



**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: MarieMess48@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

*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-11325

Application No.: 130A-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:

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 UDO 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.

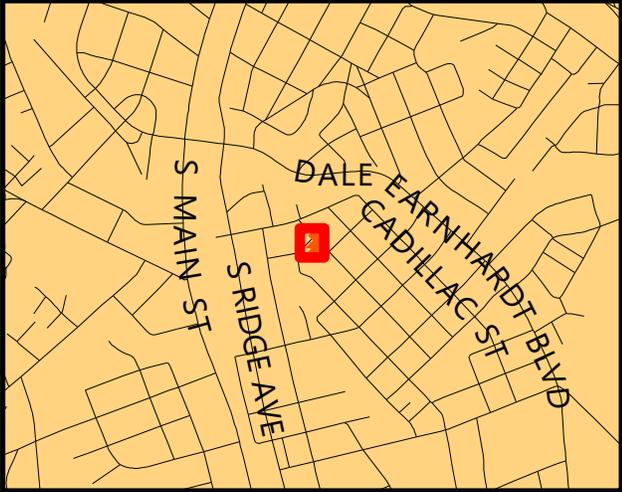
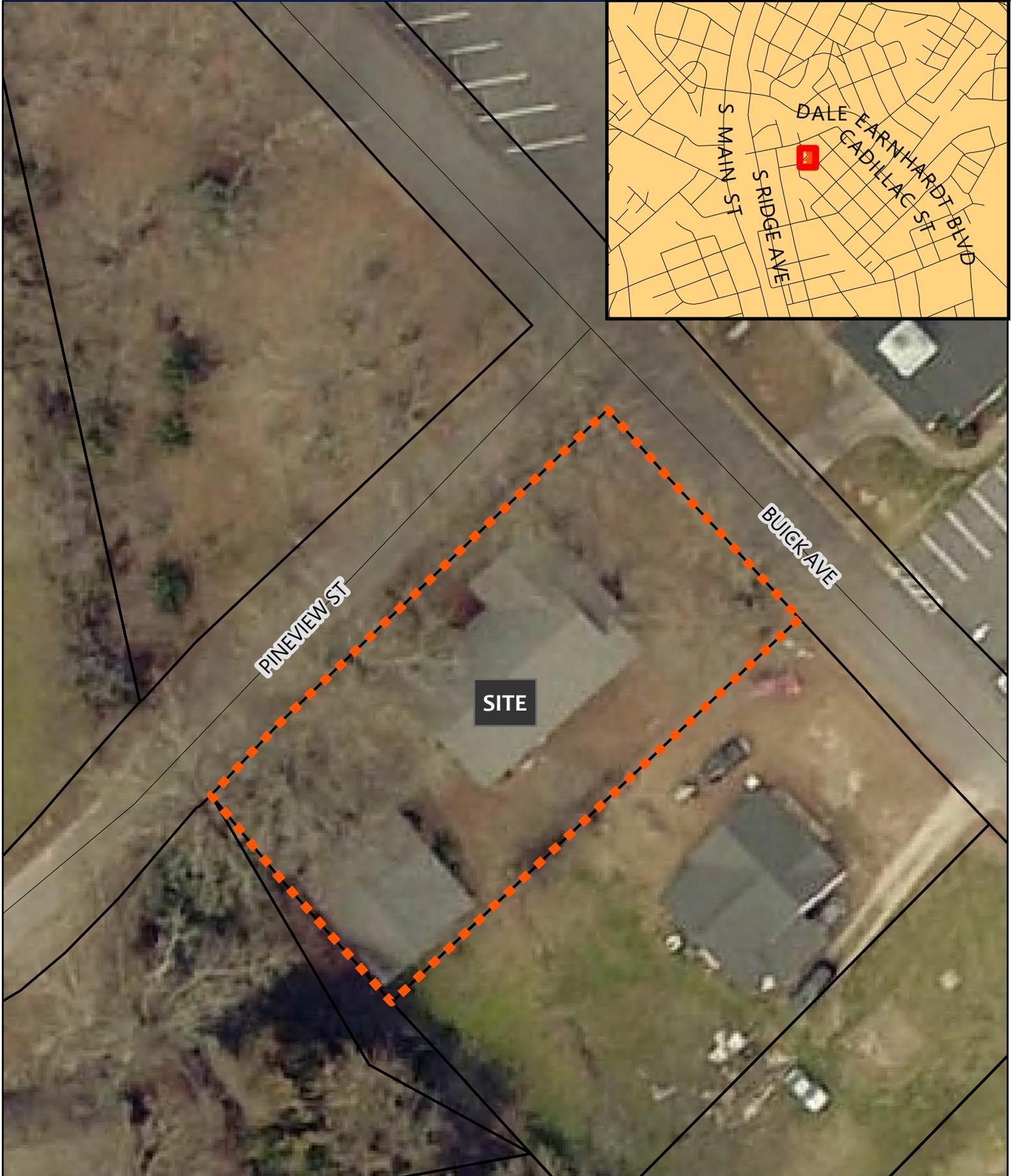
Calls or conversations with Board of Adjustment members prior to the meeting may disqualify members from participation at the Board meeting. For the testimony of supporters not to be considered hearsay, they must be present at the meeting. Petitions and written consent may be accepted by the Board, but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

