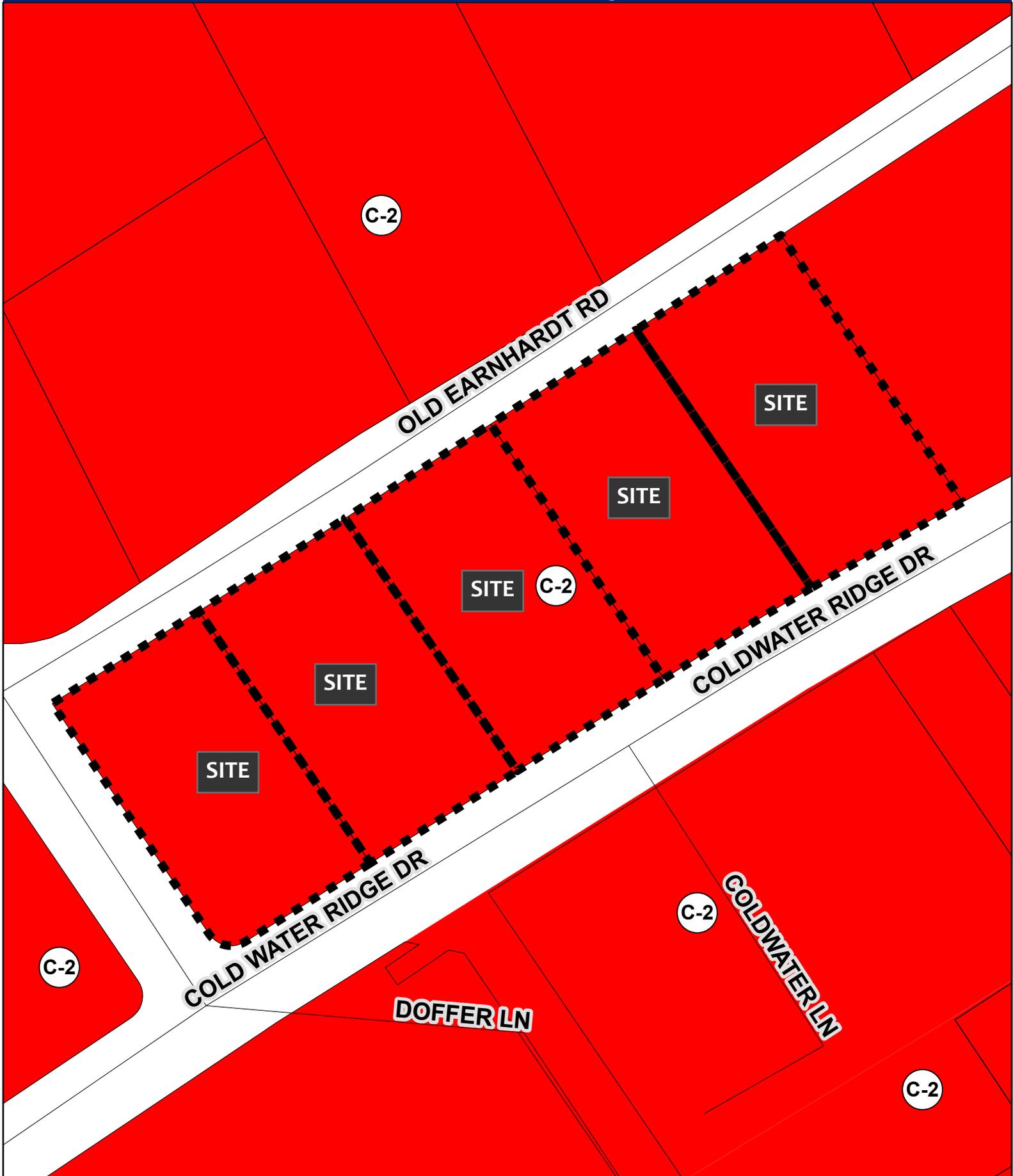
Case Number: BOA-2020-14  
Applicant: Urquhart Developments LLC  
2374 Cold Water Ridge Dr.





# Kannapolis Current Zoning

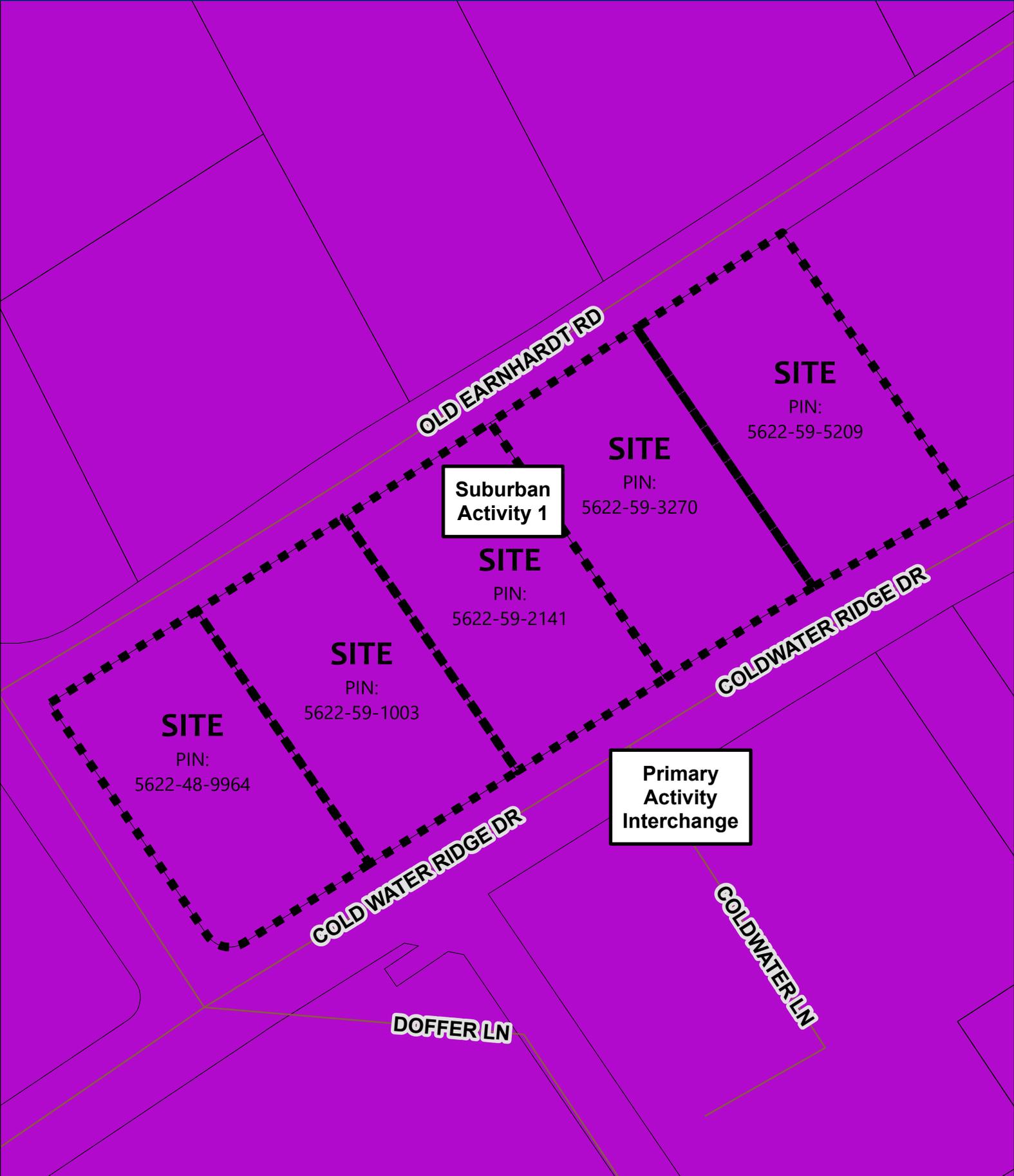
Case Number: BOA-2020-14  
Applicant: Urquhart Developments LLC  
2374 Cold Water Ridge Dr.



# Kannapolis 2030 Future Land Use Map



Case Number: BOA-2020-14  
Applicant: Urquhart Developments LLC  
2374 Cold Water Ridge Dr.



# COLDWATER RIDGE APARTMENTS II

KANNAPOLIS, NC



**SITE INFORMATION:**

**SITE:** 5.43 +/- ACRES  
**DENSITY:** 13.25 UNITS/ACRES  
**BUILDINGS:** (1) 1 STORY CLUBHOUSE  
 (2) 2-STORY APARTMENT BUILDING  
 (2) 3-STORY APARTMENT BUILDINGS  
**SPRINKLERS:** 13R  
**PARKING SPACES:** 126 SPACES REQUIRED @ 1.75 SPACES / UNIT  
 126 SPACES PROVIDED  
**ZONING :** C-2 WITH SPECIAL USE (SETBACKS TO BE AS SHOWN)  
**SETBACKS:** NO SET BACKS RECORDED  
 (25' SET BACK SHOWN THROUGHOUT)

**SITE NOTES:**

- SITE IS RELATIVELY FLAT AND IS TO BE GRADED TO PROVIDE 5% SLOPE AWAY FROM THE BUILDINGS IN FIRST 10'.  
 - NO WETLANDS OR FLOOD PLAIN ON SITE.

**UNIT INFORMATION:**

Unit Type	Unit Heated Area	Unit Net Area	No. of Units	Heated Total	Net Total
1 BEDROOM "A1"	705	742	12	8,460	8,904
2 BEDROOM "B1"	967	1,015	40	38,680	40,600
3 BEDROOM "C1"	1,124	1,177	20	22,480	23,540
<b>Total</b>			<b>72</b>	<b>69,620</b>	<b>73,044</b>

**REQUIRED SITE AMENITIES:**

- A. PLAYGROUND - (W/ MIN. 1 BENCH)
- B. MULTI-PURPOSE ROOM (MIN. 250 SQ. FT.)
- C. COVERED PICNIC AREA - (150 SQ.FT. W/ 2 TABLES & GRILL)

**ADDITIONAL AMENITIES:**

- D. OUTDOOR SITTING AREAS W/ BENCHES - (MIN. 3 LOCATIONS)
- E. COVERED PATIO WITH SEATING - (150 SQ. FT.)
- F. RESIDENT COMPUTER CENTER - (MIN. 2 COMPUTERS)

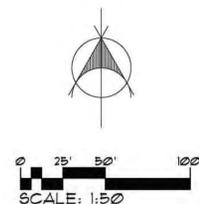
MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.  
 215 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3329 404-373-2800

