



KANNAPOLIS
Planning

**City of Kannapolis
Planning and Zoning Commission**

**401 Laureate Way, Kannapolis, NC
August 5, 2020 at 6:00 pm**

Agenda

- 1. Call to Order**
- 2. Oath of Office** – Chris Puckett & Travis Gingras
- 3. Roll Call and Recognition of Quorum**
- 4. Approval of Agenda**
- 5. Correction/Approval of Minutes** – May 6, 2020 & July 8, 2020
- 6. Public Hearing**
 - a. CZ-2020-06 – Conditional Zoning Map Amendment – Sears St. and Barnett St.**
Public hearing to consider a request to rezone approximately 1.5 acres of property located on S. Cannon Blvd. between Sears and Barnett Street from C-2 (General Commercial) and RV (Residential Village) to C-2-CZ (General Commercial-Conditional Zoning), further identified as Cabarrus County PINs # 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920 to allow for a restaurant with a drive-thru.
 - b. TA-2020-02 – Text Amendment – Section 10.1 and Appendix C.1.8**
Public Hearing to consider text amendments to Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception.
- 7. Planning Director Update**
- 8. Other Business**
- 9. Adjourn**

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**CITY OF KANNPOLIS, NC
PLANNING AND ZONING COMMISSION**

**Minutes of Virtual Regular Meeting
May 6, 2020**

The Kannapolis Planning and Zoning Commission met virtually on Wednesday, May 6, 2020 at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina. This meeting was held via Zoom and in accordance with the notice attached to and made part of these minutes as Appendix 1.

Commission Members Present: David Steele, Chairman (virtually)
Chris Puckett, Vice-Chairman
Alan Overcash
Jeff Parker
Larry Ensley
Scott Trott
William Cranford
Paula Severt, ETJ Representative (virtually)

Commission Members Absent: None

Visitors (virtually):

Catherine Davis	Peter Macomber
Richard Hege	Brandy Sellers
Sue Bower	Dorothy Bower
Jan Dunn	

Staff Present: Zac Gordon, AICP, Planning Director (virtually)
Gretchen Coperine, AICP, Assistant Planning Director
Tony Eury, IT Director (virtually)
David Jordon, IT (virtually)

CALL TO ORDER

Chairman Steele called the meeting to order at 6:00 P.M. and explained that the meeting is being held virtually in compliance with COVID-19 social distancing requirements. He provided a brief overview of procedure for the meeting.

ROLL CALL AND RECOGNITION OF QUORUM

Assistant Planning Director, Gretchen Coperine called the roll. The presence of a quorum was recognized.

APPROVAL OF AGENDA

Chairman Steele indicated that case #CZ-2020-05 – 3575 Kannapolis Parkway will be moved to item 5a and asked for an approval of the agenda. Mr. Parker made a motion to approve the agenda as amended which was seconded by Mr. Ensley and the motion was unanimously approved.

1 **APPROVAL/CORRECTION OF MINUTES**

2 Chairman Steele asked for a motion to approve the March 4, 2020 minutes which was made by
3 Mr. Trott, seconded by Mr. Overcash and the motion was unanimously approved.

4
5 **PUBLIC HEARING**

6 **CZ-2020-05 – Conditional Zoning Map Amendment – 3575 Kannapolis Parkway**

7 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
8 CZ-2020-05, attached to and made part of these minutes as Exhibit 1. Ms. Coperine noted that a
9 corrected notice was mailed on April 23, 2020 which properly described the intended use as a
10 design and engineering office facility.

11
12 Catherine Davis identified herself as the applicant and indicated that the existing structure on the
13 property will not be changed and that it is currently set-up as a small office with storage. Ms. Davis
14 responded to Commission member questions regarding heavy equipment storage.

15
16 Chairman Steele asked for a motion to adopt or deny the Statement of Consistency for case CZ-
17 2020-05. Mr. Parker made the motion to approve which was seconded by Mr. Ensley and the
18 motion was unanimously approved.

19
20 Chairman Steele asked for a motion to adopt a Resolution to Zone for case CZ-2020-05 which was
21 made by Mr. Ensley, seconded by Mr. Overcash and the motion was unanimously approved.

22
23 **CZ-2020-02 – Conditional Zoning Map Amendment – Marriott Kannapolis Pkwy**

24 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
25 CZ-2020-02, attached to and made part of these minutes as Exhibit 2. Ms. Coperine indicated that
26 the requested rezoning to C-2-CZ (General Commercial-Conditional Zoning) will allow
27 development of a hotel. She responded to Commission member questions regarding updates to
28 Archdale and access issues.

29
30 Peter Macomber and Richard Hege identified themselves as a property owner and representative
31 for the buyer and the sellers. Mr. Hege addressed the members concerns indicating that they are
32 working with NCDOT to ensure connectivity and safety of the street network.

33
34 One (1) resident asked about connection to Wabash Ln.

35
36 Chairman Steele asked for a motion to adopt or deny the Statement of Consistency for case CZ-
37 2020-02 which was made by Mr. Overcash, seconded by Mr. Cranford and the motion was
38 unanimously approved.

39
40 Chairman Steele asked for a motion to adopt a Resolution to Zone for case CZ-2020-02 which was
41 made by Mr. Parker, seconded by Mr. Ensley and the motion was unanimously approved.

42
43 **Z-2020-03 – Zoning Map Amendment – 3948 Trinity Church Rd.**

44 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
45 Z-2020-03, attached to and made part of these minutes as Exhibit 3. Ms. Coperine stated that the
46 request is for a straight rezoning from AG (Agricultural) to RL (Residential Low Density). She

1 responded to Commission member questions regarding access points, public utilities, the proposed
2 subdivision, and lot size.

3
4 Chairman Steele asked for a motion to adopt or deny the Statement of Consistency for case Z-
5 2020-03. Mr. Trott made the motion to approve which was seconded by Mr. Parker and the motion
6 was approved 7-1 with Mr. Cranford casting the dissenting vote.

7
8 Chairman Steele made a motion to adopt a Resolution to Zone for case Z-2020-03 which seconded
9 by Mr. Overcash and the motion was unanimously approved.

10
11 **PLANNING DIRECTOR UPDATE**

12 Planning Director, Zac Gordon, provided updates regarding the first module of Unified
13 Development Update and the Cannon Boulevard Corridor Plan kickoff.

14
15 **OTHER BUSINESS**

16 Mr. Gordon provided an overview of progress for active projects. He indicated that he would like
17 to move the Commission meeting to the first Tuesday of the month, but that action would be
18 delayed a couple months. Mr. Gordon responded to questions from the Commission regarding
19 other projects. Mr. Cranford thanked staff and other Commission members for the opportunity to
20 serve.

21
22 **ADJOURN**

23 There being no further business, questions or comments, Mr. Ensley made the motion to adjourn
24 which was seconded by Mr. Overcash and the motion was unanimously approved.

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26 The meeting adjourned at 7:18 PM on Wednesday May 6, 2020.

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31 David Steele, Chairman
32 Planning and Zoning Commission

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35 Pam Scaggs, Recording Secretary

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**CITY OF KANNPOLIS, NC
PLANNING AND ZONING COMMISSION**

**Minutes of Regular Meeting
July 8, 2020**

10 The Kannapolis Planning and Zoning Commission met on Wednesday July 8, 2020 at 6:00 PM at
11 City Hall, 401 Laureate Way, Kannapolis, North Carolina.

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Commission Members Present: David Steele, Chairman
Chris Puckett, Vice-Chairman
Jeff Parker
Larry Ensley
Scott Trott
Paula Severt

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Commission Members Absent: Alan Overcash

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Visitors:

Fred Matrulli	Doug Wilson
Mary Dillinger	Julie Atkins
Jermaine Fuller	Steve Atkins
Frank Cantrell	Kilee Palumbo
Wayne Janick	Satish Vankihemi
Saya Kotha	

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Staff Present: Zac Gordon, AICP, Planning Director
Gretchen Coperine, AICP, Assistant Planning Director
Wilmer Melton; Assistant City Manager
David Hancock, IT
Tony Eury, IT Director

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CALL TO ORDER

Chairman Steele called the meeting to order at 6:00 P.M.

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ROLL CALL AND RECOGNITION OF QUORUM

Recording Secretary Pam Scaggs called the roll. The presence of a quorum was recognized.

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APPROVAL OF AGENDA

Chairman Steele asked for a motion to approve the Agenda which was made by Mr. Parker, seconded by Mr. Trott and the motion was unanimously approved.

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PUBLIC HEARING

CZ-2020-03 – Conditional Zoning Map Amendment – Pulte Home Company Jim Johnson

Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case CZ-2020-03, attached to and made part of these minutes as Exhibit 1. She stated that the property

1 was annexed into the City on June 22, 2020 and requires that zoning be applied within sixty (60)
2 days of annexation.

3
4 Ms. Coperine responded to questions from the Commission regarding utilities, school impacts, the
5 use of cul-de-sacs, future widening of HWY 73 and street connection requirements.

6
7 There being no further questions or comments for staff, Chairman Steele opened the Public
8 Hearing.

9
10 Frank Cantrell, CESO Engineering, identified himself as the engineer for the developer and
11 addressed the question regarding the use of cul-de-sacs. He responded to questions from the
12 Commission regarding the build-out schedule, open space, amenities, and location of stormwater
13 ponds.

14
15 Six (6) Kannapolis residents spoke and expressed concerns regarding safety, traffic, the proposed
16 connection to Waterford, increased buffers, street widths, preservation of trees, and access
17 requirements. Several residents requested that the connection to Waterford be designated as
18 emergency access only. There was additional discussion between the Commission, staff and Mr.
19 Cantrell regarding buffer size.

20
21 There being no further questions or comments for staff, Chairman Steele closed the Public
22 Hearing.

23
24 Ms. Coperine responded to additional questions from the Commission regarding measures to slow
25 drivers at the connection to Waterford. Assistant City Manager, Wilmer Melton, provided
26 additional feedback from an engineering standpoint regarding speed bumps. There was additional
27 discussion regarding the connection point to Waterford.

28
29 Chairman Steele made a motion to adopt the Statement of Consistency for case CZ-2020-03 which
30 was seconded by Mr. Trott and the motion was denied 2-4 with Vice-Chairman Puckett, Mr.
31 Parker, Mr. Ensley and Ms. Severt casting the dissenting votes.

32
33 There was discussion regarding the access point to Waterford. Planning Director, Zac Gordon,
34 advised that the rezoning could still be approved and that the Commission could designate the
35 connection to Waterford as emergency access and it would be gated. He cautioned that both the
36 Engineering and Fire Department would need to approve the access as an emergency access. The
37 Public Hearing was reopened, and Chairman Steele asked if the applicant was willing to work with
38 the City to ensure that the connection to Waterford be designated as an emergency access. Mr.
39 Cantrell indicated that if the emergency access is approved by the City, that they will comply as
40 well. There was additional discussion between the Commission and staff regarding the UDO
41 connection requirements. Chairman Steele closed the Public Hearing.

42
43 Since Commission members indicated that their vote would change regarding the Statement of
44 Consistency, Chairman Steele made another motion to approve the Statement of Consistency,
45 which was seconded by Mr. Trott and approved 4-2 with Mr. Puckett and Mr. Parker casting the
46 dissenting votes.