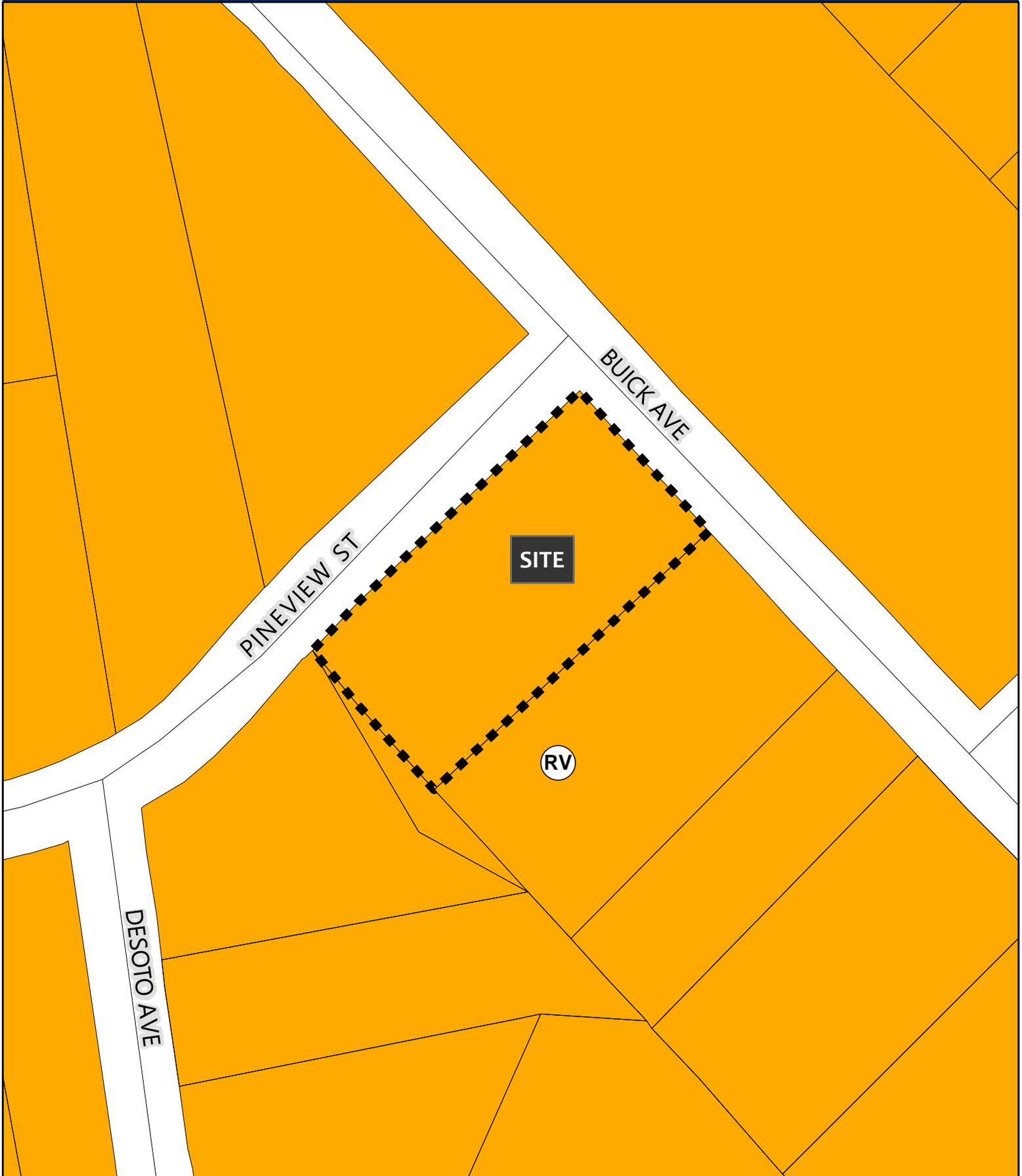
Case Number: BOA-2020-09  
Applicant: Marie Dellinger  
708 Buick Ave.





