



**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.**

**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 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.: PPA-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: STERLING DEVELOPMENT, LLC Owner: MPV KELLSWATER, LLC

Address: 3700 EDISON LAKES PKWY SE 201 Address: 2400 SOUTH BLVD  
MISHAWAUKA, IN 46545 CHARLOTTE, NC 28203

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

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

PATRICK 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

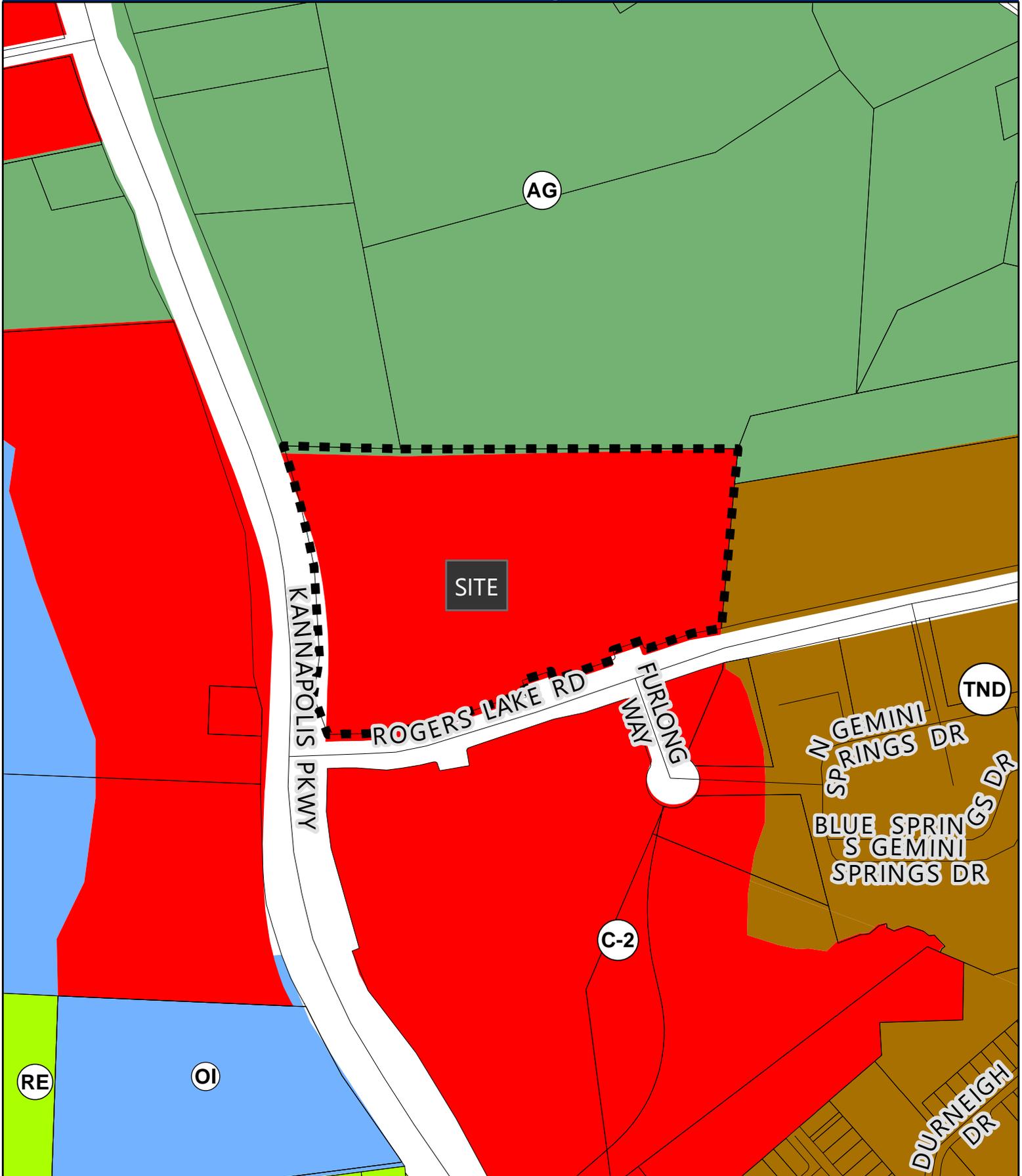
Case Number: BOA-2020-07  
Applicant: Sterling Development, LLC  
5010 Rogers Lake Rd