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2 Chairman Steele made the motion to adopt a Resolution to Zone for case CZ-2020-03 but the
3 motion failed due to the lack of a second. No further motions were made. Ms. Coperine explained
4 that since the motion failed, the case will move to City Council for decision.

5
6 **Z-2020-04 – Zoning Map Amendment – 100 N Ridge. Ave**

7 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
8 Z-2020-04, attached to and made part of these minutes as Exhibit 2. She stated that the request is
9 a straight rezoning from existing O-I to RV.

10
11 There being no questions or comments for staff, Chairman Steele opened the Public Hearing which
12 was then closed with no public comment made.

13
14 Chairman Steele asked for a motion to adopt or deny the Statement of Consistency for case Z-
15 2020-02. Mr. Trott made the motion to approve which was seconded by Mr. Ensley and the motion
16 was unanimously approved.

17
18 Chairman Steele asked for a motion to adopt a Resolution to Zone for case Z-2020-02 which was
19 made by Mr. Parker seconded by Mr. Ensley and the motion was unanimously approved.

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21 **TA-2020-01 – Text Amendment – Watershed Regulations**

22 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
23 TA-2020-01, attached to and made part of these minutes as Exhibit 3. Ms. Coperine explained that
24 the text amendment was needed to align the UDO with State Statutes which allows the use of a
25 high-density development option within watershed areas for an increase in the maximum build-
26 upon area.

27
28 Chairman Steele asked for a motion to adopt a Statement of Consistency which was made by Mr.
29 Ensley, seconded by Mr. Trott and the motion was unanimously approved.

30
31 Chairman Steele asked for a motion to recommend approval by City Council which was made by
32 Mr. Parker, seconded by Mr. Ensley and the motion was unanimously approved.

33
34 **CPA-2020-01 – Comprehensive Plan Amendment – Future Land Use and Character Map**

35 Assistant Planning Director, Gretchen Coperine, gave a PowerPoint presentation regarding case
36 TA-2020-01, attached to and made part of these minutes as Exhibit 4. Ms. Coperine stated that the
37 amendment will affect the Future Land Use and Character Map to add property at North Avenue
38 Extension and to assign a Character Area of Suburban Activity 1.

39
40 Chairman Steele asked for a motion to adopt a Statement of Consistency which was made by Mr.
41 Ensley, seconded by Mr. Trott and the motion was unanimously approved.

42
43 Chairman Steele made a motion to recommend approval by City Council which was seconded by
44 Mr. Puckett and the motion was unanimously approved.

1 **PLANNING DIRECTOR UPDATE**

2 Planning Director, Zac Gordon, updated the Commission regarding the monthly Permit Report;
3 active development projects and progress of the UDO rewrite and Cannon Boulevard Corridor
4 Plan.

5
6 **OTHER BUSINESS**

7 Mr. Gordon responded to questions from the Commission regarding NCDOT projects and
8 discussed moving the Planning and Zoning Commission date from the first Wednesday to the third
9 Tuesday of the month.

10
11 **ADJOURN**

12 There being no further business, questions or comments, Mr. Parker made the motion to adjourn
13 which was seconded by Mr. Ensley and the motion was unanimously approved.

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15 The meeting adjourned at 8:04 PM on Wednesday July 8, 2020.

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19 _____
20 David Steele, Chairman
21 Planning and Zoning Commission

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23 _____
24 Pam Scaggs, Recording Secretary



**Planning & Zoning Commission
August 5, 2020 Meeting**

Staff Report

DATE: July 29, 2020
TO: Planning & Zoning Commission
FROM: Gretchen Coperine, AICP, Assistant Planning Director
SUBJECT: **Case #CZ-2020-06**
Conditional Zoning Map Amendment
Applicant: TAG Ventures, LLC

Request to conditionally rezone property, located between Sears St. and Barnett St., from C-2 (General Commercial) and RV (Residential Village) to C2-CZ (General Commercial-Conditional Zoning), to allow for a restaurant with a drive-thru

A. Actions Requested by Planning & Zoning Commission

1. Hold Public Hearing
2. Motion to adopt Statement of Consistency
3. Motion to adopt Resolution to Zone

B. Decision and Required Votes to Pass Requested Actions

Section 3.3.4.2 of the UDO allows the Planning and Zoning Commission to render a final decision on a rezoning request; subject to an affirmative vote of three-fourths of the Commission members present and not excused from voting, or if there is no appeal of the decision. If there is a denial, an approval by a vote of less than three-fourths, or an appeal of the decision, then only the City Council shall have final decision making authority. Any final decision rendered by the Commission may be appealed within fifteen (15) days to the City Council.

C. Background & Project Overview

The applicant, TAG Ventures, LLC., is proposing to rezone the subject property from C-2 (General Commercial) and RV (Residential Village) to CZ-C2 (General Commercial-Conditional Zoning District). The proposed use is a restaurant with a drive-thru. The subject property consists of 3 parcels and are further identified as 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920.

If approved for rezoning, the portion of property currently zoned residential will need to be combined with the two (2) parcels currently zoned commercial and the property developed as one parcel.

D. Fiscal Considerations

None

E. Policy Issues

Section 3.3.5 of the UDO states that the Planning and Zoning Commission may consider the following questions, at a minimum, in reviewing an application for rezoning:

1. The size of the tract in question.

The size of the subject parcels are approximately 1.5 acres combined.

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?

The properties are located in the “Secondary Activity Center” and partly in the “Complete Neighborhood 1” Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. Both the Secondary Activity Center and Complete Neighborhood 1 Character Areas include neighborhood serving retail as primary and secondary uses, respectively. The proposed restaurant with drive thru fits within the uses allowed.

3. Is the proposed rezoning compatible with the surrounding area?

The property is located on the east side of S. Cannon Blvd., between Sears St. and Barnett St. Property to the north, south and west is zoned C-2 (General Commercial), and property to the north and east is zoned RV (Residential Village). The property is also within the Lake Concord Watershed Protected Area, which restricts the impervious coverage to a maximum of 24%. There is existing development on the site, for which impervious credit is granted.

The existing surrounding uses are primarily commercial.

The proposed restaurant with drive thru is compatible with the surrounding area, based on the scale of the proposed retail use.

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

The subject property will be accessed from Sears St. and Barnett St. Final access locations will need to be finalized with the City and NCDOT through the site plan review process.

5. Will there be parking problems?

Should the rezoning be approved, the site plan will be required to meet all parking requirements within Article 8 of the Unified Development Ordinance (UDO).

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

There are no anticipated adverse environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, development will be required to conform to all applicable local, state, and federal environmental regulations.

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?

The Cannon Boulevard corridor has been and is anticipated to continue to be primarily a commercial corridor. Commercial development is anticipated to continue along the corridor in the near future.

8. Is there compliance with the adequate public facilities criteria?

There are adequate public facilities available to the property or within proximity.

9. What are the zoning districts and existing land uses of the surrounding properties?

Property to the north, south and west is zoned C-2 (General Commercial), and property to the north and east is zoned RV (Residential Village). The property is also within the Lake Concord Watershed Protected Area, which restricts the impervious coverage to a maximum of 24%. There is existing development on the site, for which impervious credit is granted.

10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?

The current zoning on the portion of property zoned RV (Residential Village) does not allow commercial development. The portion zoned C-2 does allow the proposed development, however, the project will require that the parcels be combined and therefore rezoned under one conditional rezoning plan.

11. Is the zoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?

The proposed commercial use, designed in accordance with all applicable UDO requirements, is compatible with the adjacent residential neighborhood.

12. What length of time has the subject property remained vacant as zoned?

N/A

13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?

Cannon Boulevard is predominately a commercial corridor. There are vacant parcels as well as underutilized parcels along the corridor available for future development.

14. Was the existing zoning in error at the time of adoption?

No.

F. Legal Issues

None

G. Finding of Consistency with Comprehensive Plan

Staff finds this rezoning consistent with the goals and policies of the *Move Kannapolis Forward 2030 Comprehensive Plan*, adopted by City Council, which designates this property as being located in a "Secondary Activity Center" and partly in the "Complete Neighborhood 1" Character Area, which allow for retail development. Furthermore, staff finds the request for rezoning reasonable and in the public interest because it will provide commercial development along Cannon Boulevard that is appropriate for the area. The proposed use is compatible with the surrounding zoning, yet not

anticipated to have an adverse effect on the capacity or safety of the surrounding street network, nor anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access or the ability to extend to public facilities.

H. Staff Recommendation and Alternative Courses of Action

Staff Recommendation

The Planning and Zoning Commission may choose to approve or deny the petition as presented.

Based on the request being consistent with the Move Kannapolis Forward 2030 Comprehensive Plan, staff recommends approval with the following conditions for Zoning Map Amendment Case #CZ-2020-06:

1. The permitted uses allowed by this rezoning shall only include a restaurant with drive thru.
2. A Site Plan, in compliance with all applicable UDO and City standards, shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
3. Any additional lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent residential property.
4. A Type 3 Perimeter buffer yard shall be provided to buffer the adjacent single-family development.
5. Driveway locations shall be approved by the City in conjunction with NCDOT.
6. Driveways and parking lots shall comply with all Fire Codes and Autoturn (a traffic engineering program which specifies the required turning radii for vehicles including delivery trucks and emergency vehicles) shall be run for an SU-30 and Bus-45 (similar to a ladder truck).
7. The project developer shall be responsible for extension of all water and sewer infrastructure needed to serve the project.
8. Hydrants and fire protection shall comply with UDO Appendix C.3 and Fire Codes.

Alternative Courses of Action

Motion to Approve (2 votes)

1. **Should the Commission choose to approve the request for rezoning as presented in Case #CZ-2020-06, a motion should be made to adopt the following Statement of Consistency:**

Statement of Consistency: *The Planning and Zoning Commission finds this rezoning consistent with the goals and policies of the Move Kannapolis Forward 2030 Comprehensive Plan, adopted by City Council, which designates this property as being located in a “Secondary Activity Center” and partly in the “Complete Neighborhood I” Character Area, which allow for retail development. Furthermore, staff finds the request for rezoning reasonable and in the public interest because it will provide commercial development along Cannon Boulevard that is appropriate for the area. The proposed use is compatible with the surrounding zoning, yet not anticipated to have an adverse effect on the capacity or safety of the surrounding street network, nor anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access or ability to extend to public facilities.*

2. **Should the Commission choose to approve Case #CZ-2020-06, a motion should be made to adopt the Resolution to Zone.**

Motion to Deny (2 votes)

1. **Should the Commission choose to recommend denial of Case #CZ-2020-06, a motion should be made to adopt the following Statement of Consistency:**

Statement of Consistency: *The Planning and Zoning Commission finds this zoning map amendment as presented in Case #CZ-2020-06 to be inconsistent with the goals and policies of the Move Kannapolis Forward 2030 Comprehensive Plan, adopted by City Council, because (state reason(s)) and is unreasonable and not in the public interest because (state reason(s)).*

2. **Should the Commission choose to deny Case #CZ-2020-06, a motion should be made to deny the Resolution to Zone.**

I. Attachments

1. Rezoning Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Survey and Site Sketch
6. Neighborhood Meeting Information
7. Notice of Public Hearing
8. List of Properties Notified
9. Letter to Adjacent Property Owners
10. Posted Public Notice Sign
11. Resolution to Adopt a Statement of Consistency
12. Resolution to Zone

J. Issue Reviewed By:

- City Manager
- City Attorney
- Planning Director



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 | _____ |
| Subdivision Exception | _____ | Watershed Boundary Modification | _____ |
| Zoning Text Amendment | _____ | Zoning Map Amendment | _____ |
| Appeal | _____ | Conditional Zoning Map Amendment | <input checked="" type="checkbox"/> |

Applicant: TAG Ventures LLC and/or assigns
 Address: 800 East Blvd. Suite 210 Charlotte, N.C. 28203
 Telephone: 704-376-7484
 Email: hatkinsjr@atkinsproperties.com

Owner: Estate of Gene S. Holbrooks c/o Rodney G. Holbrooks
 Address: 1204 Woodacres Circle Kannapolis, N.C. 28081
 Telephone: 704-467-7980
 Email: holbrooks@carolina.rr.com

Legal relationship of applicant to property owner: Purchaser

Property Location/Address: 40 Sears Street, Kannapolis, N.C.
 Tax Parcel Number: 04074-0012 Zoning District: RV Acreage of Site: 9357 sq. ft.