# Kannapolis Current Zoning

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



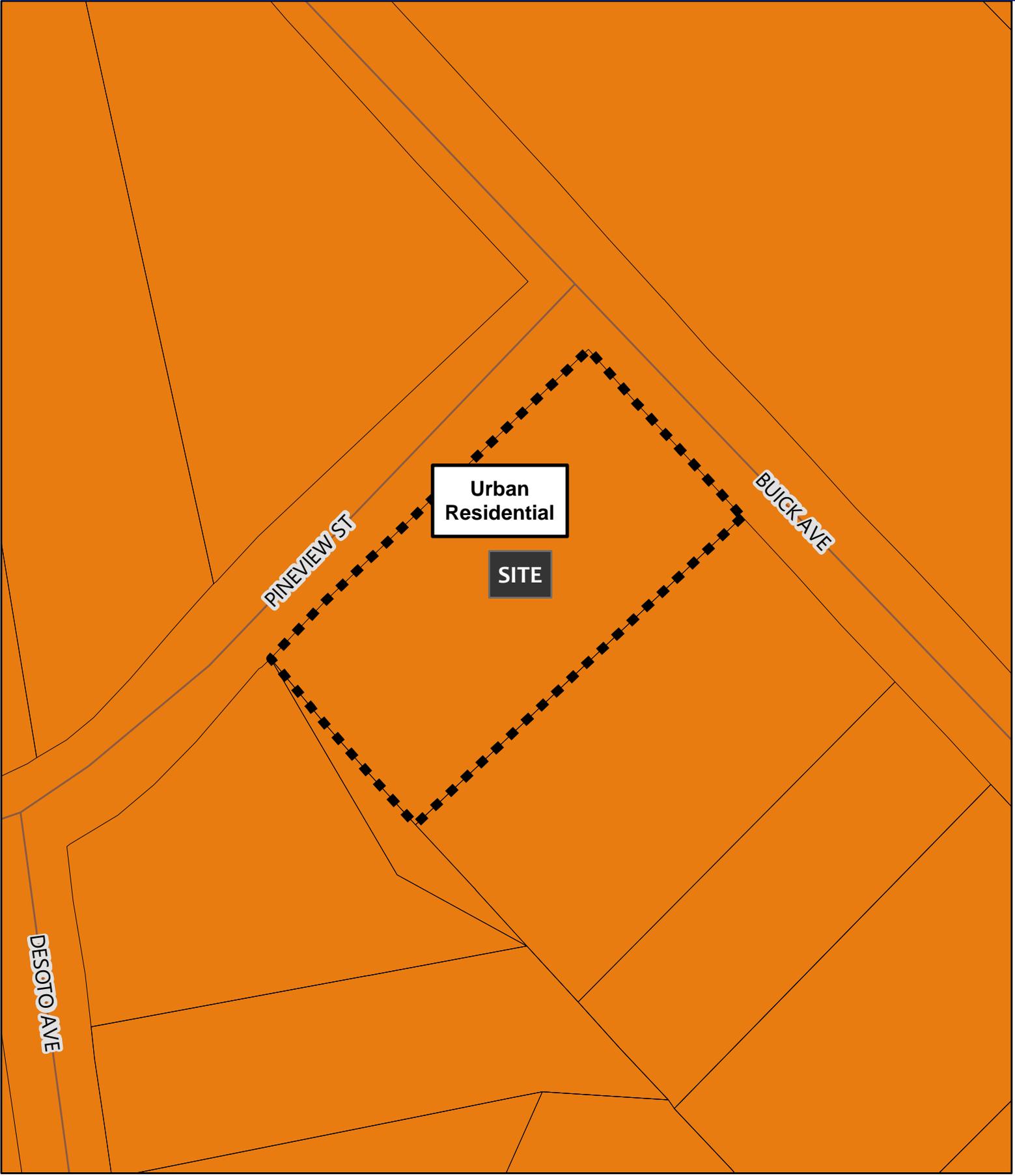


# Kannapolis 2030 Future Land Use Map

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

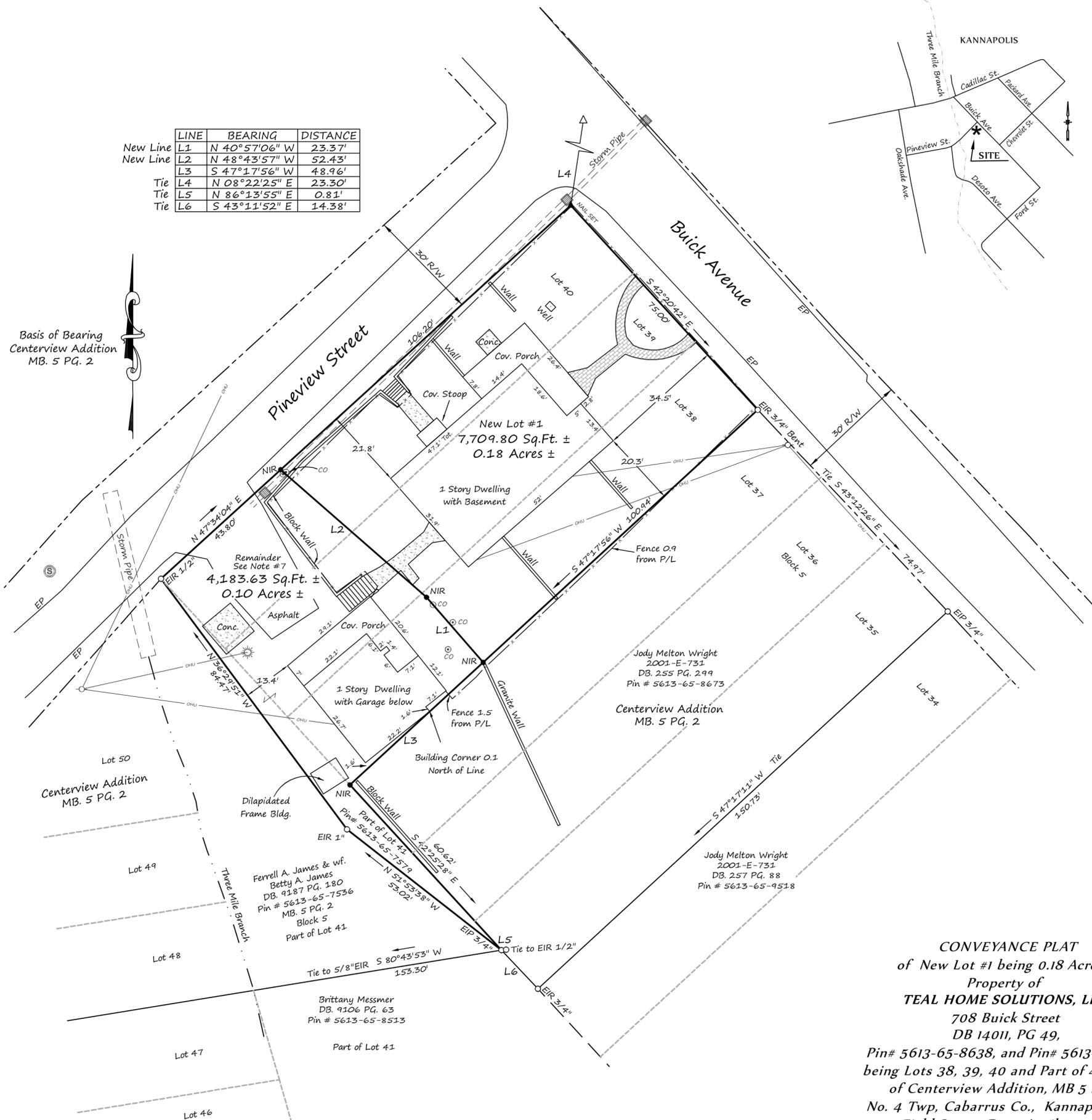
THE WORDS "CERTIFY", "CERTIFICATE" OR "CERTIFICATION" AS USED HEREON ARE UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR, BASED UPON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SUCH, DO NOT CONSTITUTE A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.