COLDWATER RIDGE APARTMENTS II  
 KANNAPOLIS, NC

ARCHITECTURAL SITE PLAN



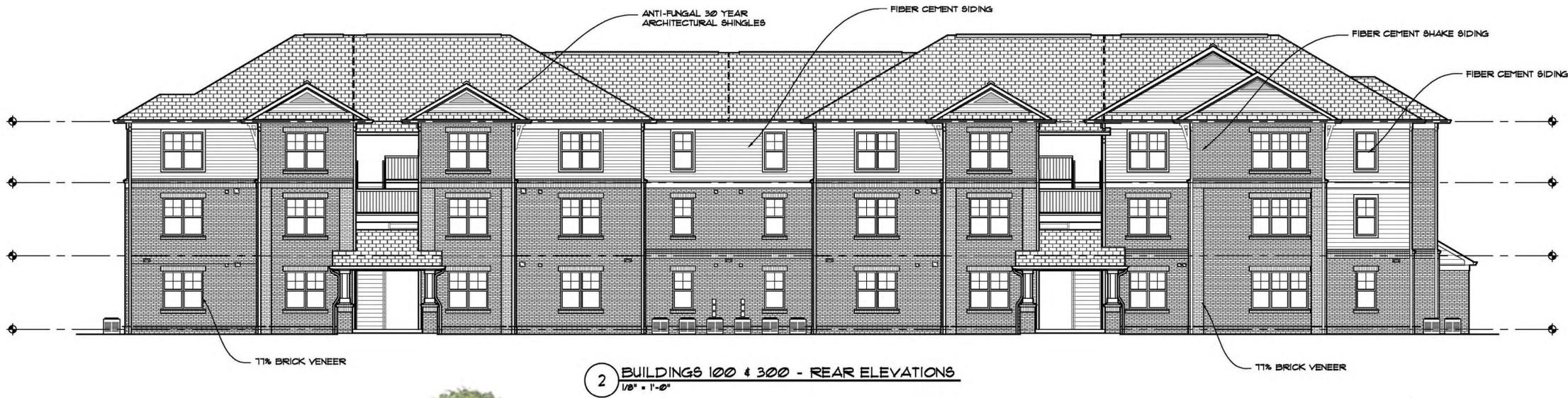
CSP.1



NOT RELEASED FOR CONSTRUCTION

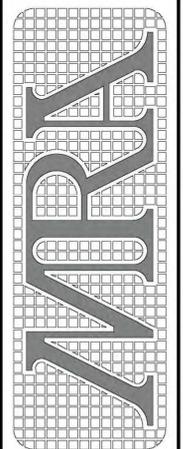
REVISIONS		
PROJECT	2020-006	
DATE	5-6-2020	
DRAWN BY / CHECKED BY		MRL

PLOTTED: 5/11/2020 12:59:47 PM - DRAWING: P:\URQUHART\2020-006 KANNAPOLIS, NC\2020 PRELIM\SHEETS\A3.1.DWG - PLOTTED BY: MICHAEL LEE - COPYRIGHT 2020



SCALE: 1/8" = 1'-0"

MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.  
 215 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3329 404-373-2800  
 COLDWATER RIDGE APARTMENTS II  
 KANNAPOLIS, NC



A3.1

NOT RELEASED FOR CONSTRUCTION

BUILDINGS 100 & 300 - ELEVATIONS

PROJECT: 2020-006  
 DATE: 5-6-2020  
 DRAWN BY / CHECKED BY: MRL

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
1787 LLC	4817 HARDISON RD	CHARLOTTE	NC	28226
AURION LLC A LLC CONC NC 28025	3003 DALE EARNHARDT BLVD STE 1	KANNAPOLIS	NC	28083
DARLA HARKEY & BONNIE AMBLE	323 GREYSTONE RD	CHARLOTTE	NC	28209
ESTATE OF MARY ROSS MURRAY	6109 CHARLIE WALKER RD	KANNAPOLIS	NC	28081
JEFFREY & CHARLENE POWER	1780 OLD EARNHARDT RD	KANNAPOLIS	NC	28083
ARBOR LANE INVESTMENTS INC ATTN: DAVID PROPST	630 WINDSOR PL NE	CONCORD	NC	28025
ATA PROPERTIES OF CHARLOTTE LLC	127 S JULIANA ST	BEDFORD	PA	15522
RIVER OF LIFE FMLY WORSHIP CNT ACADEMY ASSOCIATES KANNAPOLIS	1945 OLD EARNHARDT RD	KANNAPOLIS	NC	28083
C/O K E ANDREWS & COMPANY	1900 DALROCK RD	ROWLETT	TX	75088
COLDWATER RIDGE APARTMENTS LLC URQUHART DEVELOPMENT LLC	PO BOX 87770	FAYETTEVILLE	NC	28304
ATTN: THOMAS URGUHART	309 N BLOODWORD ST	RALEIGH	NC	27601

June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, July 14, 2020 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-14 – Conditional Use Permit (CUP) – Cold Water Ridge**

This public hearing is to consider a request for a Conditional Use Permit (CUP) to allow for a 72-unit multi-family residential development. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for multi-family residential in the C-2 (General Commercial) zoning district. The subject property is located at 2350, 2366, 2374, 2382 & 2390 Cold Water Ridge Dr. The properties measure approximately 5.41 +/- acres and are further identified as Cabarrus County Parcel Identification Numbers 5622-48-9964, 5622-59-1003, 5622-59-2141, 5622-59-3270, & 5622-59-5209. **(Please see reverse side of this letter for vicinity map showing the location of this property).**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,



Gretchen Coperine, AICP  
Assistant Planning Director

Enclosure

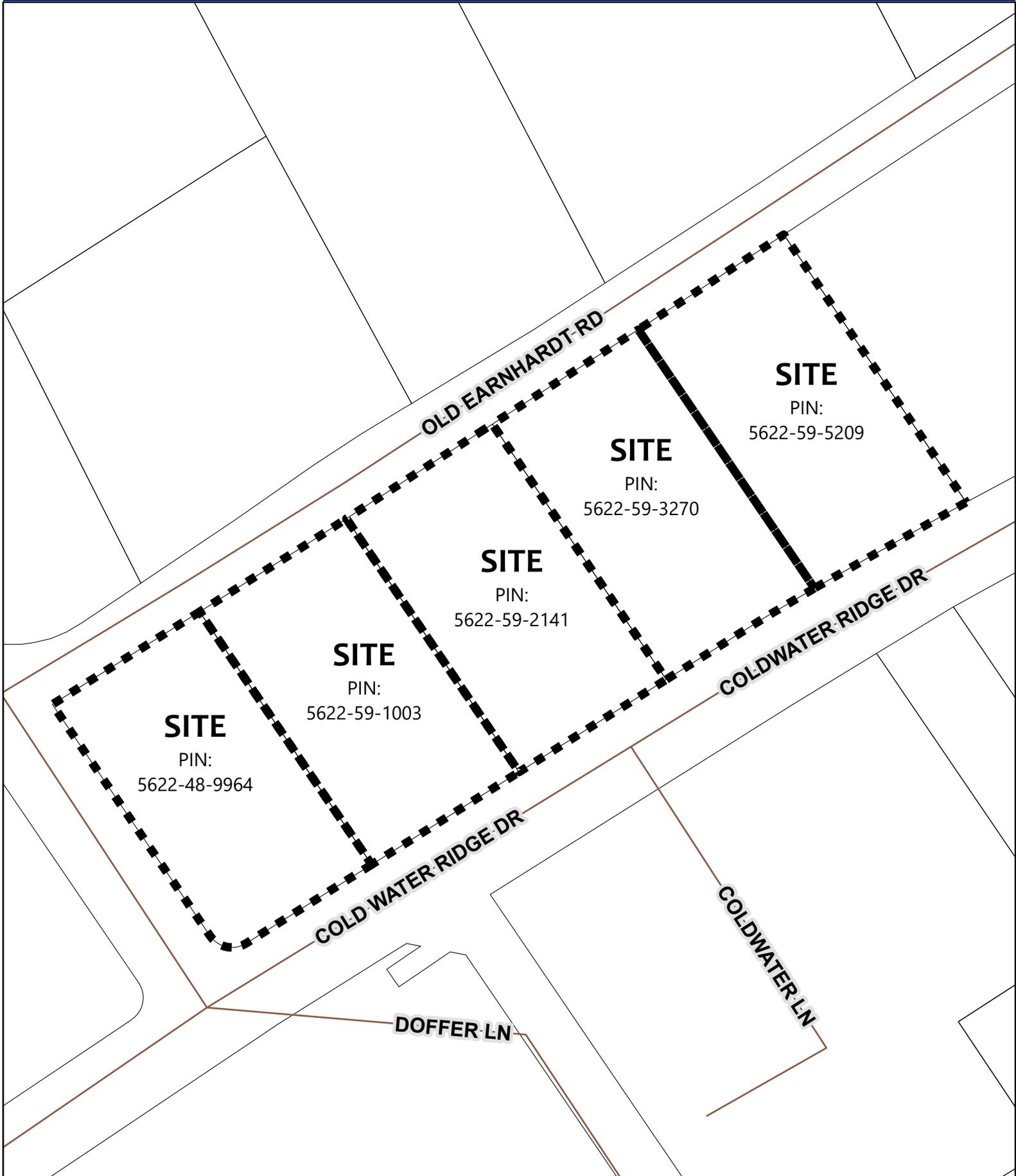
Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event.



# Conditional Use Permit

Case Number: BOA-2020-14

Applicant: Urquhart Developments LLC  
2374 Cold Water Ridge Dr.



FOR MORE INFORMATION  
**GREEN** ROUTE  
www.kanawha.com  
BOYS STOP

KANAWHA COUNTY  
**BOARD OF**  
**ADJUSTMENT**  
PUBLIC HEARING  
INFORMATION  
CALL 704-920-4350  
CASE #BOA - 2020 - 14





**Board of Adjustment  
July 14, 2020 Meeting**

**Staff Report**

**TO:** Board of Adjustment  
**FROM:** Ryan Lipp, Senior Planner  
**SUBJECT:** **Case# BOA-2020-15: Front St  
Conditional Use Permit (CUP)  
Applicant: Chris Puckett**

**Request for a Conditional Use Permit to allow single-family residential in the  
Neighborhood Commercial/Office (B-1) zoning district.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Conditional Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Conditional Use Permit
4. Motion to Issue Order of Approval.

**B. Required Votes to Pass Requested Action**

A majority vote is required to approve, approve with conditions, or deny the requested actions.

**C. Background**

The applicant, Chris Puckett, is requesting a Conditional Use Permit (CUP) to allow construction of 3 single-family homes in the B-1 (Neighborhood Commercial/Office) zoning district, located on Front St, further identified as Cabarrus County Parcel Identification Numbers 5613-77-6448, 5613-77-5433, 5613-77-4491.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for single-family residences in the B-1 zoning district. The subject properties are approximately 0.63 +/- total acres.

**D. Fiscal Considerations**

None

**E. Policy Issues**

Article 3.5 of the UDO requires that the Board of Adjustment shall only approve a conditional use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

**Staff Findings of Fact** - Based on application review

Yes    No

       **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.**

The subject property is within the "Urban Residential" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Urban Residential Character Area allows for single-family residential uses.

The proposed use is compatible with the character intent of the Urban Residential Character Area, as well as, complementary to the existing single-family uses in the surrounding area.

       **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.**

The site will take direct access off Front St. The anticipated traffic is minimal.

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

No vibration, noise, odor, dust, smoke or gas associated with the proposed residential use is expected.