Requesting Zoning (if applicable): C-2

<u>W. Henry Atkins, Manager</u>	<u>ESTATE OF GENE S HOLBROOKS</u>
Applicant Name (Print)	Property Owner Name (Print)
<u>W. Henry Atkins 7/1/2020</u>	<u>Rodney G Holbrooks Trustee</u>
Applicant Signature & Date	Property Owner Signature & Date
	<u>7/1/20</u>

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 CONDITIONAL ZONING DISTRICT

1. TAG Ventures, LLC and/or assigns hereby petition for a Conditional Zoning District for the following exact land use(s), subject to the following condition(s):

The following use(s) is/are permitted by right or conditional in the general zoning district upon which the "CZ" district is based:

<u>Restaurant limited service (drive thru)</u>	<u>Hotels</u>
<u>Restaurant dine in</u>	<u>Car Wash</u>
<u>Convenience store / gas (P/S)</u>	<u>Auto Parts tires</u>
<u>Grocery Stores</u>	<u>Liquor Stores</u>

Condition(s) proposed by the applicant (attach separate sheet if necessary):

Quick Service Restaurant with drive-thru

It is understood and acknowledged that if the property is conditionally rezoned as requested, the property involved in this request will be perpetually bound to the use(s) authorized and subject to such condition(s) as imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

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

W. Henry Atkins, Manager
Applicant Name (Print)

W. Henry Atkins 7/1/2020
Applicant Signature & Date

ESTATE of GENE S. HOLBROOKS
RODNEY G HOLBROOKS trustee
Property Owner Name (Print)

ESTATE of GENE S. HOLBROOKS
Rodney G Holbrooks trustee
Property Owner Signature & Date

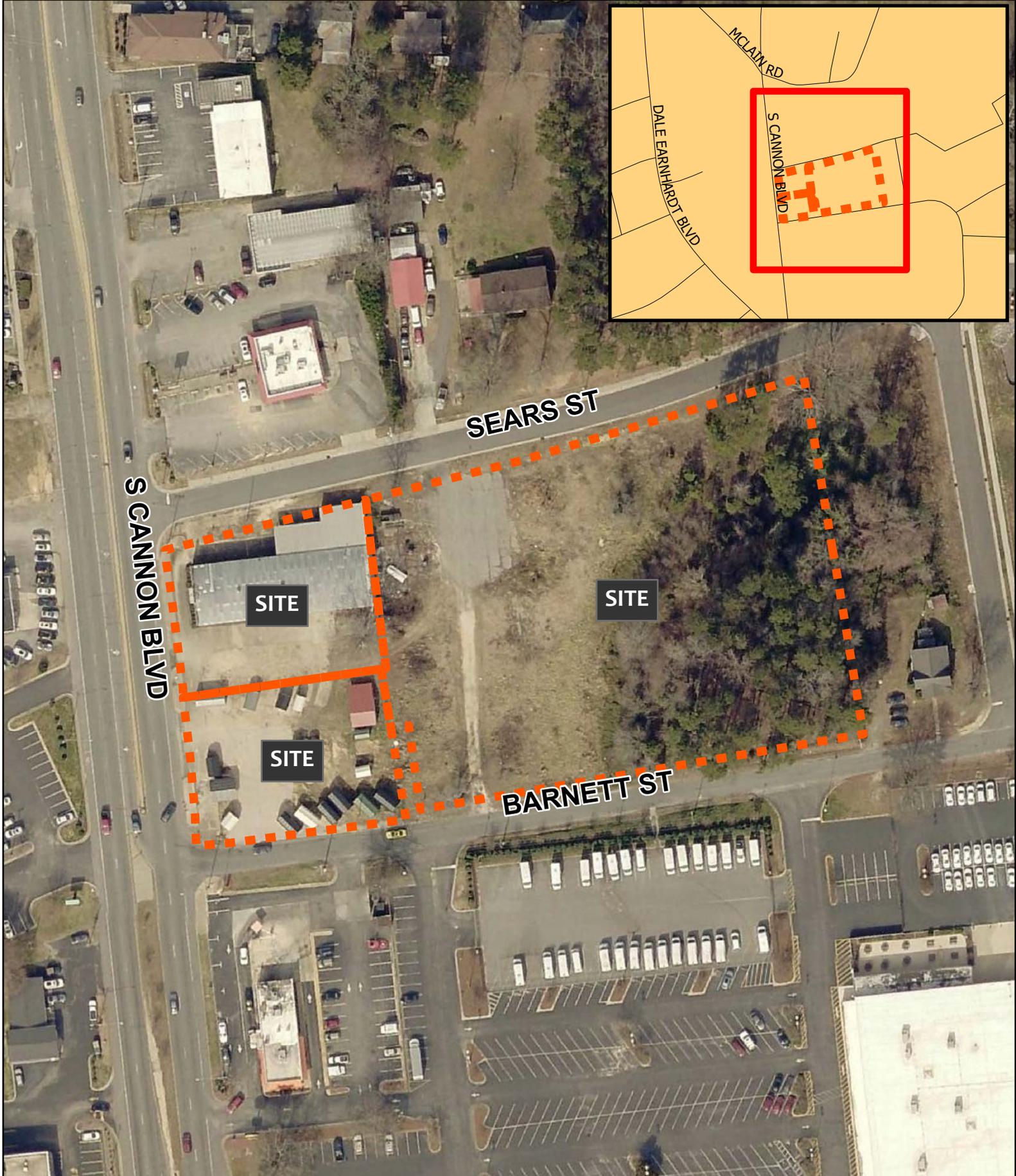
Required as part of Conditional Zoning Submittal:

- Pre-Application Meeting (See Development Guidebook)
- 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: CZ-2020-06
Applicant: TAG Ventures LLC
1205 N Cannon Blvd.