# Kannapolis Current Zoning

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



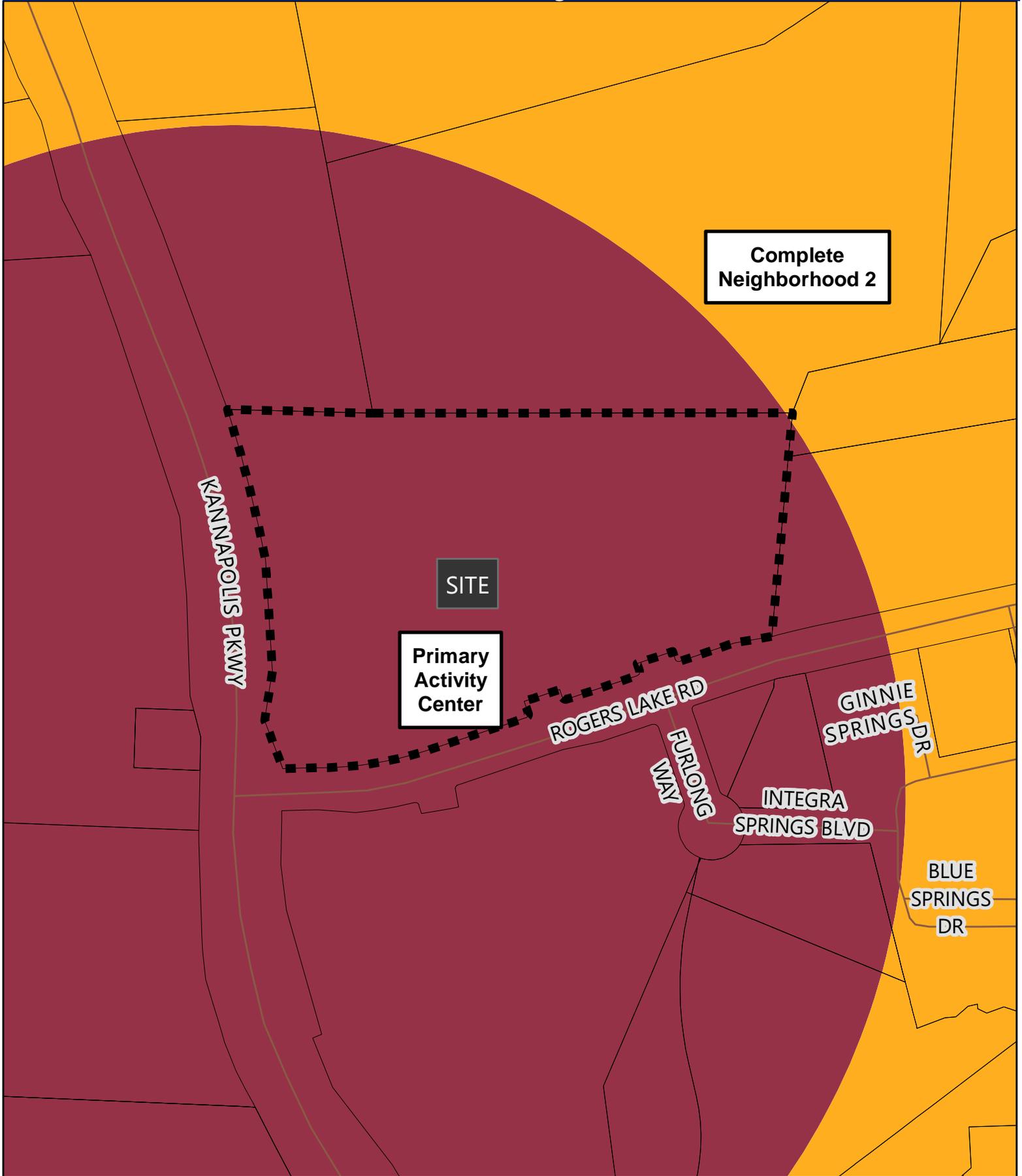