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

The proposed plan would not impede development of the surrounding properties.

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

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed development is subject to all the requirements of the Unified Development Ordinance.

       **Compliance with any other applicable Sections of this Ordinance.**

The proposed use shall comply with all sections of the City of Kannapolis Unified Development Ordinance, conditions of approval, and any other applicable local, state and federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all UDO requirements, including compliance with the Technical Review Committee site plan review and approval process, must be met.

**F. Legal Issues**

**Board's Findings of Fact** - Based on application review and public hearing.

In order to determine whether a conditional use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a conditional use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>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.</b> _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	<b>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.</b> _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	<b>The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.</b> _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	<b>The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.</b> _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	<b>The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.</b> _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	<b>Compliance with any other applicable Sections of this Ordinance.</b> _____ _____

**G. Recommendation**

Based on the above findings, staff recommends **approval with conditions** of the Conditional Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, state and federal requirements.

**Conditions of Approval proposed by staff:**

1. The uses permitted with this rezoning shall be limited to single-family residential.
2. Must comply with all city standards for single-family development.

*The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Conditional Use Permit.*

**H. Attachments**

1. Conditional Use Permit Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use Map
5. List of notified properties
6. Notice to Adjacent Property Owners
7. Posted Public Notice

**I. Issue Reviewed By:**

City Attorney	X
Planning Director	X
Director of Engineering	X
City Manager	X



Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

- |                        |                                     |                                  |                          |
|------------------------|-------------------------------------|----------------------------------|--------------------------|
| Variance               | <input type="checkbox"/>            | SIA Application                  | <input type="checkbox"/> |
| Conditional Use Permit | <input checked="" type="checkbox"/> | Nonconformity Adjustment         | <input type="checkbox"/> |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | <input type="checkbox"/> |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | <input type="checkbox"/> |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | <input type="checkbox"/> |

Applicant: Chris Puckley Owner: Jose + Dina Flores / Misael Sanchez  
 Address: 348 Cannon Way Address: 3131 Angela Ln  
Kannapolis NC 28081 Charlotte NC 28215  
 Telephone: 704-293-5872 Telephone: \_\_\_\_\_  
 Email: chpuckley@gmail.com Email: \_\_\_\_\_

Legal relationship of applicant to property owner: Manager

Property Location/Address: 231 Front St. Kannapolis NC 28083

Tax Parcel Number: \_\_\_\_\_ Zoning District: B-1 Acreage of Site: 0.11

Requesting Zoning (if applicable): RV

Chris Puckley JOSE FLORES, DINA E FLORES  
 Applicant Name (Print) Property Owner Name (Print)  
Chris Puckley 5/4/2020 MISHAEL SANCHEZ  
 Applicant Signature & Date Property Owner Signature & Date

5/20/20

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review must be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: \$625.00 Receipt #: M-11360  
 Application No.: BOA-2020-15 Date Submitted (Complete): 4/16/2020



## CONDITIONAL USE PERMIT APPLICATION

I, Chris Puckett, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: single family residential.

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

Single family residential

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### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

F. Compliance with any other applicable Sections of this Ordinance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

Chris Pacheco  
Applicant Name (Print)

JASE FLORES, Dina Flores  
X MISAEL SANCHEZ  
Property Owner Name (Print)

Chris Pacheco 5/14/2020  
Applicant Signature & Date

[Signature] [Signature] [Signature]  
Property Owner Signature & Date 5/20/20

**Required as part of Conditional Use Permit Submittal:**

- The Board of Adjustment may add conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.
- Fee: Please refer to fee schedule on the City's website to determine applicable fees. Fees are nonrefundable and help to cover administrative and notification costs.
- Site plan in conformance with criteria listed in Appendix B.4.
- Tax cards for all adjacent property owners.



**Planning and Zoning Commission and Board of Adjustment  
General Application Form  
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- |                        |                                     |                                  |                          |
|------------------------|-------------------------------------|----------------------------------|--------------------------|
| Variance               | <input type="checkbox"/>            | SIA Application                  | <input type="checkbox"/> |
| Conditional Use Permit | <input checked="" type="checkbox"/> | Nonconformity Adjustment         | <input type="checkbox"/> |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | <input type="checkbox"/> |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | <input type="checkbox"/> |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | <input type="checkbox"/> |

Applicant: KTown Homes LLC Owner: Jose & Dina Flores / Misael Sanchez  
 Address: 620 N. Main St. Kannapolis, NC 28081 Address: 3131 Knight Ln Charlotte, NC 28215  
 Telephone: 704-245-5872 Telephone: \_\_\_\_\_  
 Email: chris2calv@gmail.com Email: \_\_\_\_\_

Legal relationship of applicant to property owner: Agent

Property Location/Address: 235 Front St, Kannapolis, NC 28083

Tax Parcel Number: \_\_\_\_\_ Zoning District: R-1 Acreage of Site: 0.11

Requesting Zoning (if applicable): R-1

Applicant Name (Print): KTown Homes LLC Property Owner Name (Print): JOSE FLORES, Dina Flores  
 MISAEEL SANCHEZ

Applicant Signature & Date: [Signature] 5/4/2020 Property Owner Signature & Date: [Signatures] 5/20/20

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review must be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.*

**For Staff Use Only:**

Filing Fee: \$625.- Receipt # M-11361  
 Application No.: 120A-2020-17 Date Submitted (Complete): 5/16/20



## CONDITIONAL USE PERMIT APPLICATION

I, Chris Purdy/250-000-4500 #3048511, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: single family residential

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

single family residential

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### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

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

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

---

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

F. Compliance with any other applicable Sections of this Ordinance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

Chris P. Puchett / KTown Homes LLC  
Applicant Name (Print)

X JOSE FLORES, DINA FLORES  
MISAEEL SANCHEZ  
Property Owner Name (Print)

Chris Puchett 5/4/2020  
Applicant Signature & Date

X [Signature] [Signature]  
Property Owner Signature & Date 5/20/20

**Required as part of Conditional Use Permit Submittal:**

- The Board of Adjustment may add conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.
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- Site plan in conformance with criteria listed in Appendix B.4.
- Tax cards for all adjacent property owners.



**Planning and Zoning Commission and Board of Adjustment  
General Application Form**  
*(Not for Site Plan Review Submittals)*

Type of Action Requested (Check One):

- |                        |                                     |                                  |                          |
|------------------------|-------------------------------------|----------------------------------|--------------------------|
| Variance               | <input type="checkbox"/>            | SIA Application                  | <input type="checkbox"/> |
| Conditional Use Permit | <input checked="" type="checkbox"/> | Nonconformity Adjustment         | <input type="checkbox"/> |
| Subdivision Exception  | <input type="checkbox"/>            | Watershed Boundary Modification  | <input type="checkbox"/> |
| Zoning Text Amendment  | <input type="checkbox"/>            | Zoning Map Amendment             | <input type="checkbox"/> |
| Appeal                 | <input type="checkbox"/>            | Conditional Zoning Map Amendment | <input type="checkbox"/> |

Applicant: David Miller, Kayla & James Owner: Jose & Dina Flores / Misael  
MCNYS, LLC  
 Address: 1640 North Carolina Blvd. Address: 3131 Kayla Ln  
Kannapolis, NC 28083 Charlotte, NC 28215  
 Telephone: 704-791-5845 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_ Email: \_\_\_\_\_

Legal relationship of applicant to property owner: buyer

Property Location/Address: none

Tax Parcel Number: 5613 PLOWNS Zoning District: B1 Acreage of Site: 0.41

Requesting Zoning (if applicable): RV

Applicant Name (Print) \_\_\_\_\_  
 Property Owner Name (Print) JOSE FLORES, Dina Flores  
X MISHAEL SANCHEZ

Applicant Signature & Date \_\_\_\_\_  
 Property Owner Signature & Date [Signature] 5/20/20

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review must be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.*

For Staff Use Only:

Filing Fee: \$625.- Receipt # M-11632  
 Application No.: BOA-2020-18 Date Submitted (Complete): 6/18/2020



## CONDITIONAL USE PERMIT APPLICATION

I, \_\_\_\_\_, hereby petition the Board of Adjustment for a Conditional Use Permit as required by Table 4.6-1 of the Unified Development Ordinance for the following proposed property use: single family residential

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows:

single family residential

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### APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a conditional use permit. The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions to obtain a conditional use permit. In the spaces provided below, indicate the *facts* that you intend to provide to convince the Board that it can properly reach the following required conclusions:

**A. The proposed conditional use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

F. Compliance with any other applicable Sections of this Ordinance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

\_\_\_\_\_  
Applicant Name (Print)

X JOSE FLORES, DINA FLORES  
MISAEEL SANCHEZ  
Property Owner Name (Print)

\_\_\_\_\_  
Applicant Signature & Date

X [Signature] [Signature]  
Property Owner Signature & Date 5-20-20

**Required as part of Conditional Use Permit Submittal:**

- The Board of Adjustment may add conditions on the use requested as part of the approval to assure that adequate mitigation measures are associated with the use.
- Fee: Please refer to fee schedule on the City's website to determine applicable fees. Fees are nonrefundable and help to cover administrative and notification costs.
- Site plan in conformance with criteria listed in Appendix B.4.
- Tax cards for all adjacent property owners.



# Vicinity Map

Case Number: BOA-2020-15

Applicant: Chris Puckett

Front St.