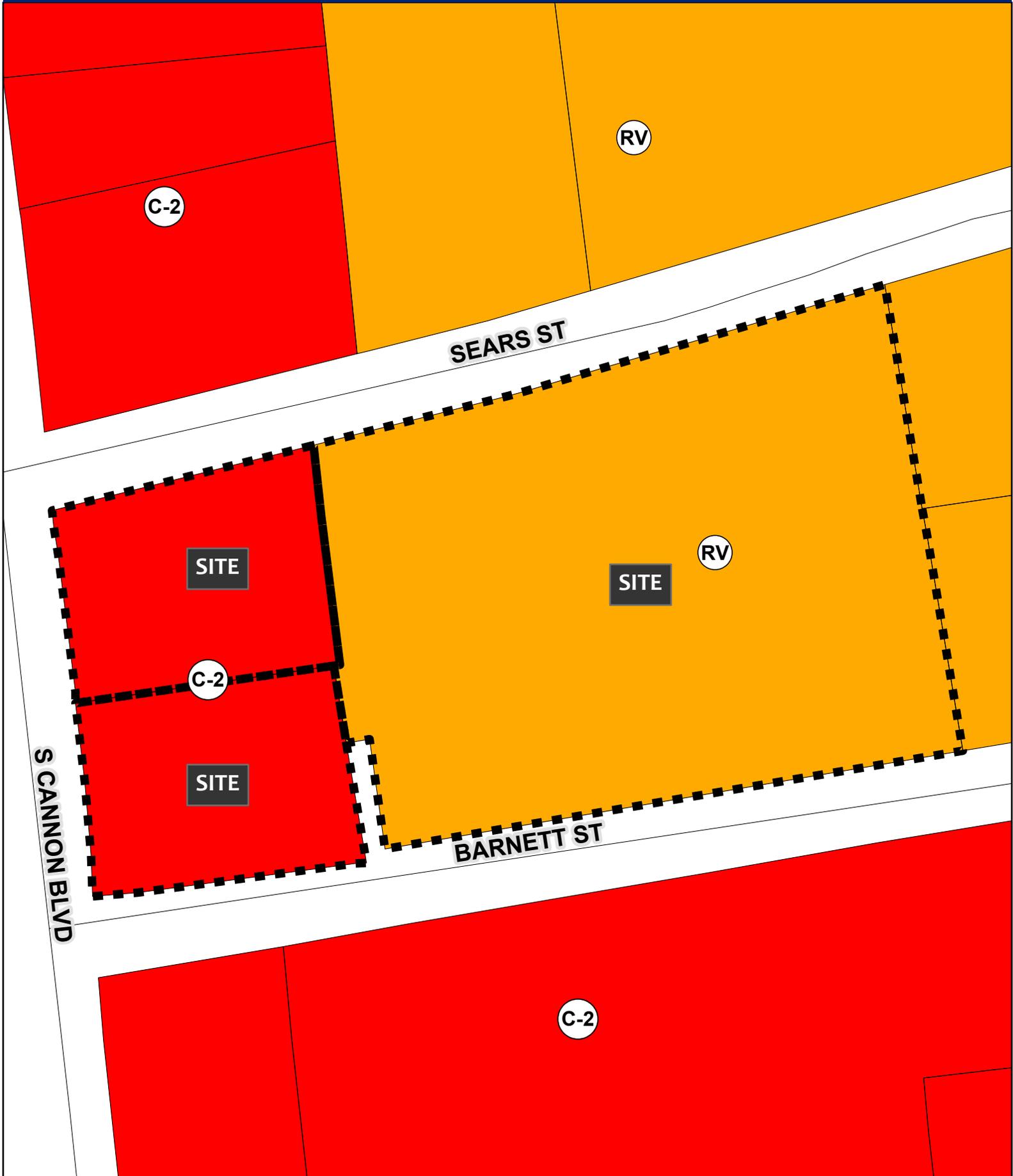


Kannapolis Current Zoning

Case Number: CZ-2020-06

Applicant: TAG Ventures LLC

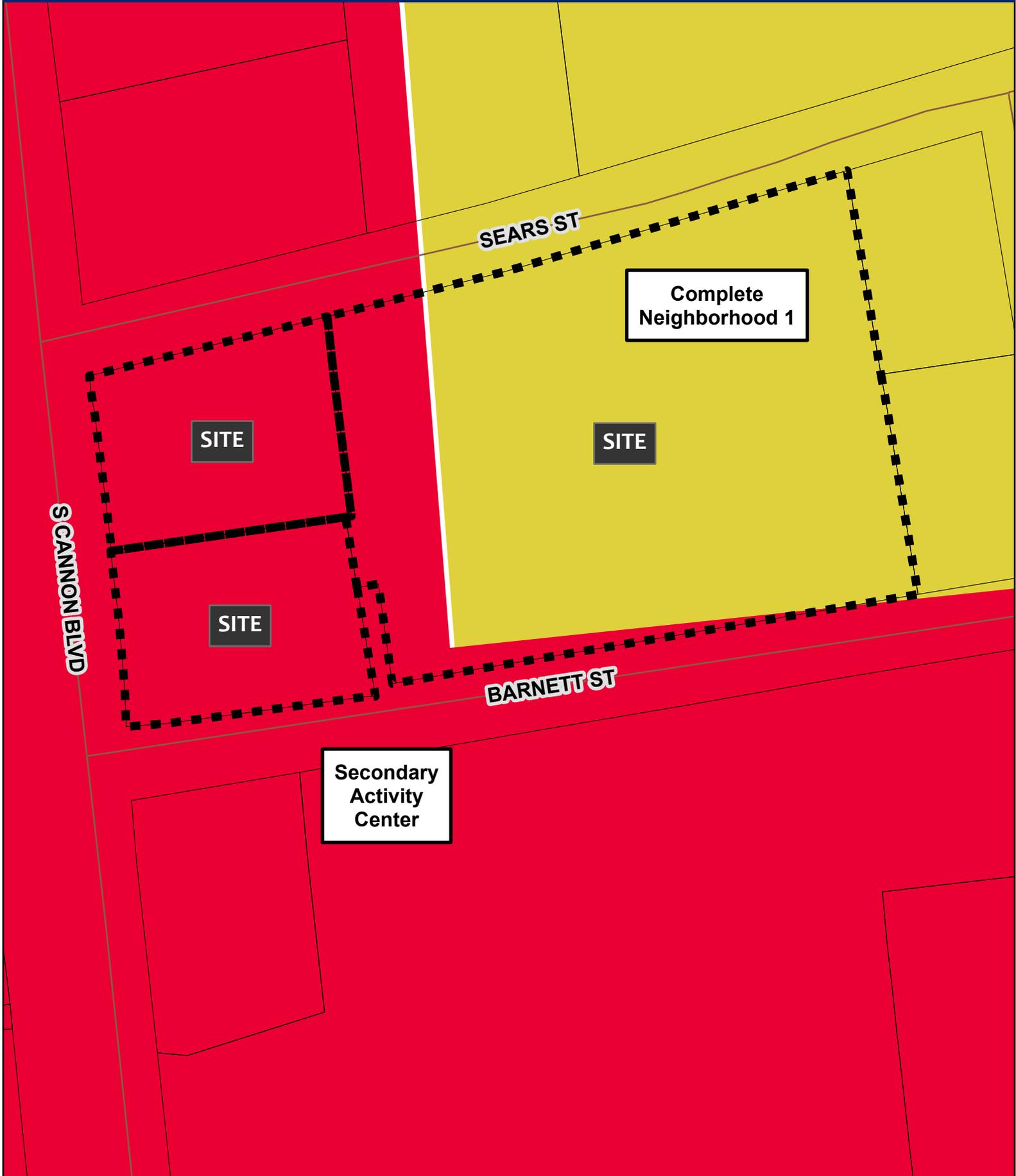
1205 N Cannon Blvd.



Kannapolis 2030 Future Land Use Map

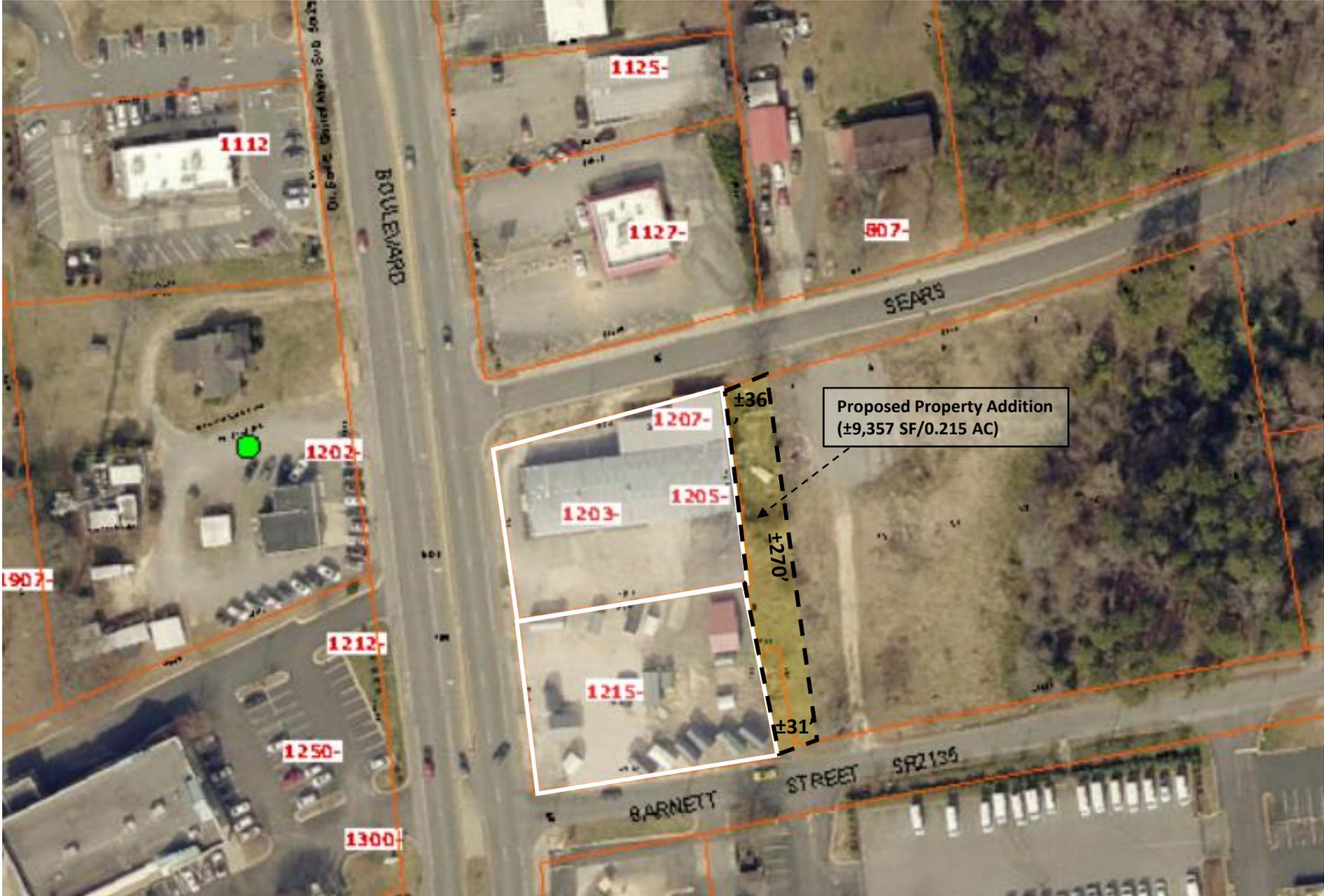


Case Number: CZ-2020-06
Applicant: TAG Ventures LLC
1205 N Cannon Blvd.



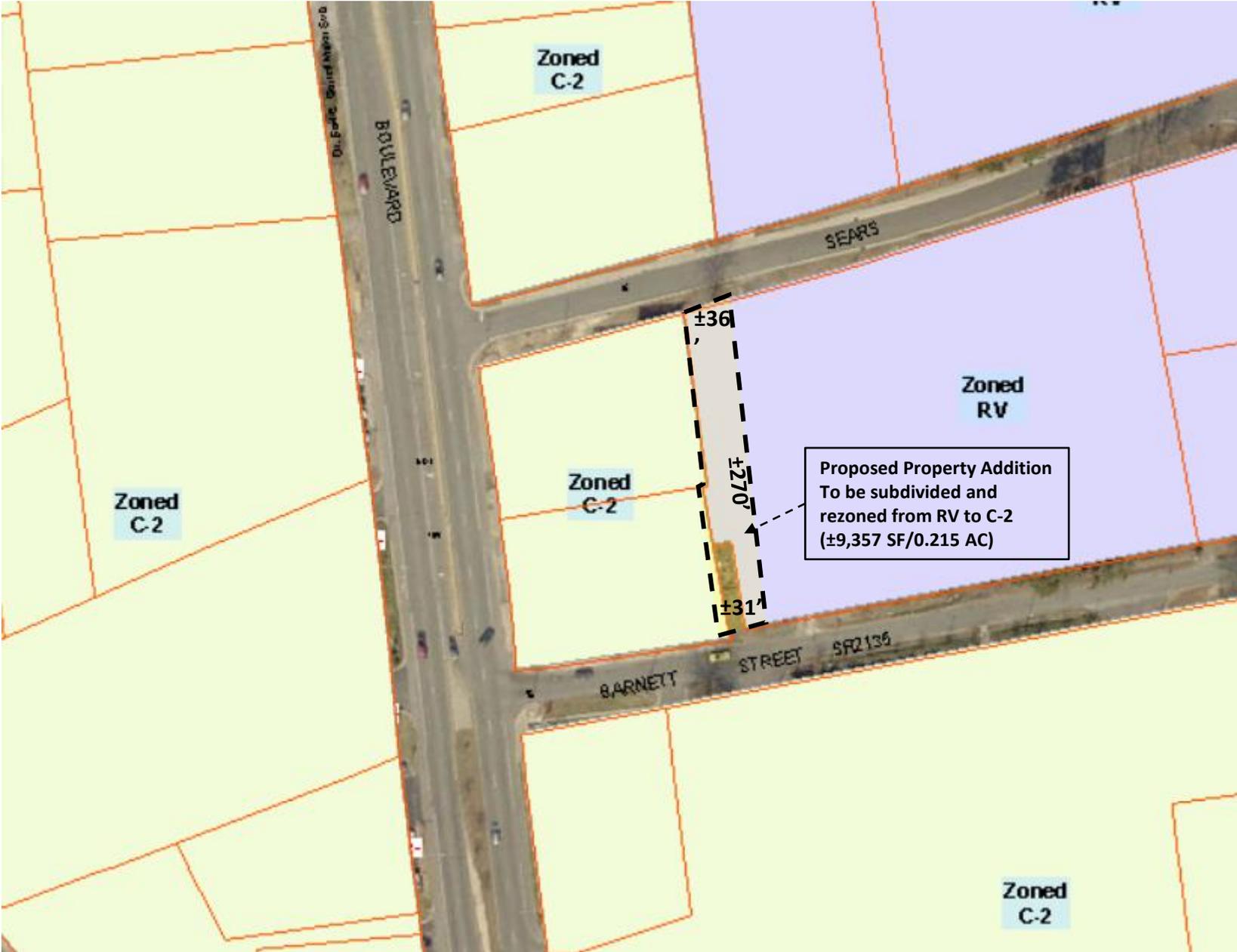
Aerial

Subject Property:
40 Sears St
Kannapolis, NC



Zoning Map

Subject Property:
40 Sears St
Kannapolis, NC



AREA TO BE DEDICATED TO NCDOT

TEMPORARY CONSTRUCTION ESMT

S CANNON BLVD

SEARS ST

±168'
8' STREET YARD

10' SETBACK

7 SPACES

30.0'

±36'

PROP. PROPERTY ADDITION
±9,357 S.F./0.215 AC

18 SPACES

10' SETBACK
8' STREET YARD

PROP. QSR
3,144 S.F.