**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



VICINITY  
MAP  
NTS

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

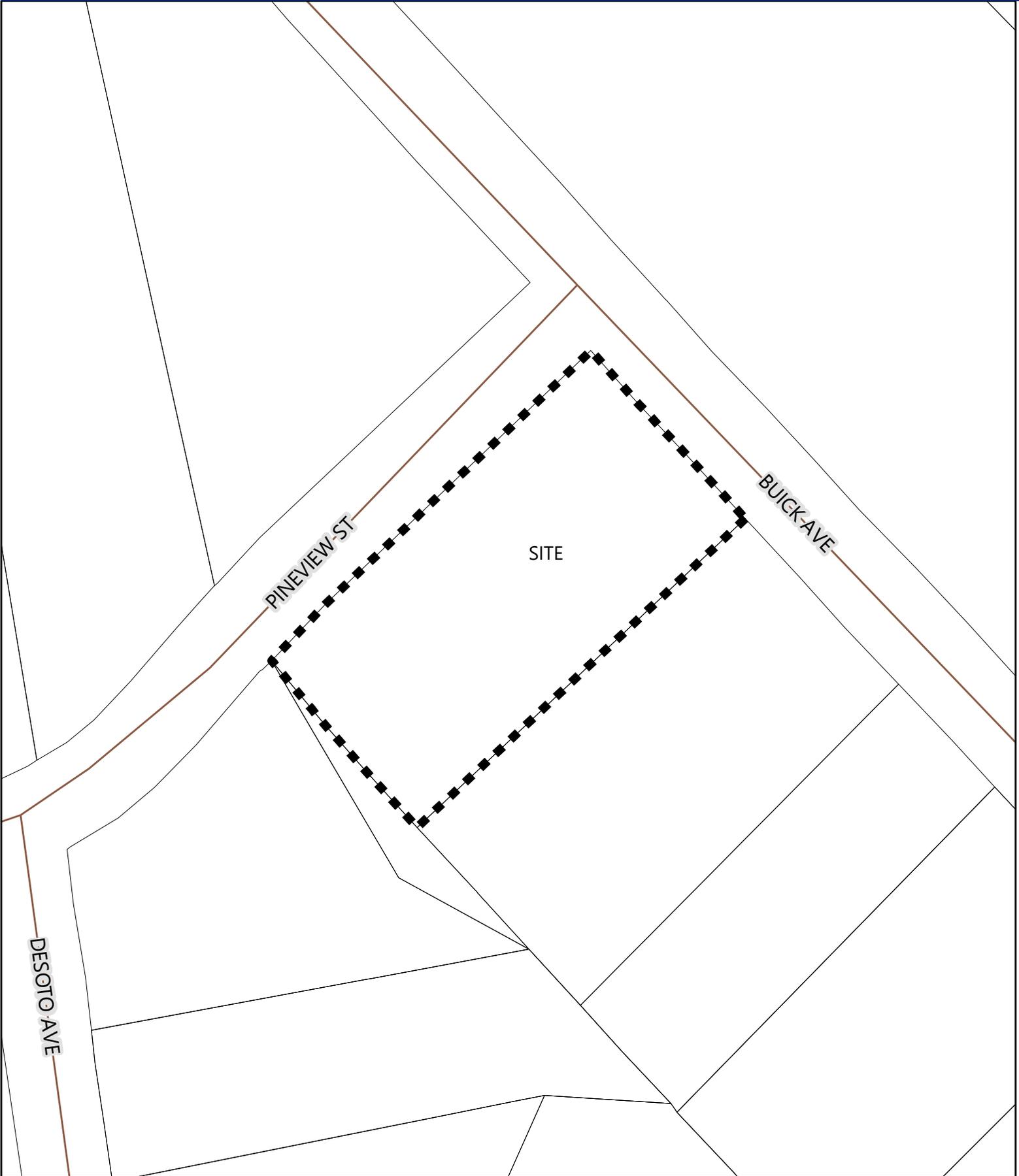
Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director, by phone at 704-920-4302 or by email 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