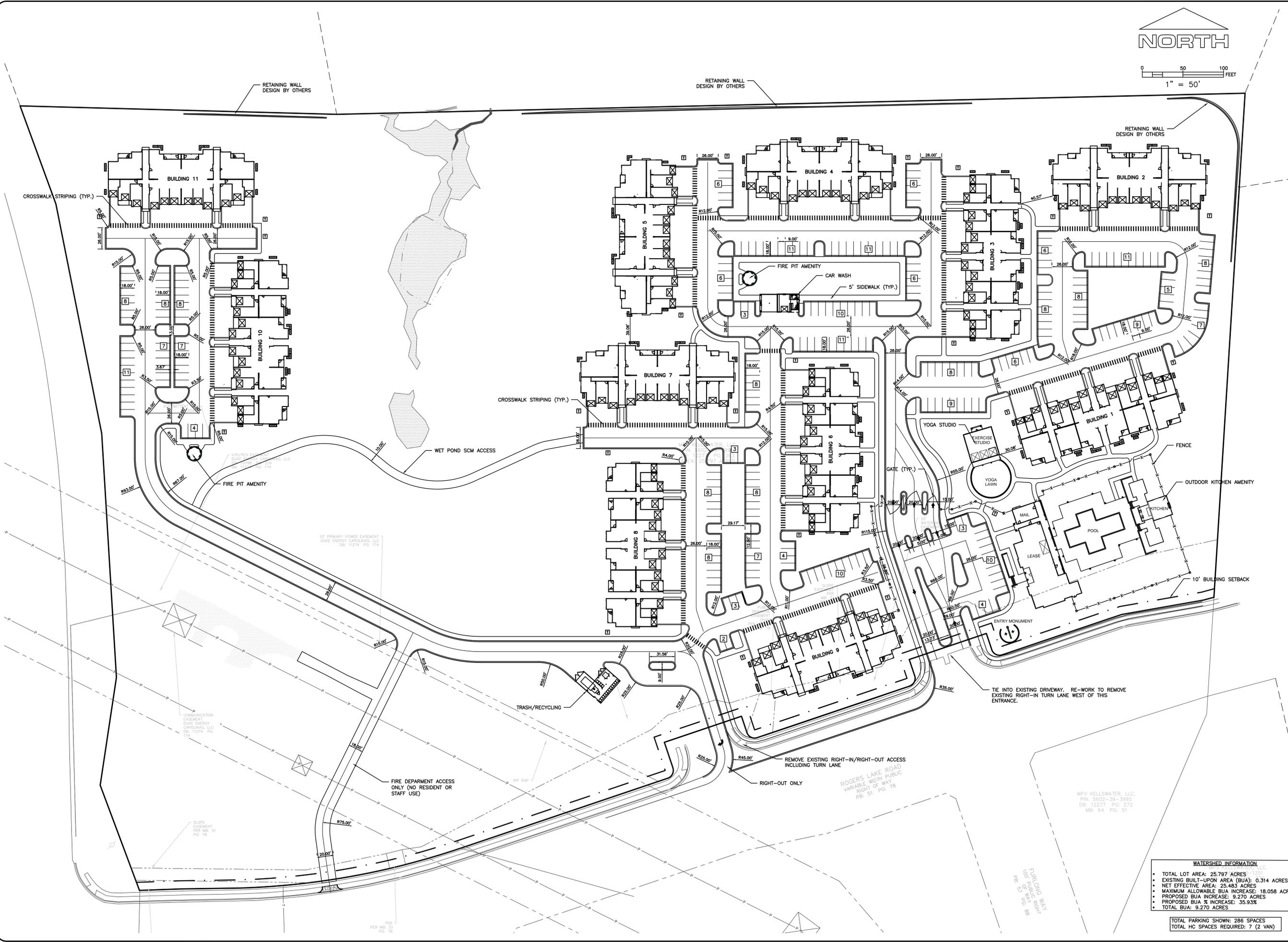
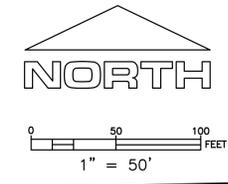
# Kannapolis 2030 Future Land Use Map