15 SPACES

15' TYPE 3 BUFFER W/FENCE
PROP. PROPERTY LINE ±270'

21.5'

22.0'

12.0'

12.0'

22.0'

21.5'

6 SPACES

10' SETBACK
8' STREET YARD

±172'

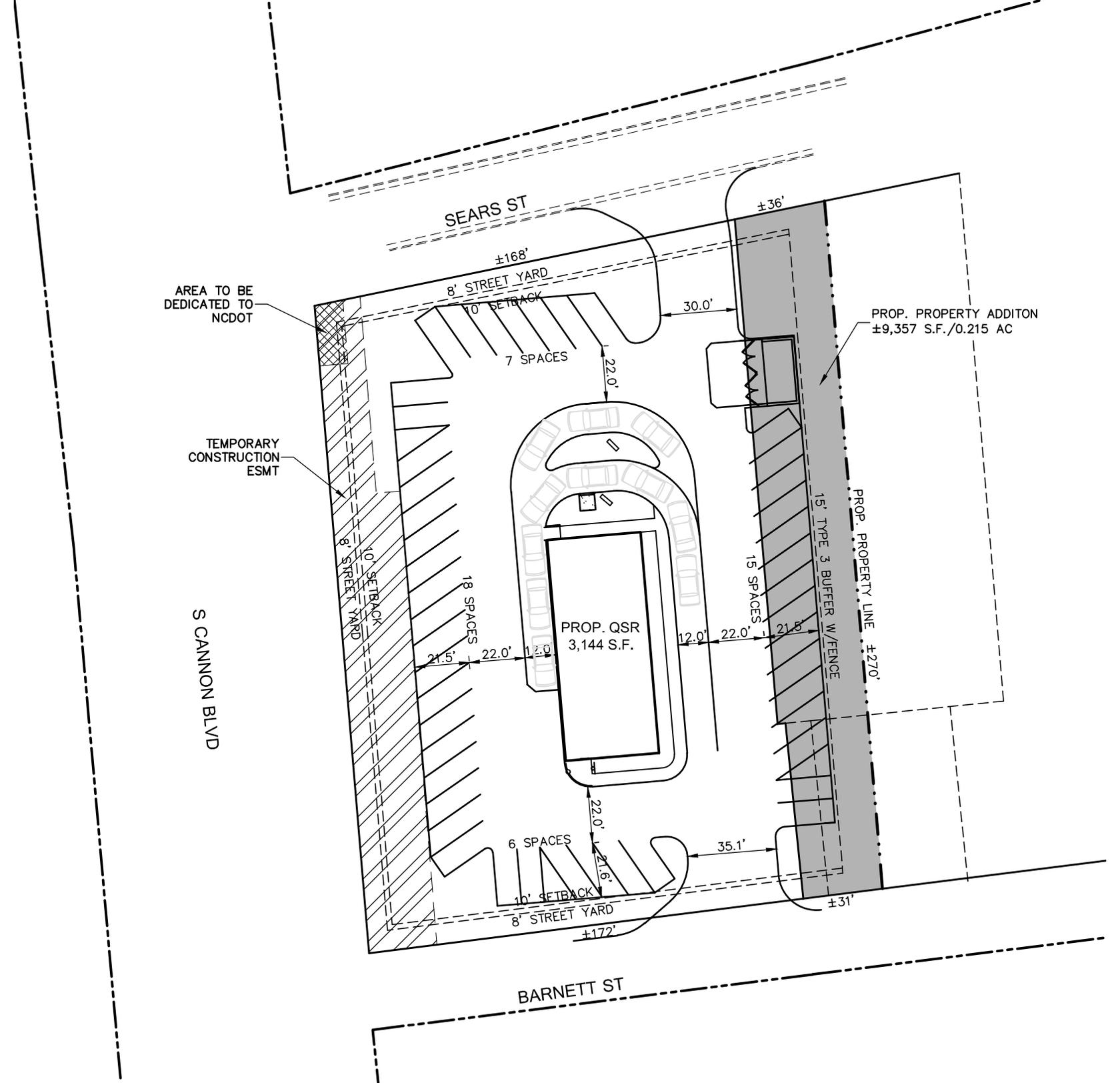
22.0'

21.5'

35.1'

±31'

BARNETT ST



Virtual Public Hearing
Friday, July 3, 2020
9:00 AM EST
Hosted by TAG Ventures, LLC

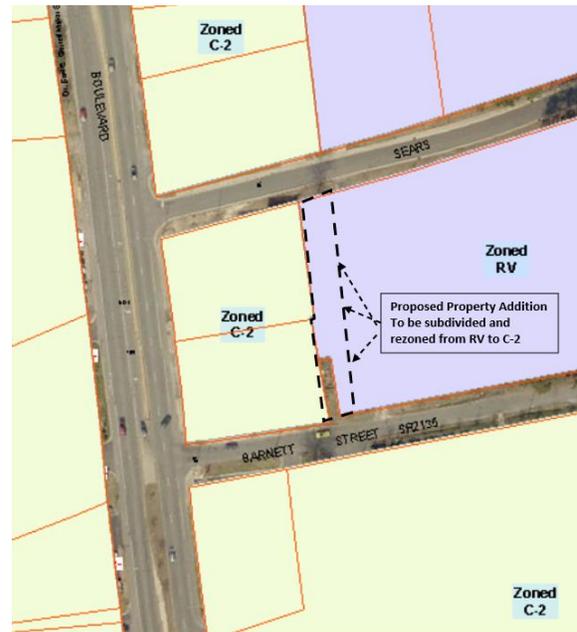
Gretchen,

On behalf of TAG Ventures, LLC and/or its assigns, we are writing to inform you that we had a virtual meeting today, Friday July 3, 2020 at 9:00 AM to discuss our rezoning application with nearby property owners that would like to participate.

We had one neighbor call in, Mark Helms of Papillion, LLC. He did not voice any objections or concerns regarding our proposed rezoning. We have provided confirmation of the call below.

Sincerely,

Atkins Properties, LLC
800 East Blvd
Suite 210
Charlotte, NC 28203



Date: July 3, 2020 8:54:50 AM
Dial-in number: 🇺🇸 (712) 770-5211
Access code: 948470
Account: #s9660566

Audio

Caller	Service Type	Start Time	End Time	Duration
+1 704 502 0491 - WIRELESS CALLER	🇺🇸	8:54:50 AM	9:12:15 AM	18m
+1 704 975 5503 - WILLIAM ATKINS	🇺🇸	9:00:25 AM	9:05:34 AM	6m
+1 704 975 5503 - WILLIAM ATKINS	🇺🇸	9:06:48 AM	9:12:24 AM	6m

Number of attendees: 3
Toll minutes: 30m

Note: All times in Eastern Time



PO Box 27283
Richmond, VA 23261-7283

Order Confirmation

Order# 0000663207

Client: KANNAPOLIS,CITY OF
Phone: 7049204300

Pavor : KANNAPOLIS,CITY OF
Phone: 7049204300

Account: 3143368
Address: ACTS PAYABLE/WANDA/TEARSHEETS
KANNAPOLIS NC 28081

Account: 3143368
Address: ACTS PAYABLE/WANDA/TEARSHEET
KANNAPOLIS NC 28081

Sales Rep **Acct Rep** **Ordered By**
aboan aboan Pam

Fax: 7049337463
EMail: byow@kannapolisnc.gov

Total Amount \$460.88

Payment Amount \$460.88

Amount Due \$0.00

Tear Sheets **Proofs** **Affidavits** **PO Number:**

Tax Amount: 0.00

0 0 1

Payment Meth: Credit - Debit Card

Ad Number **Ad Type** **Ad Size** **Color**
0000663207-01 CLS Liner 2 X 36 li \$0.00

Production Method
AdBooker (liner)

Production Notes

Product and Zone **Placement** **Position** **# Inserts**
CON Independent Trib C-Announcements General-Spec Notice 2

Run Schedule Invoice Text: NOTICE OF PUBLIC HEARING Planning and Zoning

Run Dates 7/24/2020, 7/31/2020

TagLine: NOTICEOFPUBLICHEARINGPLANNINGANDZONINGCOMMISSIONMEETING401LAUREATEWAYKANNAPOLISNCWEDNESDAYAUGUST52020AT600PMCONDITIONALZONINGMAPA

Ad Content Proof

Note: Ad size does not reflect actual ad



KANNAPOLIS

**NOTICE OF PUBLIC HEARING
Planning and Zoning Commission Meeting
401 Laureate Way, Kannapolis, NC
Wednesday August 5, 2020 at 6:00 pm**

Conditional Zoning Map Amendment - CZ-2020-06 - Public hearing to consider a request to rezone approximately 1.5 acres of property located on S. Cannon Blvd. between Sears and Barnett Street from C-2 (General Commercial) and RV (Residential Village) to C-2-CZ (General Commercial-Conditional Zoning), further identified as Cabarrus County PINs # 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920 to allow for a restaurant with a drive-thru.

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.

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 as soon as possible but no later than 48 hours before the scheduled event.

Publish: July 24, 31, 2020.

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
PATRICIA ANN REID HOOVER REVOC TRUST U/A DTD 9/30/11 KPNC LLC	PO BOX 11077	CHARLOTTE	NC	28220
C/O ALVIN COUCH TARA C RHOADES TRUSTEE	PO BOX 824 590 COLLINS RD	ROSWELL CHINA GROVE	GA NC	30077 28023
GENE S HOLBROOKS ESTATE C/O PAMELA PERKINS	1017 SPRUCEWOOD ST	KANNAPOLIS	NC	28081
GENE S HOLBROOKS ESTATE C/O RODNEY G HOLBROOKS	1204 WOODACRES CIR	KANNAPOLIS	NC	28081
WILLARD & DEBORAH SANSOM PAPBIS ENTERPRISES LLC	807 SEARS ST 2042 ROCKY HOLLOW DR	KANNAPOLIS MARVIN	NC NC	28083 28173
KANNAPOLIS LAND INC EDDIE & CONNIE DURHAM	PO BOX 1177 1311 LOWRANCE AVE	GREENVILLE KANNAPOLIS	SC NC	29602 28081
ROY & JESSIE BROWN PAPILLION LLC	3106 SIMMONS ST	KANNAPOLIS	NC	28083
C/O TAX DEPARTMENT BRANFUL LLC/A NC LLC	5112 GOLD CREST DR 104 MULL STREET	INDIAN TRAIL MORGANTON	NC NC	28079 28655
C E SMITH RENTALS INC TAG VENTURES, LLC	PO BOX 211 800 EAST BLVD	PAGELAND	SC	29728
ATTN: W. HENRY ATKINS	STE 210	CHARLOTTE	NC	28203



July 24, 2020

Dear Property Owner:

Please be advised that the City of Kannapolis Planning & Zoning Commission will conduct a Public Hearing on Wednesday, August 5, 2020 at 6:00 PM, for the following case:

CZ-2020-06 – Conditional Zoning Map Amendment – Sears St.