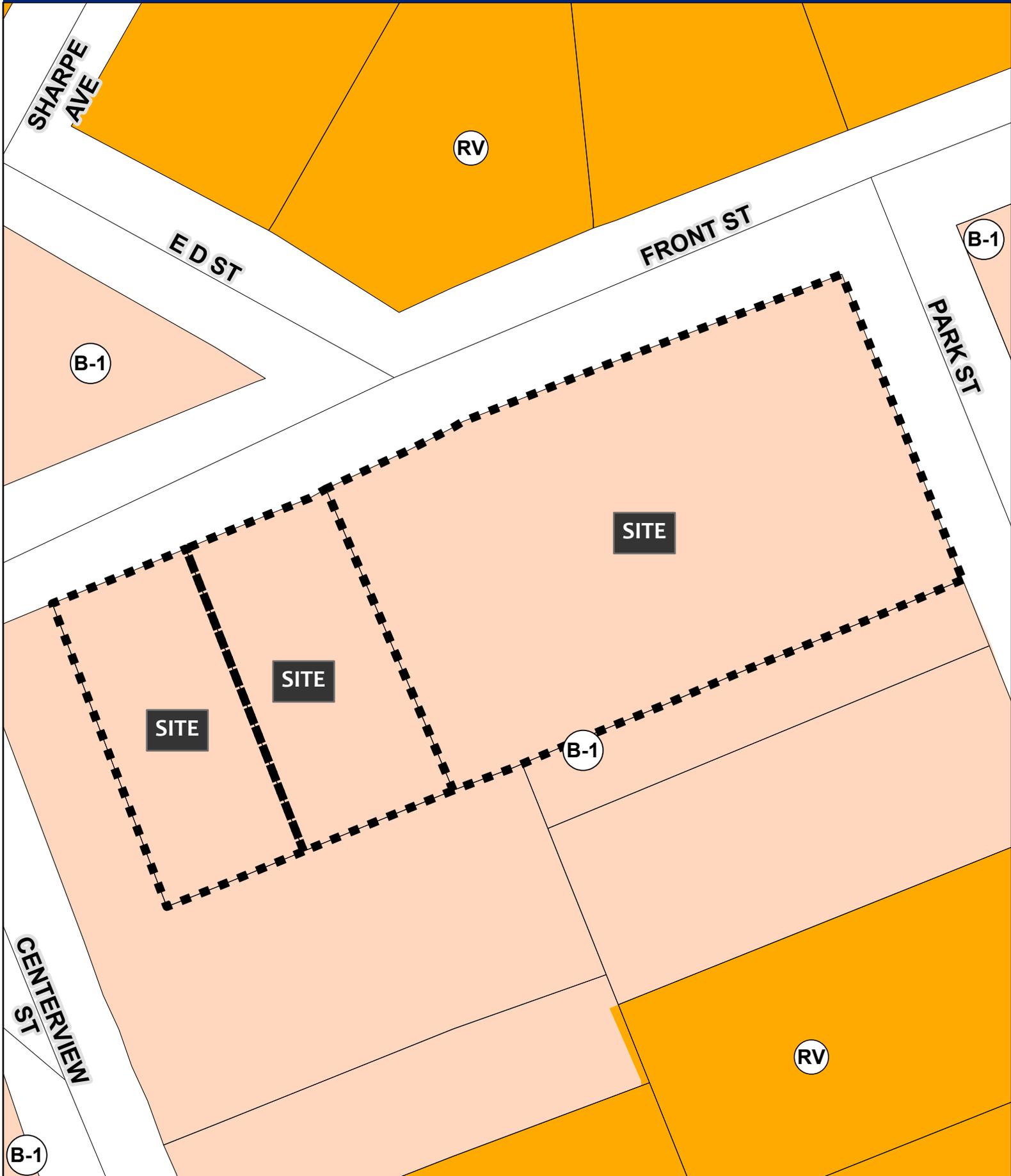


# Kannapolis Current Zoning

Case Number: BOA-2020-15

Applicant: Chris Puckett

Front St.





# Kannapolis 2030 Future Land Use Map

Case Number: BOA-2020-15

Applicant: Chris Puckett

Front St.



AcctName1	MailAddr1	MailCity	MailState	MailZipCod
ALL GOODNESS ENTERPRISES LLC	PO BOX 1944	CONCORD	NC	28026
MARK ALTARAC	60 COMMERCE AVE	ALBANY	NY	12206
FREDDY & SARA CABRERA	523 OLD CENTERGROVE RD APT A	KANNAPOLIS	NC	28083
CENTERVIEW BAPTIST CHURCH	415 WALTER STREET	KANNAPOLIS	NC	28081
CENTERVIEW HARDWARE INC				
C/O MARGARET PROPST	707 NORTH CANNON BLVD	KANNAPOLIS	NC	28083
DAVID MILLER REALTY & INVESTMENT INC	1640 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28083
LAURA FISHER ESTATE	3713 WOODPARK DR	JAMESTOWN	NC	27282
JOSE & DINA FLORES	3131 KAYLA LN	CHARLOTTE	NC	28215
GIVITA PROPERTIES LLC	2109 JENNINGS ST	CHARLOTTE	NC	28216
RAYMOND & MARY GORDNER	153 OAKWOOD MEADOW DR	MOORESVILLE	NC	28115
CYNTHIA GRIGGS	213 IDLEWOOD DR	KANNAPOLIS	NC	28083
GRADY GULLEDGE				
C/O TERRY STANCIL	412 V 8 ST	KANNAPOLIS	NC	28083
MARABLE MEMORIAL AME				
ZION CHURCH TRUSTEES	P O BOX 607	KANNAPOLIS	NC	28082
MYRA MCMANUS	6583 DERBY LANE	CONCORD	NC	28027
C D & MAYO MERRITT ESTATE				
C/O JOHN MERRITT	9333 EDWAY CIR	RANDALLSTOWN	MD	21133
MISENHEIMER INVESTMENT GROUP	408 WALKER ST	KANNAPOLIS	NC	28081
TROY MOHR	840 LEE CT	BRILLION	WI	54110
OPERATION HOMELESS INC				
C/O TERRY STANCIL	511 OLD CENTERGROVE RD	KANNAPOLIS	NC	28083
CARL GAIL & PIEPER	510 PARK STREET	KANNAPOLIS	NC	28081
LEWIS REID				
C/O THELMA REID ESTATE	712 LONG ST	KANNAPOLIS	NC	28083
RICHARD MCGUIRE PROPERTIES LLC	8864 WRIGHT RD	KANNAPOLIS	NC	28081
DONALD & JANIE ROSE LF EST	222 FRONT ST	KANNAPOLIS	NC	28083
MARION WARD	413 E D ST	KANNAPOLIS	NC	28083
BOOKER WASHINGTON	411 EAST D STREET	KANNAPOLIS	NC	28083
JUDI WIKE	400 PINE STREET	LANDIS	NC	28088
PEGGY WILES				
C/O ESTATE OF PEGGY JEAN WILES	217 FRONT ST	KANNAPOLIS	NC	28083
BRADFORD WYRICK	1200 WYRICK LN	KANNAPOLIS	NC	28083
CHRIS PUCKETT	848 LANTERN WAY	KANNAPOLIS	NC	28081
KTOWN HOMES				
ATTN: CHRIS PUCKETT	620 N MAIN ST	KANNAPOLIS	NC	28081
MISAIL SANCHEZ	3131 KAYLA LN	CHARLOTTE	NC	28215



June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, July 14, 2020 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-15 – Conditional Use Permit (CUP) – 231, 235 & Unaddressed Parcel Front St.**

This public hearing is to consider a request for a Conditional Use Permit (CUP) to allow for a single-family residential home. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a CUP is required to allow for single-family residential in the B-1 (Neighborhood Commercial) zoning district. The subject properties are located at 231, 235 and an unaddressed parcel on Front St., measure approximately .63 +/- acres and is further identified as Cabarrus County Parcel Identification Number(s) 5613-77-5433, 5613-77-4491, and 5613-77-6448. **(Please see reverse side of this letter for vicinity map showing the location of this property).**

You are being notified because you are an abutting property owner.

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OBSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Ryan Lipp  
Senior Planner

Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event.



# Conditional Use Permit

Case Number: BOA-2020-15

Applicant: Chris Puckett

231 Front St.



SHARPE  
AVE

E D ST

FRONT ST

**SITE**

PIN:

5613-77-5433

CENTERVIEW ST

OLD CENTERGROVE RD

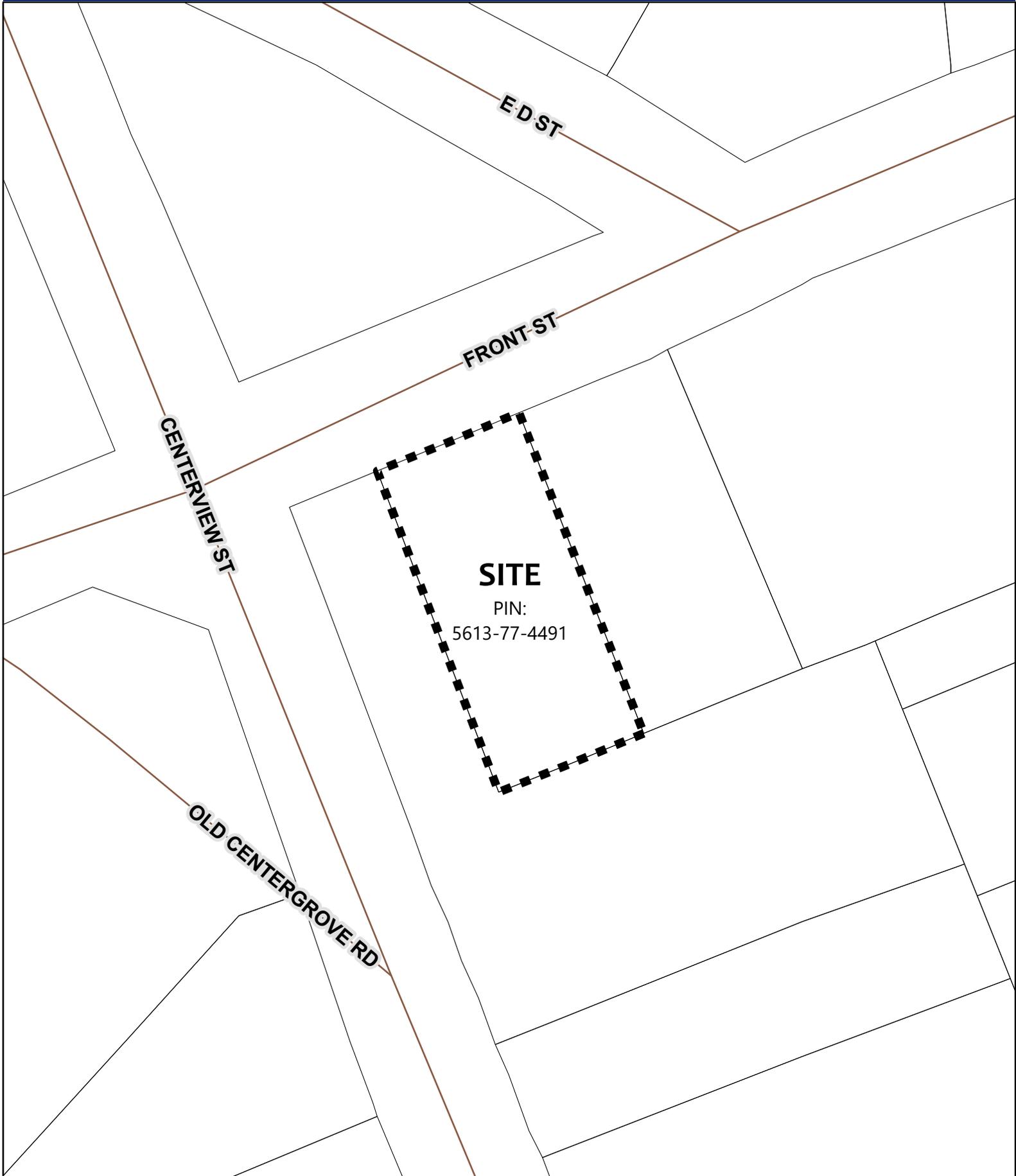


# Conditional Use Permit

Case Number: BOA-2020-17

Applicant: Ktown Homes LLC

235 Front St.

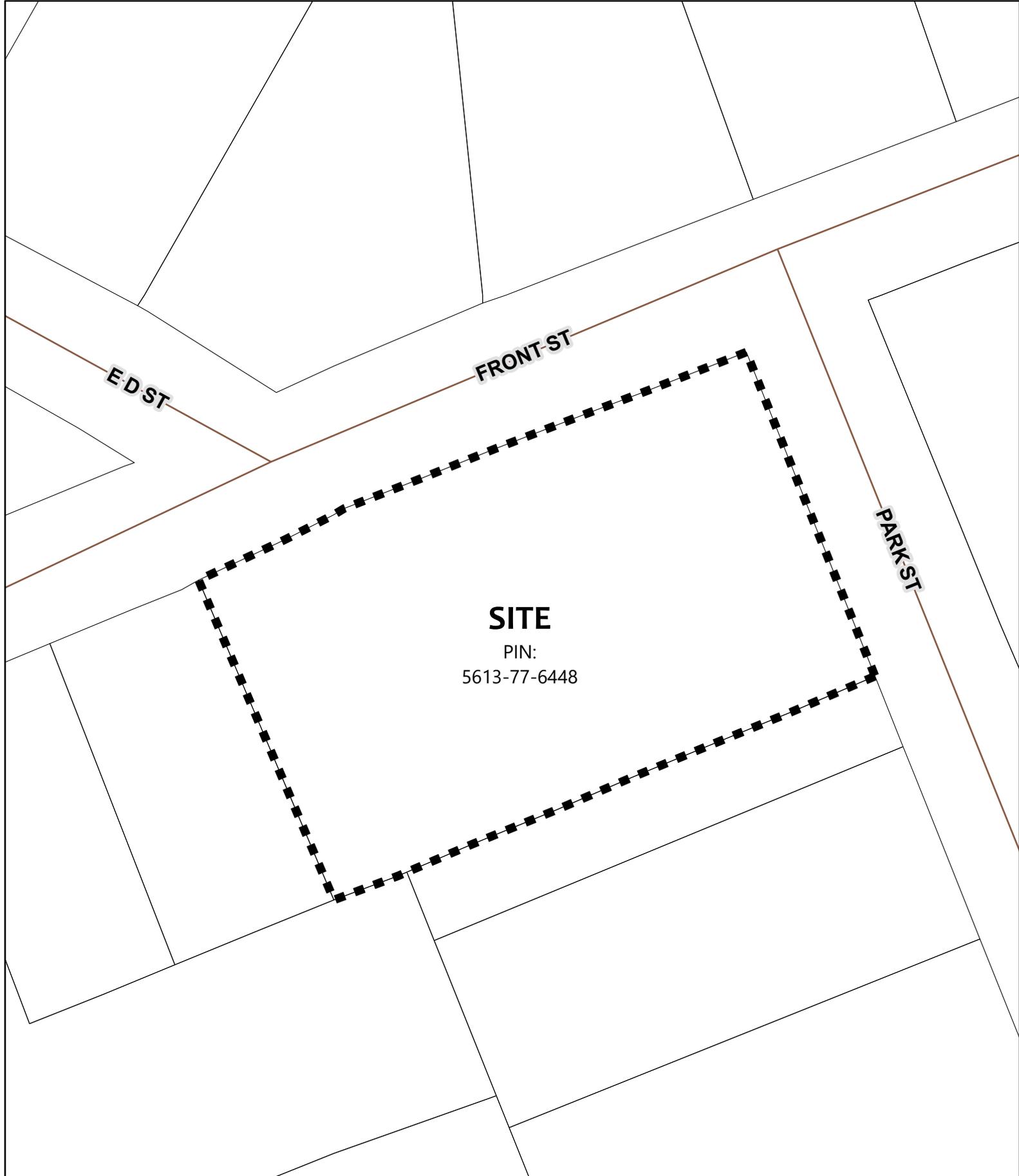




# Conditional Use Permit

Case Number: BOA-2020-18

Applicant: David Miller Realty & Investments LLC  
Front St.



**SITE**

PIN:  
5613-77-6448



BOARD OF  
ADJUSTMENT  
PUBLIC HEARING  
INFORMATION  
CALL 781-534-4100  
CASE #13-7073-14

PRIVATE  
PARKING  
ONLY



**Board of Adjustment  
July 14, 2020**

**Staff Report**

**TO:** Board of Adjustment

**FROM:** Zachary D. Gordon, AICP – Planning Director

**SUBJECT: Case# BOA-2020-16: Variance – 2705 Kendallwood Ct., Cabarrus County Pin # 5602-34-3692**

**Request for variance from the provisions of Article 6, Section 6.4.19.3.7.1 Landscaping and Article 7, Section 7.4 Perimeter Landscaping of the Unified Development Ordinance (UDO) to allow construction of a 2-car garage within a designated buffer.**

**A. Actions Requested by Board of Adjustment**

1. Motion to accept the City’s exhibits into the record
2. Motion to approve/revise Findings of Fact proposed by Planning Staff
3. Motion to approve (approve with conditions) (deny) the issuance of the variance
4. Motion to issue Order for Approval

**B. Required Votes to Pass Requested Action**

Six votes are required to approve or deny the requested actions.

**C. Background**

The applicant, Brenton & Shannon Adam, is requesting a variance from Article 6, Section 6.4.19.3.7.1 Landscaping and Article 7, Section 7.4 Perimeter Landscaping of the Unified Development Ordinance, to be permitted to encroach into a 50’ buffer. As shown on the attached site plan, the property is encumbered by a 50’ buffer, (which includes a 25’ undisturbed buffer area) within which the applicant is proposing to construct a free-standing garage. The proposed garage would extend into the buffer by approximately 15’, but would be outside the required 25’ undisturbed buffer. The existing single-family structure is currently located within the 50’ buffer, (but outside the 25’ undisturbed buffer) approximately 1’ further into the buffer. The applicant purchased the home in 2015. The record plat for this property includes a note stating: “Encroachment into Buffer Authorized by Town of Kannapolis”. This note is in reference to the existing single-family home.

**D. Fiscal Considerations**

None

**E. Policy Issues**

**Staff Findings of Fact** - Based on application review

Yes      No

           **Unnecessary hardship would result from the strict application of the ordinance.**

The applicant purchased their home in 2015 with the structure located within the 50' buffer. The proposed garage placement would be approximately in-line with the single-family structure encroachment.

           **The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

The property is subject to a 50' buffer that constrains development of the property.

           **The hardship did not result from actions taken by the applicant or the property owner.**

The applicant purchased the property with the existing structure located within the 50' buffer.

           **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved and will preserve its spirit.**

According to Section 7.4 of the UDO, the purposed of a perimeter buffer yard is to provide a transitional buffer between uses that may differ in development intensity and density; or provide a minimum buffer between uses of similar intensity and density. The applicant's property is adjacent to a residentially zoned and used lot, which is 250' away. The garage would be located outside the required 25' undisturbed buffer, but would encroach within the 50' buffer area at approximately the same depth of encroachment as the existing single-family home.

**Board's Findings of Fact** - Based on application review and public hearing.

In order to determine whether a variance is warranted, the Board members must decide that each of the four criteria as outlined below has been met. If the Board members concur completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board members wish to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the four criteria below. Should a variance be approved, the Board members may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes

No



Unnecessary hardship would result from the strict application of the ordinance.

---




The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

---




The hardship did not result from actions taken by the applicant or the property owner's own actions.

---




The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

---

**F. Legal Issues**

None

**G. Recommendation**

Based on the above findings, staff does not oppose **approval** of the variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

**H. Attachments**

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Site Plan
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

**I. Issue Reviewed By:**

Planning Director	X
City Manager	X
City Attorney	X

# KANNAPOLIS

## Planning and Zoning Commission and Board of Adjustment General Application Form (Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

Variance	<input checked="" type="checkbox"/>	SIA Application	_____
Conditional Use Permit	_____	Nonconformity Adjustment	_____
Subdivision Exception	_____	Watershed Boundary Modification	_____
Zoning Text Amendment	_____	Zoning Map Amendment	_____
Appeal	_____	Conditional Zoning Map Amendment	_____

Applicant: BRENTON SHANNON ADAM Owner: → SAME

Address: 2705 KENDALLWOOD CT Address: \_\_\_\_\_

KANNAPOLIS, NC 28081

Telephone: 704-918-5001 Telephone: \_\_\_\_\_

Email: BSADAM@BADAM.NET Email: \_\_\_\_\_

Legal relationship of applicant to property owner: SELF

Property Location/Address: 2705 KENDALLWOOD CT, KANNAPOLIS, NC 28081

Tax Parcel Number: 5602343692 Zoning District: \_\_\_\_\_ Acreage of Site: 0.37  
0000

Requesting Zoning (if applicable): \_\_\_\_\_

BRENTON ADAM  
Applicant Name (Print)

[Signature] 6/11/2020  
Applicant Signature & Date

BRENTON ADAM  
Property Owner Name (Print)

[Signature] 6/11/2020  
Property Owner Signature & Date

*The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee(s), and one (1) copy of any required site plan for staff review **must** be submitted by the deadline. All fees are nonrefundable and help to cover administrative and notification costs.*

### For Staff Use Only:

Filing Fee: \_\_\_\_\_

Receipt # \_\_\_\_\_

Application No.: \_\_\_\_\_

Date Submitted (Complete): \_\_\_\_\_



## APPLICATION FOR A VARIANCE

I, Brenton Adam, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Administrator, I am prohibited from using the parcel of land described in the attached form (General Application Form) in a manner shown by the plot plan attached to that form. I request a Variance from the following provisions of the ordinance (cite paragraph numbers):

UDO 6.4.19.3. 7.1 Landscaping + Buffering Requirements  
UDO 7.4 Perimeter Buffer Yards

so that the above-mentioned property can be used in a manner indicated by the plot plan attached to the General Application Form or, if the plot plan does not adequately reveal the nature of the Variance, as more fully described herein:

As Attached

### Factors Relevant to the Issuance of a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Under the State Enabling Act, the Board is required to reach four conclusions before it may issue a Variance: (1) that unnecessary hardship would result from the strict application of the ordinance; (2) that the hardship results from conditions that are peculiar to the property, such as location, size, or topography; (3) that the hardship did not result from actions taken by the applicant or the property owner; and (4) the requested variance is consistent with the spirit, purpose, and intent, of the ordinance, such that public safety is secured, and substantial justice is achieved. In the spaces provided below, indicate the *facts* that you intend to show and the *arguments* that you intend to make to convince the Board that it can properly reach these four required conclusions.

#### 1. Unnecessary hardship would result from the strict application of the ordinance.

It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property. [It is *not* sufficient that failure to grant the Variance simply makes the property less valuable.] (State facts and arguments in support of this conclusion.)

Attached, page 11

**2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. (State facts and arguments to show that the Variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the Variance is granted, will not substantially detract from the character of the neighborhood.)

Attached, page 12

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**3. The hardship did not result from actions taken by the applicant or the property owner.**

The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (State facts and arguments in support of this conclusion.)