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

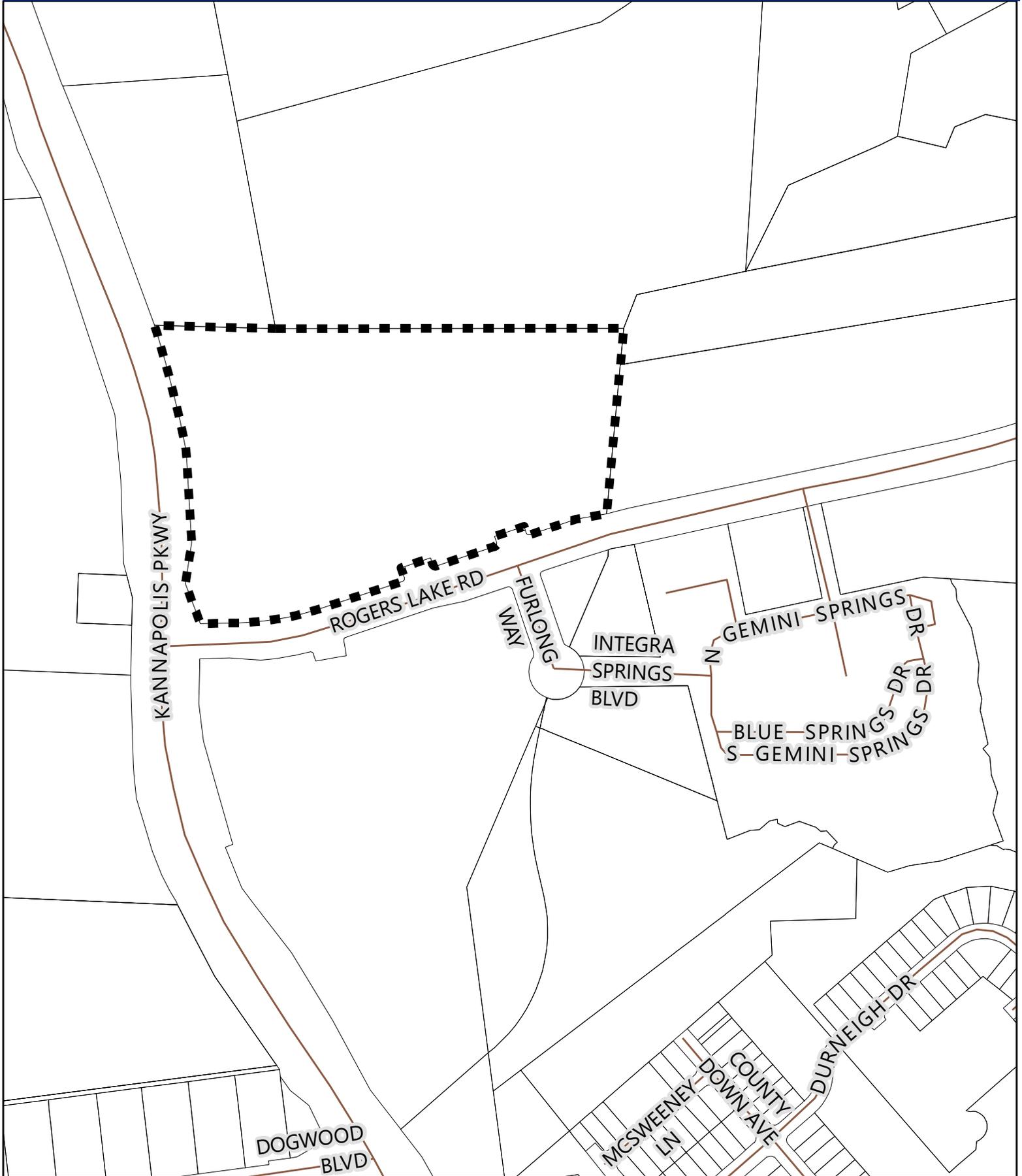
Enclosure

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**