The purpose of the Public Hearing is to consider a request by TAG Ventures, LLC to rezone property located between Sears and Barnett St. from C-2 (General Commercial) and RV (Residential Village) to C-2-CZ (General Commercial-Conditional Zoning) to allow for a restaurant with a drive-thru. The subject properties are approximately 1.5 +/- combined acres and further identified as Cabarrus County Parcel Identification Number(s) 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920 (see reverse side of this letter for a 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

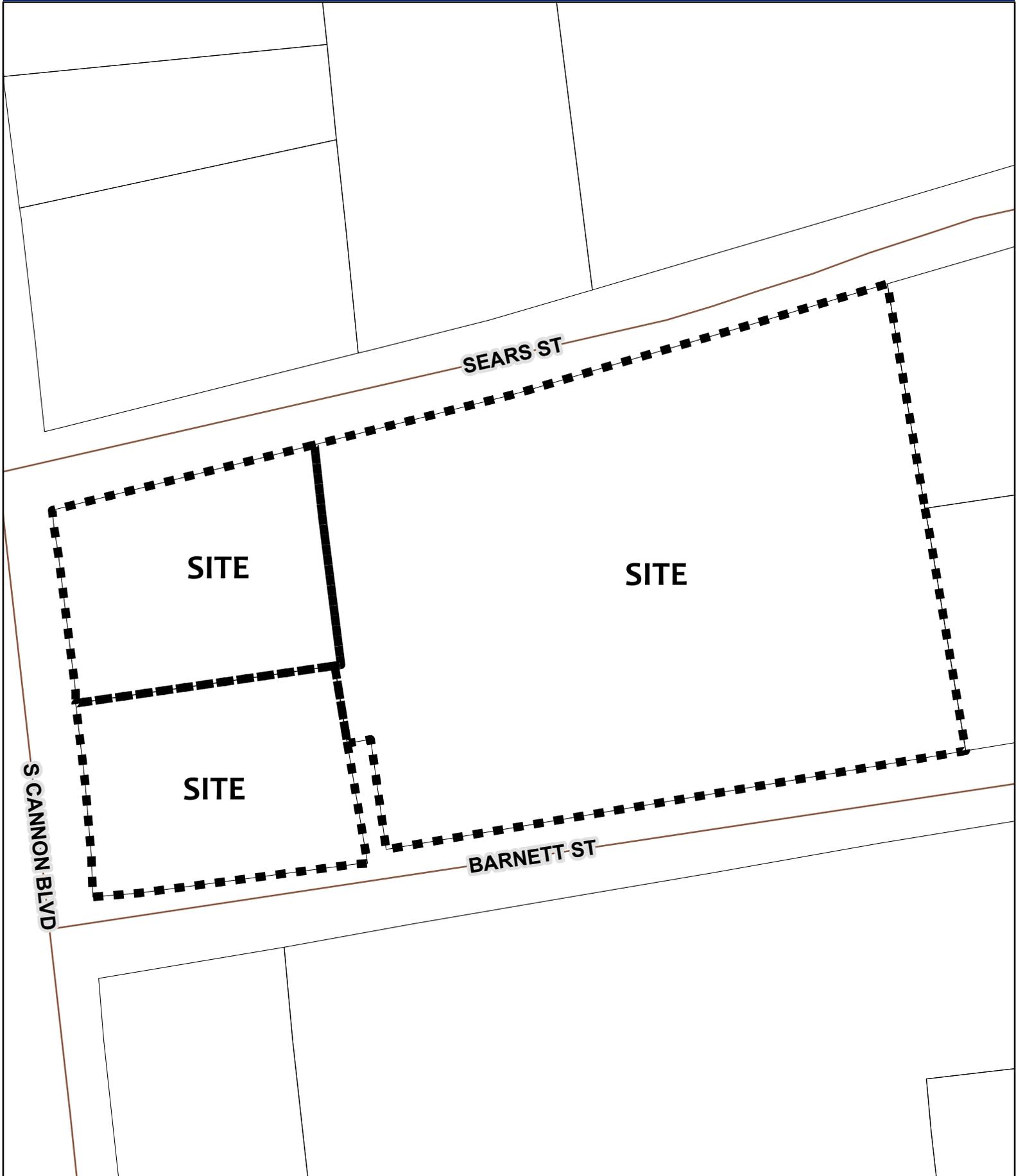
Enclosure

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 as soon as possible but no later than 48 hours before the scheduled event.



Conditional Zoning Map Amendment

Case Number: CZ-2020-06
Applicant: TAG Ventures LLC
1205 N Cannon Blvd.



KANNADOLLS

PLANNING

ZONING

COMMISSION

**PUBLIC HEARING
INFORMATION**

CALL 704-920-4350

CASE # CZ - 2020 - 06



Sears

Waffle House



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
WITH REGARD TO CASE # CZ-2020-06**

WHEREAS, Section 160A-383 (2013) of the North Carolina General Statutes specifies that when adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable and explain why the action taken is reasonable and in the public interest; and

WHEREAS, Section 3.3.4.2 of the Unified Development Ordinance delegates final authority to the Planning and Zoning Commission on zoning map amendments subject to an affirmative vote of three-fourths of the Commission members present and not excused from voting, or if there is no appeal of the decision; and

WHEREAS, on August 5, 2020 the Planning and Zoning Commission conducted a public hearing to consider a request to rezone property located between Sears and Barnett Streets, (Cabarrus County Parcel Identification Number(s) 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920) owned by Roy & Jessie Brown, KPNC, LLC., and Gene Holbrooks, from City of Kannapolis General Commercial (C-2) and Residential Village (RV) Zoning Designation to City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) Zoning Designation;

NOW, THEREFORE BE IT RESOLVED *that the Planning and Zoning Commission finds this rezoning **consistent** with the goals and policies of the Move Kannapolis Forward 2030 Comprehensive Plan, adopted by City Council, which designates this property as being located in a “Secondary Activity Center” and partly in the “Complete Neighborhood 1” Character Area, which allow for retail development. Furthermore, staff finds the request for rezoning reasonable and in the public interest because it will provide commercial development along Cannon Boulevard that is appropriate for the area. The proposed use is compatible with the surrounding zoning, yet not anticipated to have an adverse effect on the capacity or safety of the surrounding street network, nor anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access or ability to extend to public facilities.*

Adopted this the 5th day of August 2020:

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission



RESOLUTION TO ZONE

Case #CZ-2020-06 (Sears and Barnett Streets)

City of Kannapolis General Commercial (C-2) and Residential Village (RV) Zoning District to City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) Zoning District

WHEREAS, Section 3.3.4.1 of the City of Kannapolis Unified Development Ordinance specifically delegates authority from the City Council to the Planning and Zoning Commission to take final action on a rezoning petition; and

WHEREAS, Section 3.3.4.2.2 of the City of Kannapolis Unified Development Ordinance subjects this authority to an affirmative vote of three-fourths of the Commission members present and not excused from voting, or if there is no appeal of the decision; and

WHEREAS, the Commission conducted a public hearing on August 5, 2020 for consideration of rezoning petition Case #CZ-2020-06 as submitted to the City of Kannapolis Planning Department; and

WHEREAS, the request was to rezone property located between Sears and Barnett Streets, (Cabarrus County Parcel Identification Number(s) 5623-02-4805, 5623-02-4711 and a portion of 5623-02-7920) owned by Roy & Jessie Brown, KPNC, LLC., and Gene Holbrooks, from City of Kannapolis General Commercial (C-2) and Residential Village (RV) Zoning Designation to City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) Zoning Designation; and

WHEREAS, the Commission has approved the request for rezoning and found it to be consistent with the City of Kannapolis *Move Kannapolis Forward, 2030 Comprehensive Plan*, reasonable and in the public interest; and

WHEREAS, per Section 3.3.5 of the Kannapolis UDO, the Planning and Zoning Commission makes the following findings in support of and in analysis of the rezoning:

1. The size of the tract in question.

The size of the subject tract is approximately 1.5 acres.

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?

The properties are located in the “Secondary Activity Center” and partly in the “Complete Neighborhood 1” Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. Both the Secondary Activity Center and Complete Neighborhood 1 Character Areas include neighborhood serving retail as primary and secondary uses, respectively. The proposed restaurant with drive thru fits within the uses allowed.

3. Is the proposed rezoning compatible with the surrounding area?

The property is located on the east side of S. Cannon Blvd., between Sears St. and Barnett St. Property to the north, south and west is zoned C-2 (General Commercial), and property to the north and east is zoned RV (Residential Village). The property is also within the Lake Concord

Watershed Protected Area, which restricts the impervious coverage to a maximum of 24%. There is existing development on the site, for which impervious credit is granted.

The existing surrounding uses are primarily commercial.

The proposed restaurant with drive thru is compatible with the surrounding area, based on the scale of the proposed retail use

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

The subject property will be accessed from Sears St. and Barnett St. Final access locations will need to be finalized with the City and NCDOT through the site plan review process.

5. Will there be parking problems?

Should the rezoning be approved, the site plan will be required to meet all parking requirements within Article 8 of the Unified Development Ordinance (UDO).

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

There are no anticipated adverse environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, development will be required to conform to all applicable local, state, and federal environmental regulations.

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?

The Cannon Boulevard corridor has been and is anticipated to continue to be primarily a commercial corridor. Commercial development is anticipated to continue along the corridor in the near future.

8. Is there compliance with the adequate public facilities criteria?

There are adequate public facilities available to the property or within proximity.

9. What are the zoning districts and existing land uses of the surrounding properties?

Property to the north, south and west is zoned C-2 (General Commercial), and property to the north and east is zoned RV (Residential Village). The property is also within the Lake Concord Watershed Protected Area, which restricts the impervious coverage to a maximum of 24%. There is existing development on the site, for which impervious credit is granted.

10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?

The current zoning on the portion of property zoned RV (Residential Village) does not allow commercial development. The portion zoned C-2 does allow the proposed development, however, the project will require that the parcels be combined and therefore rezoned under one conditional rezoning plan.

11. Is the zoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?

The proposed commercial use, designed in accordance with all applicable UDO requirements, is compatible with the adjacent residential neighborhood.

12. What length of time has the subject property remained vacant as zoned?

N/A.

13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?

Cannon Boulevard is predominately a commercial corridor. There are vacant parcels as well as underutilized parcels along the corridor available for future development.

14. Was the existing zoning in error at the time of adoption?

No.

NOW, THEREFORE BE IT RESOLVED by the City of Kannapolis Planning and Zoning Commission that the above referenced property be rezoned City of Kannapolis C-2-CZ – General Commercial-Conditional Zoning District, subject to the following conditions:

1. The permitted uses allowed by this rezoning shall only include a restaurant with drive thru.
2. A Site Plan, in compliance with all applicable UDO and City standards, shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
3. Any additional lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent residential property.
4. A Type 3 Perimeter buffer yard shall be provided to buffer the adjacent single-family development.
5. Driveway locations shall be approved by the City in conjunction with NCDOT.
6. Driveways and parking lots shall comply with all Fire Codes and Autoturn (a traffic engineering program which specifies the required turning radii for vehicles including delivery trucks and emergency vehicles) shall be run for an SU-30 and Bus-45 (similar to a ladder truck).
7. The project developer shall be responsible for extension of all water and sewer infrastructure needed to serve the project.
8. Hydrants and fire protection shall comply with UDO Appendix C.3 and Fire Codes.