Attached, page 15

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**4. The requested Variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

(State facts and arguments to show that, on balance, if the Variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Attached, page 16

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*I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.*

BRENTON ADAM

Applicant Name (Print)

BRENTON ADAM

Property Owner Name (Print)

 6/11/2020

Applicant Signature & Date

 6/11/2020

Property Owner Signature & Date

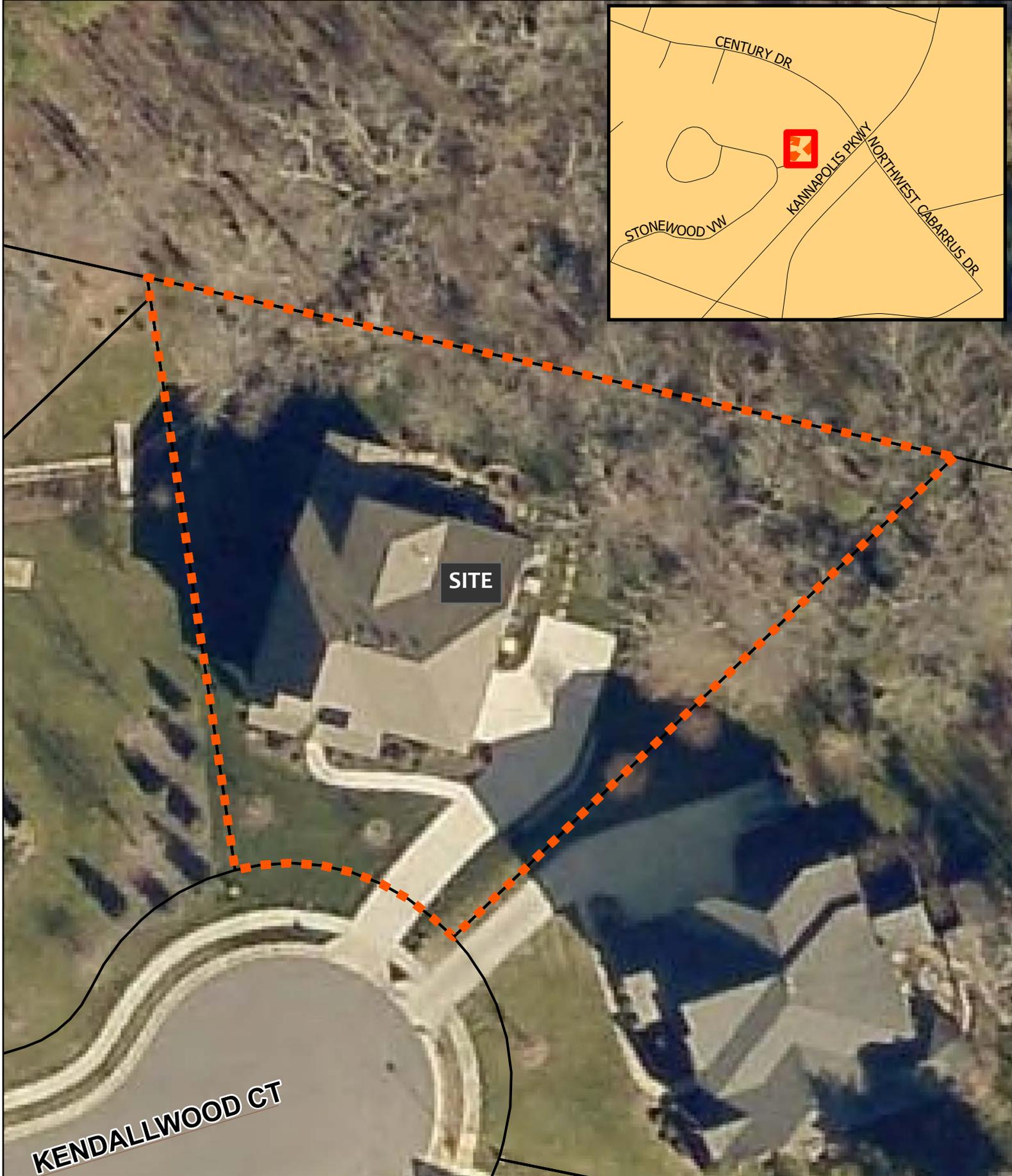
**Required as part of Conditional Use Permit Submittal:**

- ™** The Board of Adjustment may impose reasonable conditions upon the approval to ensure that the public health, safety and general welfare shall be protected, and substantial justice has been done.
- ™** Calls or conversation with Board of Adjustment members prior to the meeting may disqualify members from participation at the Board meeting. For testimony of supporters not to be considered hearsay, they must be present at the meeting. Petitions and written consent may be accepted by the Board but cannot be used as a basis for decision.
- ™** Fee: Please refer to fee schedule on the City's website to determine applicable fees. Fees are nonrefundable and help to cover administrative and notification costs.



# Vicinity Map

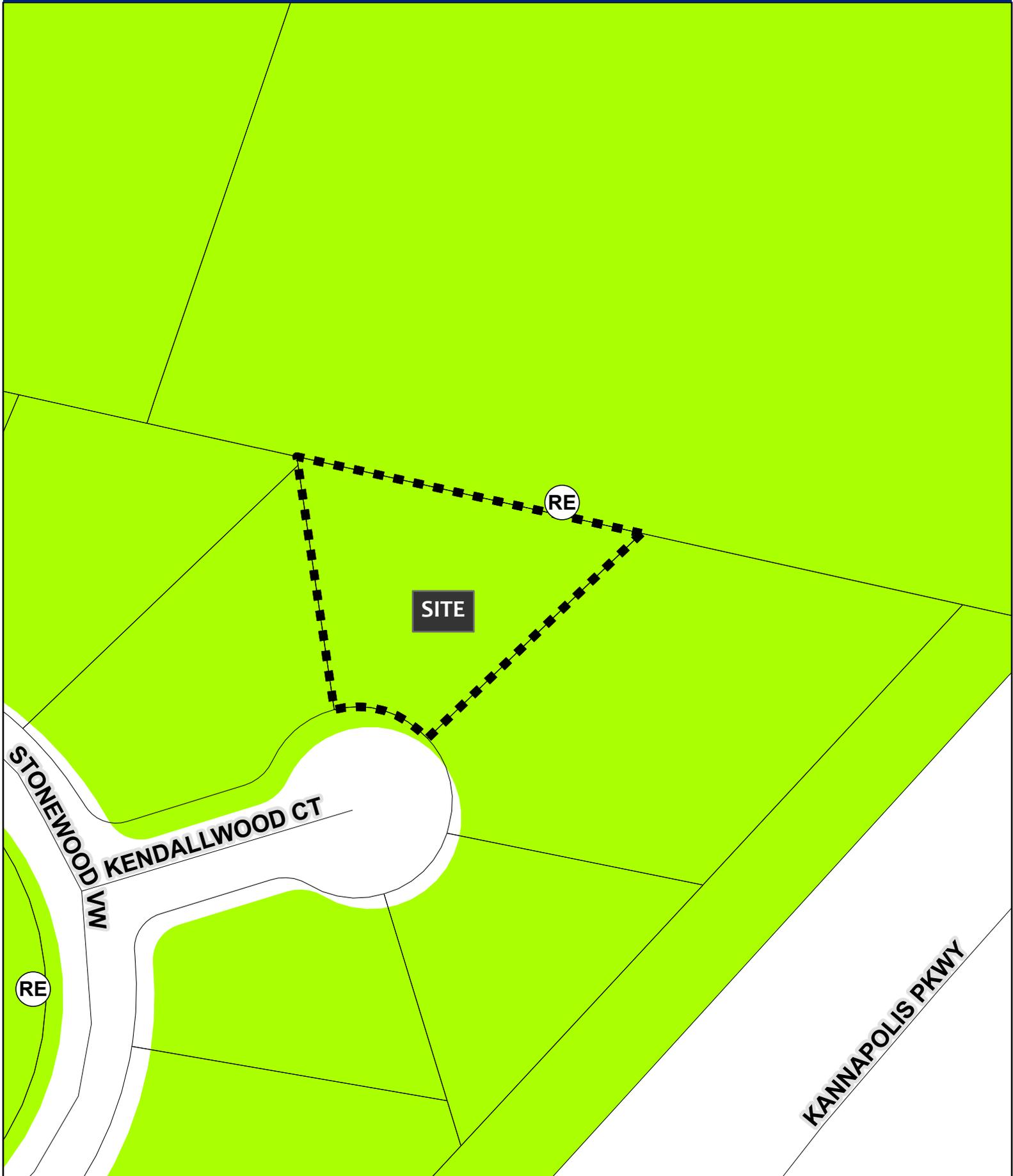
Case Number: BOA-2020-16  
Applicant: Brenton & Shannon Adam  
2705 Kendallwood Ct.





# Kannapolis Current Zoning

Case Number: BOA-2020-16  
Applicant: Brenton & Shannon Adam  
2705 Kendallwood Ct.

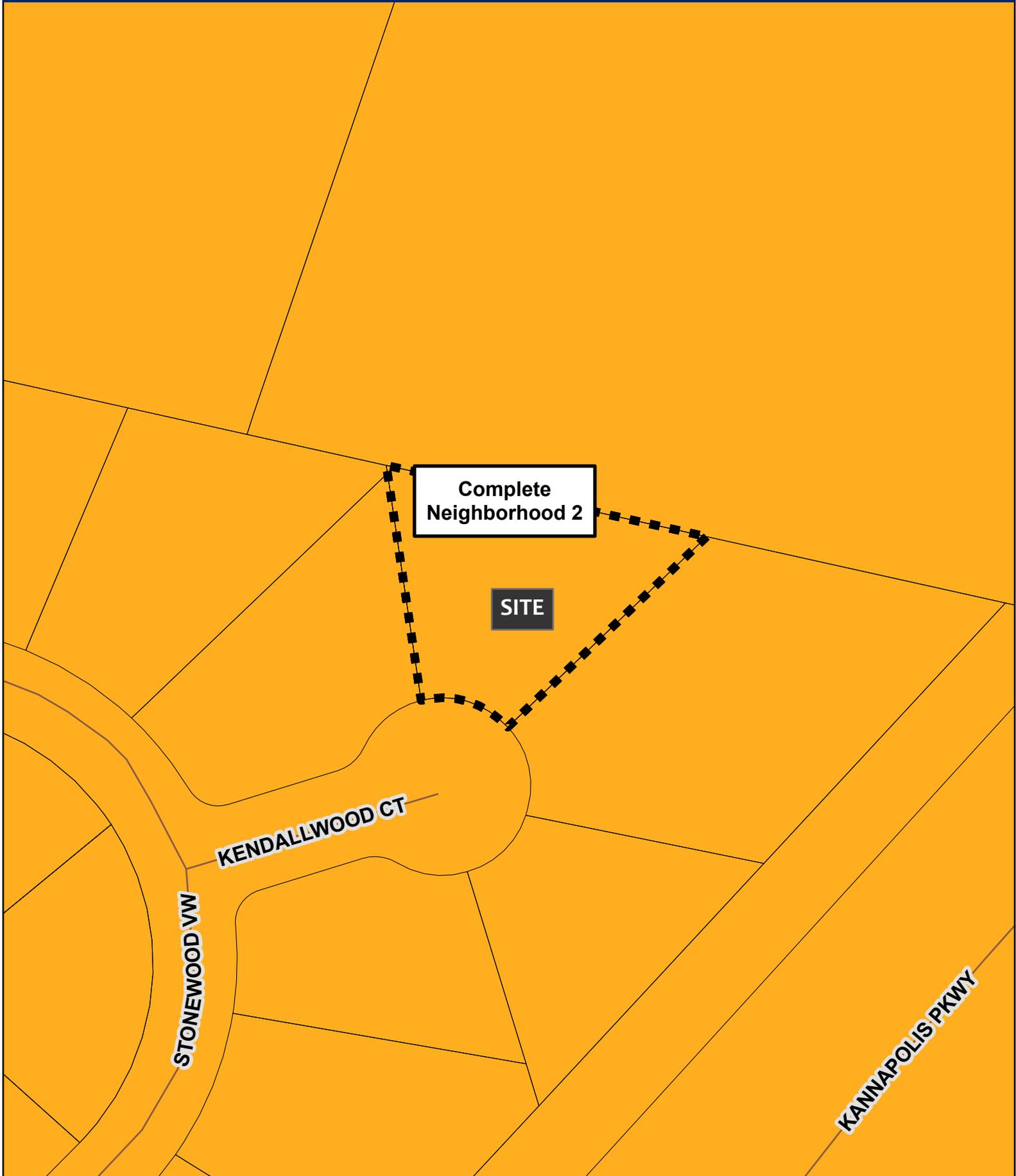




# Kannapolis 2030 Future Land Use Map



Case Number: BOA-2020-16  
Applicant: Brenton & Shannon Adam  
2705 Kendallwood Ct.



# 2705 Garage Project

Variance Request

2705 Kendallwood Ct, Kannapolis, NC 28081





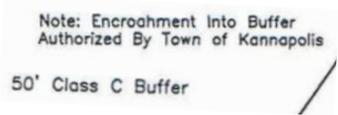


# Request

Back right corner of garage ~15' Encroachment into 50' buffer

- 1' less than existing back of home, but home is angled on property

Existing back of home ~24' Encroachment into 50' buffer

- Survey Note: A rectangular box containing the text: "Note: Encroachment into Buffer Authorized By Town of Kannapolis" and "50' Class C Buffer".
- Existing encroachment was negotiated by Ryland, when home was built
- Survey provided at home closing

# Photo

End of driveway  
where garage is to  
be built.

- Driveway  
widened 50%
- Retaining wall  
extended



# Photo

Note:

Home of rear  
abutting property  
very distant and  
not visible  
through wooded  
area

(purpose of the  
Class C buffer)



# Garage Design

Materials will match home

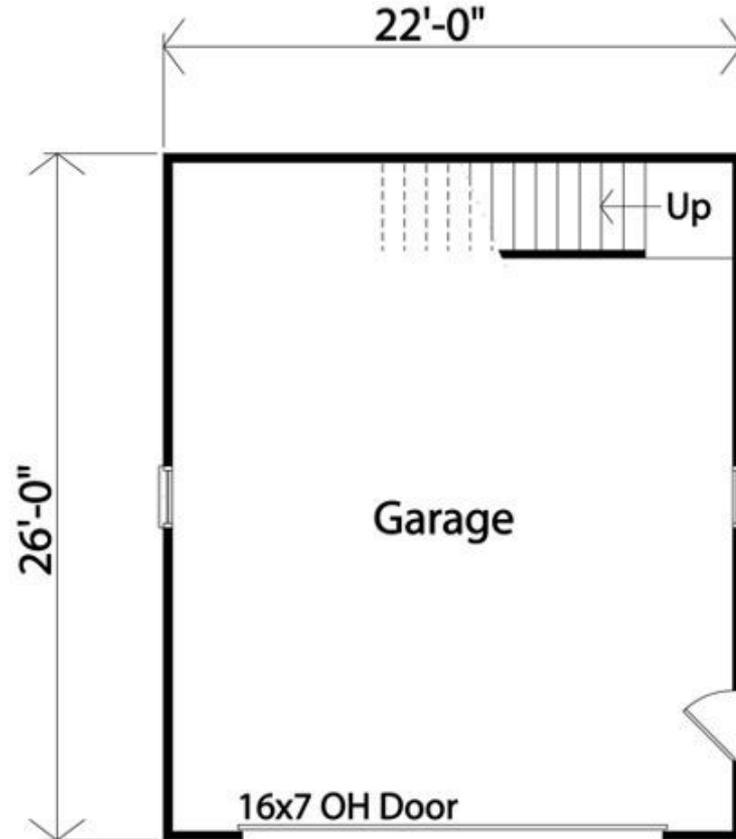
- i.e. brick, shake



# Dimensions

22' x 26' for 2 vehicles

Layout will be reversed



# Variance Application

## UDO Provisions:

- 6.4.19.3.7.1. A Class “C” Buffer yard pursuant to the Article 7 of this Ordinance shall be established around the entire perimeter of a Cluster Development and designated as either undisturbed, conservation easements or common open space on a subdivision plat.
  - 25’ was labeled as ‘Undisturbed Buffer’
  - 50’ was labeled as ‘Class “C” Buffer’
- 7.4. PERIMETER BUFFER YARDS. 7.4.1. PURPOSE. The purpose of perimeter buffer yards is to:
  - provide a transitional buffer between uses that may differ in development intensity and density;
  - or provide a minimum buffer between uses of similar intensity and density.

# Factors

## 1. Unnecessary hardship would result from the strict application of the ordinance

- a. Inability to use the property for a garage expansion to allow for much needed function of storage and space for family with teenagers soon to be driving would probably result in requiring us to sell our home
- b. Otherwise, we have intended to raise our family throughout their school years in this home
- c. Selling, moving and buying a home would incur significant unnecessary costs, simply due to the strict application of the ordinance whos spirit, purpose & intent can still be met with reasonable variance granted

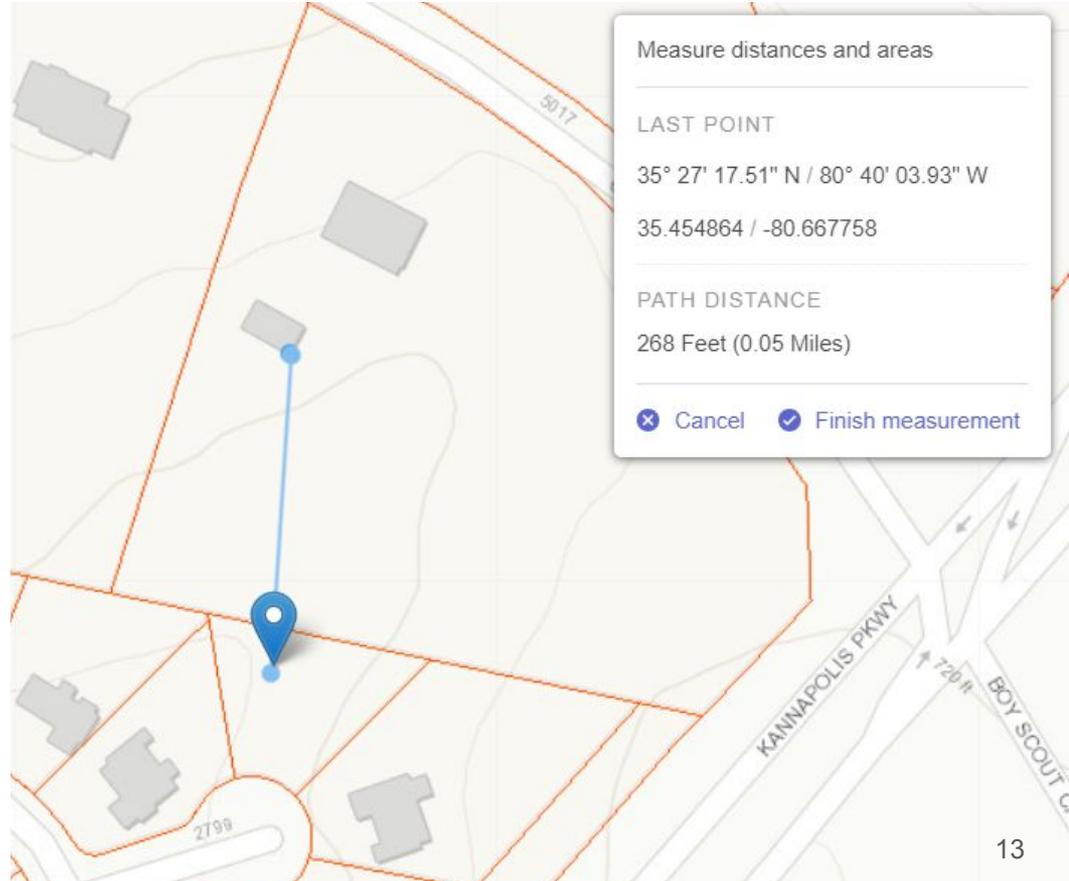
# Factors

## 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topology

- a. The wedge shape of our cul-de-sac lot, backed up against the Class “C” Buffer places a significant percentage of the property into this landscape buffer, unlike any other lot in this neighborhood.
- b. As well, complying with standard setbacks required the builder (Ryland Homes) to obtain approvals to encroach into the 50’ buffer, but stay out of a 25’ undisturbed buffer, as depicted on the survey provided to us at closing. They also added additional vegetation behind the home for compliance.

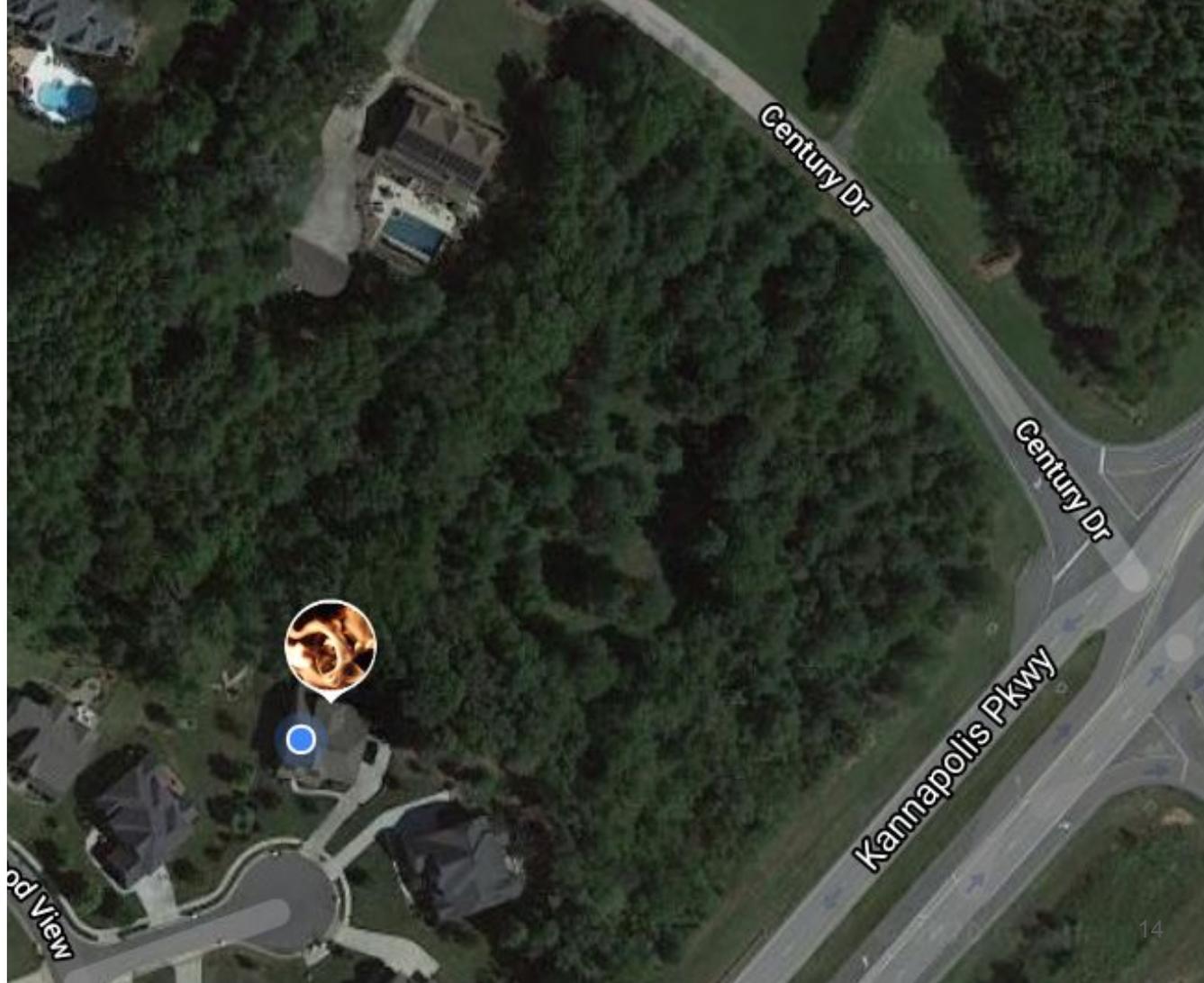
# GIS view

Map showing property and distance to rear neighbor exceeds 250'



# Aerial View

Significant vegetation  
buffer



# Factors

## 3. The hardship did not result from actions taken by the applicant or property owner.

- a. The property was purchased from the builder, as configured today, with approximately 24' encroachment into the Class "C" Buffer.
- b. In early planning for this project, a preliminary request was solicited from the planning department and a voicemail confirms agreement
  - i. Aaron Tucker +1 planner, City of Kannapolis Planning Dept, 2016-07-22
  - ii. Established is was OK to encroach back into buffer
  - iii. "keep it 25' off the rear property line, you should be golden" [MP3](#)
- c. Current planning dept can't find same documentation or 25' buffer reference

# Factors

## 4. The requested Variance is consistent with the spirit, purpose, and intent of the ordinance

- a. The ordinance is designed to “provide a minimum buffer between uses of similar intensity and density”.
- b. In this case, a significantly larger than minimum buffer exists between homes with significant vegetation buffer available
- c. There is precedence of reasonable approval with the existing home encroachment
- d. Trinity Crest Homeowners Association Architectural Review Board has approved and supports the request.
- e. 7.4.4.E describes a Reduction in Required Perimeter Buffer Yard Permitted: the “net” perimeter buffer yard satisfies the minimum perimeter buffer yard requirements of this Section. The net buffer shall include the cumulative total for both required buffers.
  - i. While not directly applicable, it does show spirit, purpose & intent of ordinance

# Summary

Variance requested, consistent with existing precedent.

Unnecessary hardship, peculiar to the property, not by owner actions, consistent with spirit, purpose & intent.

Reasonable request with a heavy burden of compliance.

Average resident, homeowner, citizen, taxpayer trying to do the right thing, the right way, asking for a reasonable consideration.

Respectfully,

-Brent & Shannon Adam, 2705 Kendallwood Ct, Kannapolis, NC

<b>AcctName1</b>	<b>MailAddr1</b>	<b>MailCity</b>	<b>MailState</b>	<b>MailZipCod</b>
BENJAMIN & SARAH DECELLE	5001 CENTURY DR	KANNAPOLIS	NC	28081
TRINITY CREST OWNERS ASSOC INC				
C/O CEDAR MGMT GROUP	PO BOX 26844	CHARLOTTE	NC	28221
ANTHONY HONEYCUTT	5031 CENTURY DR	KANNAPOLIS	NC	28081
ARUN & LEKSHMY VARMA	2704 KENDALWOOD CT	KANNAPOLIS	NC	28081
BRENTON & SHANNON ADAM	2705 KENDALLWOOD CT	KANNAPOLIS	NC	28081
HASSAN & ANGELIA NUNN	2658 STONEWOOD VW	KANNAPOLIS	NC	28081
JEFFREY & CHRISTINE SPIEGEL	2643 STONEWOOD VW	KANNAPOLIS	NC	28081
MICHAEL & KIM DIEP	2708 KENDALLWOOD CT	KANNAPOLIS	NC	28081
JEREMY & SHELLY EWERSMANN	2650 STONEWOOD VW	KANNAPOLIS	NC	28081
JOHANNES & CHELSEA DREYER	2646 STONEWOOD VW	KANNAPOLIS	NC	28081
EUNICE PARK	2662 STONEWOOD VW	KANNAPOLIS	NC	28081
MICHAEL & JEANINE HUNT	2654 STONE WOOD VIEW	KANNAPOLIS	NC	28081
RYAN & MAKALYA THROWER	2655 STONEWOOD VW	KANNAPOLIS	NC	28081



KANNAPOLIS  
Planning

June 26, 2020

Dear Property Owner,

**Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing at 6:00 PM on Tuesday July 14, 2020 at City Hall, located at 401 Laureate Way, for the following case:**

**BOA-2020-16 - Variance – 2705 Kendalwood Ct.**

This public hearing is to consider a request for a variance from Article 6, Section 6.4.19.3.7.1 Landscaping and Article 7, Section 7.4 Perimeter Landscaping of the Unified Development Ordinance. The applicant is requesting a variance from the buffering and landscaping requirements to allow for construction of a 2-car garage. The subject property is located at 2705 Kendalwood Ct., measures approximately .37 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Numbers 5602-34-3692. **(Please see reverse side of this letter for vicinity map showing the location of this property.)**

**You are being notified because you are an abutting property owner. You are invited to attend this meeting and provide any testimony relevant to the proposed variance request.**

**NOTE: IN ORDER TO COMPLY WITH FEDERAL, STATE AND LOCAL RESTRICTIONS IMPOSED IN RESPONSE TO THE COVID-19 VIRUS, SOCIAL DISTANCING PRACTICES WILL BE OSERVED DURING THIS MEETING.**

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,



Zachary D. Gordon, AICP  
Planning Director

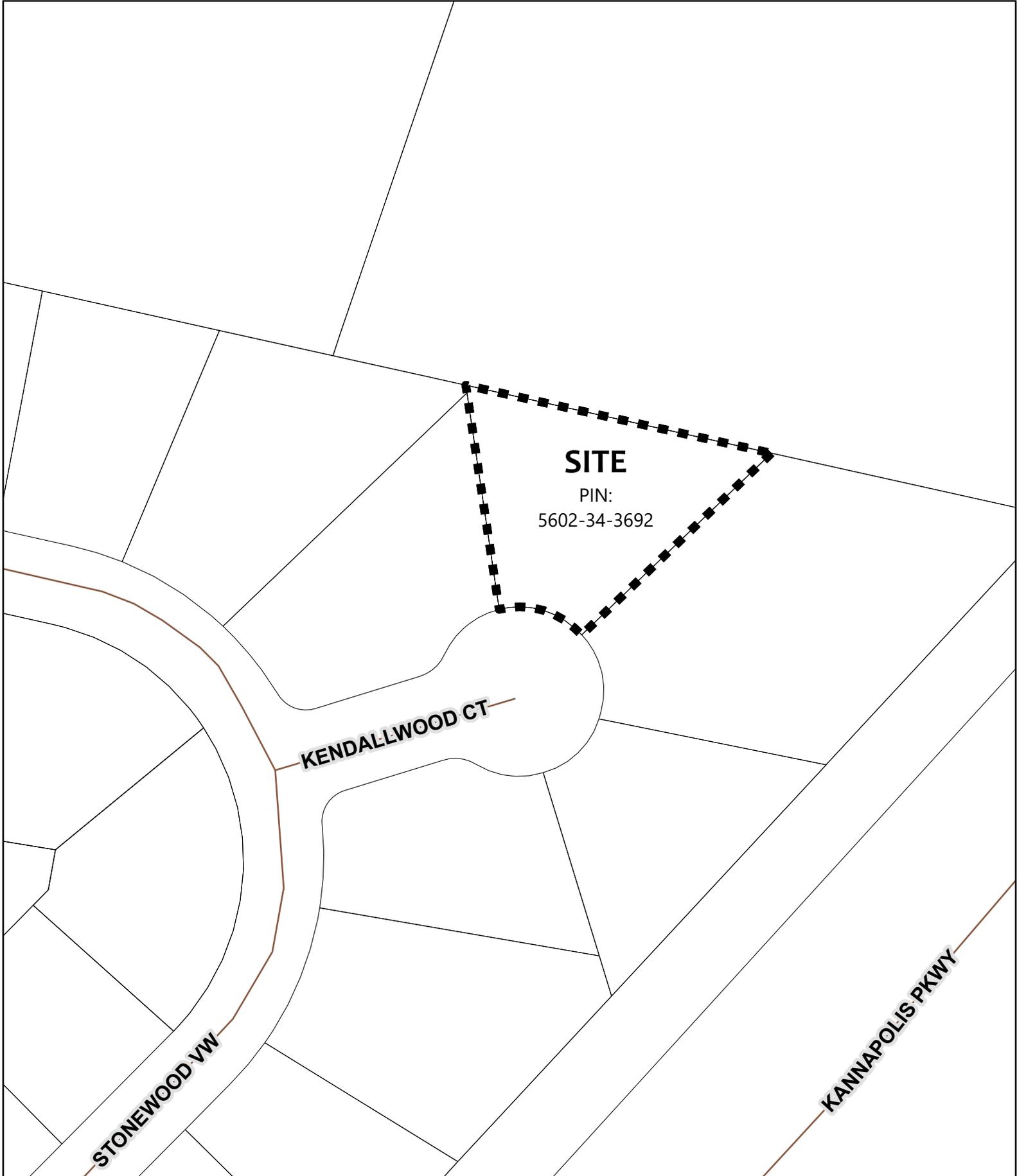
Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email at [tccline@kannapolisnc.gov](mailto:tccline@kannapolisnc.gov) as soon as possible but no later than 48 hours before the scheduled event



# Variance

Case Number: BOA-2020-16  
Applicant: Brenton & Shannon Adam  
2705 Kendallwood Ct.





BOARD OF  
ADJUSTMENT  
PUBLIC HEARING  
INFORMATION  
CALL: 704-890-4336  
CASE FILE: 2022-18