Adopted this the 5th day of August 2020:

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission



**Planning and Zoning Commission
August 5, 2020 Meeting
Staff Report**

DATE: July 30, 2020

TO: Planning and Zoning Commission Members

FROM: Zachary D. Gordon, AICP, Planning Director

SUBJECT: Text Amendment – TA-2020-02: Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception

Public Hearing to consider text amendments to Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception

A. Actions Requested by Planning and Zoning Commission Members

1. Consider Resolution to Adopt a Statement of Consistency for TA-2020-01
2. Consider motion to recommend approval of proposed text amendments by City Council

B. Decision and Required Votes to Pass Requested Action

Article 3.8 of the UDO addresses the procedures for processing amendments to the text of the ordinance. Per Section 3.8.2, “*Any person, board, department, or commission may apply for a change in zoning ordinance text*”. The proposed text amendment was initiated by the Planning Department.

Per Sections 3.8.3.2 and 3.8.3.3 of the UDO, a majority vote of the Planning and Zoning Commission is required to recommend approval of a text amendment. A recommendation to approve is then forwarded to City Council who shall, either approve or deny the text amendment by a majority vote.

C. Background

Staff is proposing to amend **Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception** to clarify the requirements for when these improvements are required in conjunction with development proposals. The proposed text amendments would also address new development on “existing” private streets, by requiring that engineering and public works staff assess the impact of this development and determine whether mitigation (e.g. road or drainage improvements) should be required as a condition of development approval by City staff. Recently, there have been several instances where development has occurred on an existing private street, which has negatively impacted the condition of the street, resulting in hardship for current property owners who live on that street, which has led to complaints to elected officials and city staff, along with requests for City assistance to repair the street.

The proposed text amendments are consistent with the proposed text changes being recommended for the new “Kannapolis Development Ordinance (KDO), which we anticipate will be adopted by this fall and made effective January 1, 2021. The text amendments to Section 10.1 would address “when” these improvements are required and also provide guidance on when they are “not required”, rendering Appendix C.1.8 (which currently provides guidance for exceptions to these requirements) unnecessary. The proposed text amendments are being recommended by staff now, rather than waiting for full adoption of the KDO, due to the large number of development proposals currently being reviewed where questions have arisen regarding when these improvements are required; particularly for smaller “in-fill” development proposals. Staff feels it would be prudent to move forward with these text amendments now, rather than waiting for the KDO to be completed, in order to enhance and clarify our development plan review process for the development community and to allow for the consistent application of the City’s development regulations.

D. Fiscal Considerations

None.

E. Policy Issues

The proposed text amendment to the UDO is **attached** as **additions and deletions**:

F. Legal Issues

None

G. Alternative Courses of Action and Staff Recommendation

The Planning and Zoning Commission may choose to recommend approval or denial of the text amendment as presented. The Commission may also add, delete, or change any of the language as proposed.

Based on the foregoing analysis, staff recommends **approval** of the proposed text amendments to **Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception** of the Unified Development Ordinance.

The following actions are required to recommend approval of TA 2020-02

1. Consider Resolution to Adopt a Statement of Consistency for TA 2020-02
2. Consider motion to recommend approval of proposed text amendments by City Council.

The following actions are required to recommend denial of TA 2020-02

1. Consider Resolution to not Adopt a Statement of Consistency for TA 2020-02
2. Consider motion to recommend denial of proposed text amendments by City Council.

H. Attachments

1. Application for Text Amendment to the Unified Development Ordinance
2. Proposed UDO changes
3. Resolution to Adopt a Statement of Consistency

I. Issue Reviewed By:

Assistant City Manager (W. Melton)
City Attorney (W. Safrit, II)
City Engineer (S. Kaufhold)
Planning Director (Z. Gordon)



**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 | _____ |
| Subdivision Exception | _____ | Watershed Boundary Modification | _____ |
| Zoning Text Amendment | <input checked="" type="checkbox"/> | Zoning Map Amendment | _____ |
| Appeal | _____ | Conditional Zoning Map Amendment | _____ |

Applicant: Zachary D. Gordon, AICP Owner: _____
Planning Director

Address: 401 Laureate Way Address: _____
Kannapolis, NC 28081

Telephone: 704-920-4355 Telephone: _____

Email: zgordon@kannapolisnc.gov Email: _____

Legal relationship of applicant to property owner: N/A

Property Location/Address: N/A

Tax Parcel Number: N/A Zoning District: N/A Acreage of Site: N/A

Zachary D. Gordon _____
Applicant Name (Print) Property Owner Name (Print)

[Signature] _____
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: _____ Receipt # _____

Application No.: _____ Date Submitted (Complete): _____



CITY OF KANNAPOLIS

**AN APPLICATION TO AMEND THE TEXT OF
THE UNIFIED DEVELOPMENT ORDINANCE**

I Zachary D. Gordon, AICP, hereby make application for an amendment to the following section(s) of the Unified Development Ordinance:

Section 10.1 Street Improvement Standards and Appendix C.1.8 Sidewalk, Curb and Gutter Exception

In the space provided below, or on a separate sheet, present your requested text for the Ordinance provisions in question:

See attached Staff Report

State your reasons for amending the text of the Ordinance:

See attached Staff Report



Signature of applicant

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

Green text – Text to be added

~~Red strikethrough text~~ – Text to be deleted

10.1. STREET IMPROVEMENT STANDARDS.

10.1.1. PURPOSE.

The purpose of this Section is to prescribe minimum design standards for new public and/or private streets. These requirements may exceed the standards prescribed by NCDOT for the acceptance of streets into the Secondary System of State Highways.

10.1.2 SIDEWALKS AND OTHER PEDESTRIAN FACILITIES

10.1.2.1 Except as otherwise provided by subsection 10.1.2.2 below, sidewalks, and/or curb and gutter (where required by the street cross-sections for the applicable street cross-sections in the LDSM) are required along the entire frontage of a development located on an existing street, and along both sides of all streets within the development. Sidewalks, curb and gutter, shall comply with all applicable standards in the LDSM and with any additional sidewalk standards that apply in the zoning district (see Article 4: Zoning Districts and Dimensional Regulations).

10.1.2.2 Sidewalks, and/or curb and gutter are not required if the street cross-section in the LDSM for the applicable street classification does not require a sidewalk, and/or curb and gutter. Additionally, the Planning Director, in consultation with the Public Works Director and the City Engineer, may waive or modify the requirement for sidewalks in specific locations on determining the sidewalk:

1. Would be duplicative of an existing greenway or other pedestrian way;
2. Is included in a project for which state funding has been allocated or is already included within the City's Capital Improvement Program (CIP);
3. Is impractical or infeasible due to the presence of topographic conditions or natural features, such as steep grades that do not allow connections to be made; or
4. Would not be located within 500 feet of an existing sidewalk on the same side of the street, provided a public easement for the future installation of a sidewalk is granted, or dedication of additional right-of-way where there is insufficient right-of-way to accommodate a future sidewalk and other required right-of-way improvements.

10.1.2.3 Exempt lots and Lots on Existing Streets Not Requiring Utility Extensions

1. For exempt lots, or lots located on existing streets that do not require the dedication of new right-of-way or the extension of utilities (excluding lateral connections) sidewalks, curb and gutter improvements will not be required along the frontage of these lots unless such improvements are already in place adjacent to the lot being developed.
2. Where a development has frontage on an existing street with insufficient right-of-way width to accommodate installation of a required sidewalk (and any associated curb and gutter) along the frontage, the developer shall dedicate additional right-of-way for the installation of the required sidewalk or install the sidewalk on the development site within a dedicated public easement running parallel and adjacent to the public street.
3. Sidewalks or other pedestrian ways shall be constructed within any [commercial, mixed-use, or multifamily] development consisting of multiple buildings to link buildings in the development with other destinations in the development, including parking areas, open space and other on-site amenities, and other common areas serving the development (e.g., mailbox clusters), and with sidewalks and other pedestrian ways on adjoining lands.

10.1.2.4 Pedestrian Access at Cul-de-Sacs

In all districts except the AG, RE, and HI districts, if a cul-de-sac street is proposed, a minimum eight feet wide pedestrian access shall be provided from the cul-de-sac head or a location on the cul-de-sac street within 200 feet of the cul-de-sac head to an adjoining street, sidewalk, other pedestrian way, or open space where practicable

10.1.3 PUBLIC STREETS.

10.1.3.1 Public streets shall be designed and constructed in accordance with the LDSM standards for the applicable street classification type, as determined by the Public Works director in accordance with the Street Classification Standards, the CRMPO Comprehensive Transportation Plan, and all applicable locally adopted plans.

10.1.3.2 All streets within a proposed development shall conform in alignment to any publicly adopted transportation plan, including the Comprehensive Transportation Plan and all applicable locally adopted plans.

10.1.3.3 Where a proposed subdivision abuts an existing street maintained by the City or NCDOT, the applicant shall dedicate right-of-way necessary to accomplish future road improvements, in accordance with state law. Where the subdivision, or development abuts has is designed to utilize the street for frontage and/or direct access on an existing street maintained by the City or NCDOT, the subdivider or developer shall make any required improvements to the street so it conforms to the LDSM standards for the applicable street classification type, or the CRMPO Comprehensive Plan.

10.1.3.4 New developments shall provide curb, gutter, sidewalks, and tree grates or a planting area between the street and the sidewalk, from the new development to adjacent public streets that provide access to the development, in accordance with the LDSM. All such planting areas and tree grates shall be planted with street trees spaced apart an average of 40 feet or less on center. Road widening, sidewalks, bike lanes, street trees, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. The Planning Director may waive or modify the requirement for sidewalks, or curb and gutter in specific locations in accordance with Section 10.1.2.2 above.

~~**10.1.1.1.** Public streets shall be designed and constructed in accordance with Appendix C of this Ordinance⁽⁴⁾ and the Land Development Standards Manual (LDSM), except that streets constructed in a TND Traditional Neighborhood Development district shall conform to the provisions of § 4.10 of this Ordinance.~~

~~**10.1.1.2.** Pursuant to NCGS § 136-66.2, where a proposed subdivision abuts an existing street or roadway included in the City or North Carolina Department of Transportation street system, the applicant shall be required to dedicate⁽⁴⁾ right of way as deemed necessary to accomplish future road improvements⁽³⁾ in accordance with the policy on file in the office of the Public Works Director.~~

~~**10.1.1.3.** Where a subdivision abuts an existing street or roadway included in the City or North Carolina Department of Transportation street system and, where permitted, is designed to utilize such street for frontage and direct access, the subdivider shall be required to improve such street in accordance with the⁽³⁾ policy on file in the office of the Public Works Director.~~

10.1.3.5 Street Classification System.

10.1.3.5.1 Classification of an existing or proposed street not already identified on the Thoroughfare Plan, for the purpose of determining the appropriate design of a roadway or development, or for the purpose of determining the appropriateness of a location for a proposed use, shall be done by the Administrator in consultation with the Director of Transportation.

10.1.3.5.2 The street classification system set forth in Table 10.1-1 is hereby adopted for rural and urban streets. Streets may be further categorized pursuant to the adopted *Cabarrus-South Rowan Urban Area Transportation Plan*.

⁽²⁾Table 10.1-1 Street Classifications

Freeway/Expressway
Major Thoroughfare
Minor Thoroughfare
Collector (residential and non-residential)
Residential Street
Alley

10.1.3.6 Determination Criteria. In determining the classification of a street, factors to be considered include the following existing or proposed features:

10.1.3.6.1 Facility Geometrics, including the number and width of traffic lanes, turning lanes, and parking lanes.

10.1.3.6.2 Access Conditions, including any restrictions on access, the spacing of private accesses, and average lot frontages.

10.1.3.6.3 Traffic Characteristics, including ADT, percentage of trucks, average operating speed, percentage of turning movements, origin-destination characteristics of the traffic, and peak hour characteristics of traffic.

10.1.3.6.4 In applying these factors, the Administrator may refer to § 10.1.2.4.2 and the sources listed therein, which are hereby incorporated by this reference.

10.1.3.7 Designation Authority. Utilizing the criteria of § 10.1.2.5, above, in conjunction with the Thoroughfare Plan Map and the narrative descriptions for each roadway classification provided in Appendix C⁽⁴⁾ and the LDSM, Director of Transportation shall determine which of the Thoroughfare Plan designations apply to the street under consideration.

10.1.4 PRIVATE STREETS.

10.1.4.1 Private streets that develop as part of a subdivision, or integrated commercial, industrial, multifamily residential or institutional development shall be designed and constructed to the public street standards set forth in Appendix C of this Ordinance⁽⁴⁾ and the LDSM. Private streets (with established right-of-way for public utilities) shall be allowed in TND and PUD developments and should be designed in accordance with the standards of those sections in Article 4. ⁽¹⁾Private streets (with established right-of-way for public utilities) shall be allowed in single-family residential subdivisions with less than 100 lots subject to City approval. This section shall not include private accessways/driveways as regulated in Article 8

10.1.4.2 A legally responsible organization (i.e. homeowners association, special district, etc.) as acceptable to the Administrator shall be established to maintain a private street(s). Documents to assure private responsibility of future maintenance and repair by a homeowners association or a special district shall be approved as to form by the Administrator.

10.1.4.3 ⁽¹⁾A private street maintenance agreement, satisfactory to the Administrator and Public Works Director, must be recorded by the developer and/or property owner(s) in the office of the Register of Deeds to ensure proper maintenance. The agreement shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. In addition, all property transfer instruments must contain reference to that agreement, as well as a statement indicating if the private street does meet public standards for maintenance and that it will not be considered for public maintenance unless improved by the legally responsible organization to those standards. This agreement shall also specify that unless the street is privately maintained in condition for safe passage of public service and emergency vehicles, the City may provide such maintenance, with charges therefore becoming a lien on the properties served, dividing among them proportionate to their assessed tax valuation.

10.1.4.4 ⁽¹⁾All gated or controlled access subdivisions within the jurisdiction of this Ordinance must provide continuous accessibility to subdivision lots for provision of public service and emergency vehicles. The method of continuous accessibility will be defined within the private street maintenance agreement, and shall be approved by the City Manager (and/or designees).

10.1.5 DEVELOPMENT ON PRIVATE STREETS

10.1.5.1 For the proposed development of a lot or lots (including exempt lots) on an existing private street (not maintained by the City), the Engineering Department shall assess the street to determine whether the street is suitable to accommodate the additional traffic anticipated to be generated by the proposed new development.

10.1.5.2 In making a determination whether an existing private street is suitable to accommodate additional traffic to be generated by new development on that street, the Engineering Director (or designee) shall assess the condition of the existing private street based on the standard cross section for private streets, found in the City's

LDSM.

10.1.5.3 If the private street is deemed to be suitable to accommodate additional traffic by the Engineering Director (or designee), a zoning clearance permit for development will be issued by the City Planning Department. If the street is deemed not to be suitable to accommodate the traffic to be generated by the proposed development, the Engineering Director (or designee) shall identify what mitigation is required to accommodate the proposed development, including but not limited to: repair of the existing street sub-base or surface; repair, addition or enhancement of drainage structures; and or the addition of right-of-way to accommodate necessary improvements. Once the required improvements have been made, the City Planning Department will issue a Zoning Clearance permit for the requested development.

10.1.5.4 Any improvements made to accommodate the proposed new development shall not be deemed as sufficient to satisfy the requirements necessary to dedicate the private street to the City for public maintenance.

10.1.5.5 At the time an assessment of an existing private street is made by the Engineering Director (or designee), the Director will (upon request) provide the applicant with a composite list of requirements to dedicate the private street for acceptance by the City, in accordance with the City's Policy for street acceptance.

10.1.6 STREET LAYOUT STANDARDS.

This Section establishes general standards regarding the manner in which the public street system of a development is planned.

10.1.6.1 Conformity to adopted Plans. The streets within the proposed subdivision shall conform in alignment to the adopted *Cabarrus-South Rowan Urban Area Transportation Plan* and the related Collector Street Plan. The improvement standards of the Thoroughfare Plan shall not apply, except where such a standard has been specifically set forth in Appendix C of this Ordinance and the LDSM. Whenever a tract to be subdivided embraces any part of a collector street or thoroughfare so designated on a plan approved pursuant to NCGS § 136-66.2, such part of the proposed street or thoroughfare shall be platted by the subdivider in the location and width indicated on such plan. Stub streets within previously platted subdivisions shall be extended and the street system aligned thereto and to the Collector Street Plan.

APPENDIX C –Design Standards for Streets and Utilities.

~~C.1.8—Sidewalk, Curb, and Gutter Exception.~~

- ~~- The Public Works Director (or designee) shall make recommendations to the City Manager, who may grant an exception from the sidewalk, curb, and gutter requirements if any of the following scenarios exists:
 - ~~1.—Where the topography on a numbered State highway or local City street does not allow for the reasonable or practical installation of sidewalks, curbs, and gutters; and/or~~
 - ~~2.—In instances where the NCDOT or City has not yet determined the ultimate right of way width for numbered State highways and/or local streets; and/or~~
 - ~~3.—Where the State highway and/or local street is identified in the Kannapolis Sidewalk Plan as a project to be built as part of a larger sidewalk/street improvement project included within the Capital Improvement Program (CIP). In such cases, an exception may be granted for the construction of the sidewalk; however, exceptions to curb and gutter would only be permitted if scenarios 1 and/or 2 above also exist.~~
 - ~~4.—Projects located along a State road that are either funded and/or under study with NCDOT.~~
 - ~~5.—Local streets or State roads that have not been identified by the State or City as an improvement or study project but that are deemed by the City Engineer and Public Works Director as possibly becoming a project or identified as being a street or road that may not warrant improvements to be installed at this time.~~
 - ~~6.—Curb and gutter is not required for limited access and partial access highways nor is a payment in lieu of construction of curb and gutter required for frontal areas along such highways. Sidewalks would remain as a requirement along these highways.~~~~

~~7. Curb and gutter is not required on projects located in watershed areas that allow additional density when these improvements are not installed. Sidewalks would remain as a requirement along these highways.~~

- ~~Such an exception, if granted, would be subject to the following conditions:~~
 - ~~1. The developer would be required to pay a fee in lieu of the required installation.~~
 - ~~2. The fee would be calculated annually, based on actual costs for typical construction during the~~
 - ~~3. previous fiscal year at a rate of 110% to cover administrative costs and the cost of inflation, with the following exceptions:~~

~~On streets identified in the Kannapolis Sidewalk Plan as requiring sidewalk on only one side of the street, the fee shall be calculated annually based on actual costs for typical construction during the previous fiscal year at a rate of 55% to cover administrative costs and the cost of inflation.~~
 - ~~4. The fee would be put into a Sidewalk, Curb, and Gutter Reserve Account administered by the City of Kannapolis~~
 - ~~5. The Reserve Account would only be used for the construction of sidewalks, curbs, and gutters at locations within the same Sidewalk Maintenance Routes/ Zones as the project where the exception was granted. Funds collected may be used for the construction of a greenway if 1) a greenway, as proposed in the Livable Communities Blueprint, abuts the property to be developed, and/or 2) it is determined that a proposed greenway will more adequately serve pedestrian traffic and better meet the intent of the sidewalk requirement.~~
 - ~~6. Reserve Account funds will be expended within seven (7) years of the date collected.~~
 - ~~7. Exceptions may be granted for sidewalks, and/or curb & gutter by the City Manager except in scenarios specified above.~~
 - ~~8. Paying into the Reserve Account does not release a developer from providing any required rights of way and/or easement dedications.~~
- ~~Should a developer not agree to all of the above conditions, all sidewalks, curbs and gutters associated with development must be installed per the current requirements of this Ordinance.~~
- ~~This exception may only be applied to existing public streets~~
- ~~A written application for a sidewalk, curb, and gutter exception shall be submitted to the Planning Department demonstrating:~~
 - ~~1. That the project meets one or more of the above stated scenarios.~~
 - ~~2. That the developer agrees to all of the above stated conditions.~~
- ~~The Sidewalk, Curb, and Gutter Committee shall make findings as to whether the requirements of this section have been met and that the reasons set forth in the application justify the granting of the exception.~~
- ~~The Committee shall present such findings to the City Manager with seven (7) days of the receipt of the written application.~~
- ~~The City Manager shall make a decision regarding the matter within seven (7) days of the receipt of the Committee's recommendations.~~
- ~~An appeal from the findings of the City Manager may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Administrator an application for an Appeal from a Final Order, Decision, or Interpretation.~~
- ~~An appeal must be submitted within seven (7) days after the date of the findings by the City Manager.~~
- ~~The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the findings appealed from and shall make any order, requirements, decision or determination that in its opinion ought to be made in the case before it.~~



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY WITH REGARD TO
TEXT AMENDMENT TA-2020-02**

WHEREAS, Section 160A-383 (2013) of the North Carolina General Statutes specifies that the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

WHEREAS, Planning Department staff has proposed a text amendment to **Section 10.1. Street Improvement Standards and Appendix C.1.8. Sidewalk, Curb and Gutter Exception** of the Unified Development Ordinance (UDO) to clarify the requirements for when these improvements are required in conjunction with development proposals; and to address new development on “existing” private streets, by requiring that engineering and public works staff assess the impact of this development and determine whether mitigation (e.g. road or drainage improvements) should be required as a condition of development approval by City staff; and

WHEREAS, the Planning and Zoning Commission conducted a Public Hearing on August 5, 2020 for consideration of text amendment TA-2020-02 as submitted by the Planning Department staff;

NOW, THEREFORE BE IT RESOLVED that the Planning and Zoning Commission finds the text amendment as represented in Case TA-2020-02 consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan*, as well as state statutes, reasonable, and in the public interest, and is recommended for approval by the City Council based on consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff.

Adopted this the 5th Day of August, 2020;

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission