



**Planning & Zoning Commission
September 4, 2019 Meeting**

Staff Report

DATE: August 21, 2019
TO: Planning & Zoning Commission
FROM: Gretchen Coperine, AICP, Senior Planner
SUBJECT: **Case #CZ-2019-04: Unaddressed parcel on Dale Earnhardt Boulevard
Conditional Zoning Map Amendment
Applicant: Cognati Enterprises, LLC**

The applicant is requesting to rezone the property located on an unaddressed parcel on Dale Earnhardt Boulevard, from C-2-CZ (General Commercial–Conditional Zoning) to C-2-CZ (General Commercial–Conditional Zoning District) in order to construct a restaurant with a drive-through. As of the date of this report, the applicant has indicated the restaurant user will be Culver’s.

A. Actions Requested by Planning & Zoning Commission

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

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

The subject property constitutes a portion of property which was rezoned from a residential district to Conditional Use Office and Institutional (CU-O&I) in April 1998, and from CU-O&I to

Conditional Use General Commercial (CU C-2) in 2003. The rezoning was approved with a number of conditions, one of which prohibits restaurants with a drive-through. The purpose of this rezoning is to amend said condition to allow restaurant with drive-through on the site. All other conditions from the 2003 approval would continue to apply. For reference, the current Conditions of Approval on the site are as follows:

2003 Use restrictions:

1. As per Table 4.6-1 of the UDO, all uses shown as permitted (“P”) in the O&I Office and Institutional District shall be allowed for the entire site, except as prohibited below.
2. As per Table 4.6-1 of the UDO, all uses (except as prohibited below) shown as permitted (“P”) in the C-2 General Commercial District in excess of 3,000 square feet of Gross Floor Area (GFA) shall be allowed only along the Dale Earnhardt Blvd. frontage of the site for a maximum depth of 275 feet.
3. As per Table 4.6-1 of the UDO, all uses shown as permitted (“P”) in the C-2 General Commercial District below 3,000 square feet of Gross Floor Area (GFA) shall be allowed for the entire site, except as prohibited below. Beyond the 275’ depth from Dale Earnhardt Blvd., small-scale retail (below 3,000 sq. ft.) shall be limited to the first floor and shall be oriented toward the Dale Earnhardt Blvd. and/or sides of the subject property. No retail uses may be oriented towards the rear (the Forestbrook neighborhood) beyond the 275’ depth.
4. The following uses shall not be allowed:
 - Automobile sales, new and used
 - Automotive repair
 - Racecar shops
 - Animal kennels
 - Beach Bingo
 - Building Materials Supply
 - Consignment/Used Merchandise Sales
 - Convenience Store
 - Outdoor Equipment Rental and Leasing
 - Manufactured Home Sales
 - Mini-warehousing
 - Motorcycle, Boat and RV sales, new and used
 - Pawnshops
 - Pool hall/Billiard Parlor
 - Private Clubs
 - **Drive-thru/Fastfood Restaurants (subject of this rezoning)**
 - Sexually-oriented businesses
 - Shooting Ranges/Gun Clubs
 - Tattoo Parlors/Body Piercing
 - Truck Stop/Travel Plaza
 - Any use as listed in the *Wholesale Trade* Group of the UDO
 - Multi-family dwellings
 - Animal shelter
 - Auditorium/Indoor Public Assembly, more than 350 seats
 - Cemeteries, Crematories, Mausoleums
 - Recreational Sports Clubs

- Residential Care Facilities
- School – Boarding
- Zoo, public or private
- Building, Chimney, Pool Cleaning Services
- Dry Cleaning and laundry services
- Funeral Home & Services
- Janitorial services
- Pest Control Services
- Sports and Recreation Instruction/Camps
- Veterinarian Offices/Animal Hospitals
- Accessory Dwellings
- Auction House
- Automotive Parts, Tires, Accessories
- Bed & Breakfast Inns
- Equipment Rental & Leasing (with indoor storage)
- General Merchandise Stores (less than 25,000sf)
- Hotels, Motels & Extended Stay Lodging Facilities
- Lawn & Garden Supply (with outdoor storage)
- LP Gas & Heating Oil Dealers
- Micro-brewery (defined as less than 5,000 s.f.) - not permitted unless associated with a restaurant
- Motion Picture theaters, drive-in
- Parking lots & structures, commercial
- Racetracks/Spectator Sports
- Restaurant, limited service (delivery/carryout)
- Shopping Centers, less than 25,000sf – except that structures in excess of 25,000 square feet shall be allowed which may include a mix of retail and office uses
- Shopping Centers, 25-100,000sf
- Shopping Centers, over 100,000sf
- Sign Lettering & Painting
- Swimming Pool, Hot Tub Supply Stores
- Landfill – Demolition & Inert Debris
- Electric Power Transmission and Distribution
- Natural gas Distribution Facilities/Equipment
- Pipeline Transportation of Petroleum & Natural Gas
- Public Urban, Interurban and Rural Transit Systems
- Sewage Treatment Facility
- Wireless Telecommunications (WTS) Tower
- WTS Co-location of equipment on existing to

2003 Development condition:

1. The building setback off of the rear property line where abutting Lots 39 and 40 of the Forestbrook Subdivision shall be increased from five feet to 50 feet within which no parking shall be permitted. In addition to the standard Class C¹ buffer¹ as required under Section 7.4 of the UDO, the applicant also commits to installation of a six-foot high berm (minimum 3:1 slope). Additionally, a six-foot high solid, opaque wood-screening fence shall be installed along the top of the berm. The easternmost base of the berm shall not be located closer than seven (7) feet from the common property line of the subject property and Lots 39 and 40.
2. The cul-de-sac is constructed at the end of Windingbrook Drive in accordance with the public street closing of Brentwood Court and a portion of Windingbrook Drive, which occurred in October of 1998. Additionally, there will be no access of any kind from the commercial area through to Windingbrook.
3. Within the Class C¹ buffer required along the McGee property line, a fence is required to provide visual separation (C¹ buffer requires visual separation within three years of planting either by vegetation or a 6' wood/masonry fence). This fence should be continued around the proposed cul-de-sac to the northeast property corner (Fritz) and designed in a way to aesthetically blend with the proposed screening fence (see note #1).
4. The building setback off Windingbrook Drive shall be increased from 25 feet to 50 feet.
5. The site will be developed under a comprehensive master plan with entrance(s) permitted only from Dale Earnhardt Boulevard.
6. The maximum height for all principal buildings shall be 30 feet, to be measured at the highest-grade elevation on the site.
7. For the rear portion of the site, the portion that is restricted to O&I and small-scale retail uses only; the hours of operation for businesses shall be limited to between 7:00am and 8:00pm. There shall be no limitation on hours of operation for the frontage area (depth of 275') along Dale Earnhardt Blvd.
8. All rear entrances to buildings constructed within the rear portion of the site, the portion that is restricted to O&I and small-scale retail uses only, shall be restricted to employees and/or deliveries only.
9. Exterior lighting for the site shall be directed so as to provide illumination for the subject property and not promote unnecessary glare or nuisance to adjoining residential properties along the rear. Additionally, the applicant will install "no trespassing" warning signage for the portions of the site, especially the rear parking areas, to assist in preventing loitering and/or unwanted persons on-site after hours.

¹ C1 buffers are now Type 3 buffers under Article 7.

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 tracts to be rezoned is 1.63± acres. This parcel is a portion of the 2 parcels previously subject of rezoning application Z-219.

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?

This property is located in the “Primary Activity Center - Interchange” Character Area as designated in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Primary Activity Center - Interchange Character Area calls for primary uses of retail and office. Secondary uses are intended to be a mixture of single family and multifamily residential, and light manufacturing. The CZ-C2 conditional zoning district with this rezoning proposes a restaurant with drive-through, which fits with the primary uses of the Primary Activity Center - Interchange Character Area.

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

The subject property is located along Dale Earnhardt Blvd., which is primarily a commercial corridor. The property abuts residentially zoned land used for single family residential homes, however adequate buffering is provided to screen between the commercial and residential uses. The site will not have access through the residential area. The requested rezoning proposes a restaurant with drive-through of a scale that is appropriate for the location.

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

The subject property is accessed from Dale Earnhardt Blvd., which is an NCDOT street. A full site plan submittal will be required should the rezoning be approved. Appropriate access and roadway design will be required at that time per NCDOT and City access, roadway and safety standards.

5. Will there be parking problems?

The site plan submitted with this request for rezoning includes adequate parking for the proposed use.

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 environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, all development will be required to conform to all applicable local, state, and federal environmental regulations.

The required site plan will also be reviewed by City staff to ensure the development meets all stormwater requirements.

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 character of the area in immediate proximity to the proposed use has remained relatively stable over the recent past.

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

Utilities are available to serve the proposed use.

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

Parcels to the north and west along Dale Earnhardt Blvd. are zoned C-2 (General Commercial). The parcel directly north is vacant and is the subject of the 1998 and 2003 rezoning. The parcels to the west are used for retail purposes. The parcels to the east are zoned RE (Rural Estate) and are used as residential parcels. The parcel to the south of Jaycee Rd. is in the City of Concord and is used for retail purposes.

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

The subject property is currently zone CZ-C2, but due to previous restrictions placed on the property, does not permit restaurants with drive-through. The applicant is seeking to remove that restriction.

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

The requested rezoning proposes restaurant development of a scale that is appropriate along Dale Earnhardt Blvd., with adequate buffering along the eastern property line to screen the existing residential area.

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

The subject property has been vacant since at least 2008.

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

There is an adequate supply of parcels in the subject area to accommodate different development types.

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 *Move Kannapolis Forward 2030 Comprehensive Plan*, adopted by City Council, which locates this property within the Primary Activity Center - Interchange Character Area, which calls for retail as a primary use. Staff finds the request for rezoning reasonable and in the public interest because it provides for a commercial use of a scale appropriate along Dale Earnhardt Blvd., and includes adequate screening along the eastern property line to buffer the existing residential area. The proposed rezoning is compatible with the surrounding zoning and is not anticipated

to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, utilities are available to serve the proposed use.

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 of Zoning Map Amendment Case #CZ-2019-04:

1. All Conditions of Approval previously approved under Z-219 remain applicable unless otherwise amended herein.
2. The permitted uses allowed by this rezoning shall only include a restaurant with a drive thru as generally depicted on the site plan submitted with this rezoning.
3. A Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
4. Building materials shall be generally consistent with the building elevations provided for this rezoning, dated 7.30.19. Color variations are acceptable.
5. Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent residential property.
6. Driveway locations shall be approved by NCDOT and the City.
7. Driveways and parking lots shall comply with all Fire Codes.
8. Hydrants and fire protection shall comply with UDO Appendix C.3 and Fire Codes.
9. A Stormwater Management Permit will be required for this Development in accordance with Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be provided for all stormwater structures and Stormwater Control Measures.
10. The project developer shall be responsible for extension of all water and sewer infrastructure needed to serve the project.
11. The property shall be subject to the restrictions and guidelines of Article 15.2 DEB Thoroughfare Protection Overlay District.

Alternative Courses of Action

APPROVAL

Motion 1 – Statement of Consistency

Should the Commission choose to approve the request for rezoning as presented in Case #CZ-2019-04, 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 *Move Kannapolis Forward 2030 Comprehensive Plan*, adopted by City Council, which locates this property within the Primary Activity Center - Interchange Character Area, which calls for retail as a primary use. Staff finds the request for rezoning reasonable and in the public interest because it provides for a commercial use of a scale appropriate along Dale Earnhardt Blvd., and includes adequate screening along the eastern property line to buffer the existing residential area. The proposed rezoning

is compatible with the surrounding zoning and is not anticipated to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, utilities are available to serve the proposed use.

Motion 2 – Approval to rezone – Resolution to Zone

Should the Commission choose to approve the rezoning request, a motion should be made to adopt the Resolution to Zone (see attached).

DENIAL

Motion 1 – Statement of Consistency

Should the Commission choose to deny the rezoning request as presented in Case #CZ-2019-04, 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-2019-04 to be inconsistent with the Move Knapolis Forward 2030 Comprehensive Plan, adopted by City Council, because (state reason(s) and is neither reasonable nor in the public interest because (state reason(s) and is therefore denied based on the criteria in Section 3.3.5 of the UDO for evaluating zoning requests, consideration of the application materials and information presented at the Public Hearing).

Motion 2 – Denial of Rezoning

Should the Commission choose to deny the rezoning request, a motion should be made to not adopt the Resolution to Zone.

I. Attachments

1. Conditional Rezoning Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Z-219 Map (Previously 2003 Approved Rezoning)
6. Site Plan
7. Proposed Elevation
8. Community Meetings and Sign-In Sheets
9. Notice of Public Hearing
10. List of Properties Notified
11. Letters to Adjacent Property Owners
12. Posted Public Notice
13. Resolution to Adopt a Statement of Consistency
14. Resolution to Zone

J. Issue Reviewed By:

- City Manager
- City Attorney
- Planning Director

KANNAPOLIS

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

Type of Action Requested (Check One):

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

Applicant: COGNATI ENTERPRISES, LLC Owner: G. THOMAS FRANKLIN

Address: 100 UNITED DRIVE Address: 766 COURTNEY ST SE
COLLINGSVILLE, IL 62234 CONCORD, NC 28025

Telephone: 618-980-7654 Telephone: 704-699-0248

Email: luensman3@gmail.com Email: gtfranklin@carolina.rr.com

Legal relationship of applicant to property owner: GRANTEE

Property Location/Address: 910 BRENTWOOD CT, KANNAPOLIS, NC
56226954420000

Tax Parcel Number: 56226954420000 Zoning District: CUC-2 Acreage of Site: 1.63

Lassy Luensman G. THOMAS FRANKLIN
Applicant Name (Print) Property Owner Name (Print)

[Signature] 8/1/19 [Signature] 8/5/2019
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: \$625.00

Receipt # M-11216

Application No.: CZ-2019-04
Culver's

Date Submitted (Complete): 08/05/19

CITY OF KANNAPOLIS
APPLICATION FOR A CONDITIONAL ZONING DISTRICT
(to be attached to the Rezoning Application)

I, G. THOMAS FRANKLIN, 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:

DRIVE-THRU/FAST FOOD RESTAURANTS

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

DRIVE-THRU/FAST FOOD RESTAURANTS BE REMOVED FROM THE LIST OF USES NOT ALLOWED IN THE CURRENT CONDITIONAL USE (CASE Z-219)

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.

G. Thomas Franklin
Signature of Property Owner

Signature of Property Owner

766 COURTNEY ST SE

CONCORD, NC 28025

Address

Address

704 699-0248

Telephone #

Telephone #

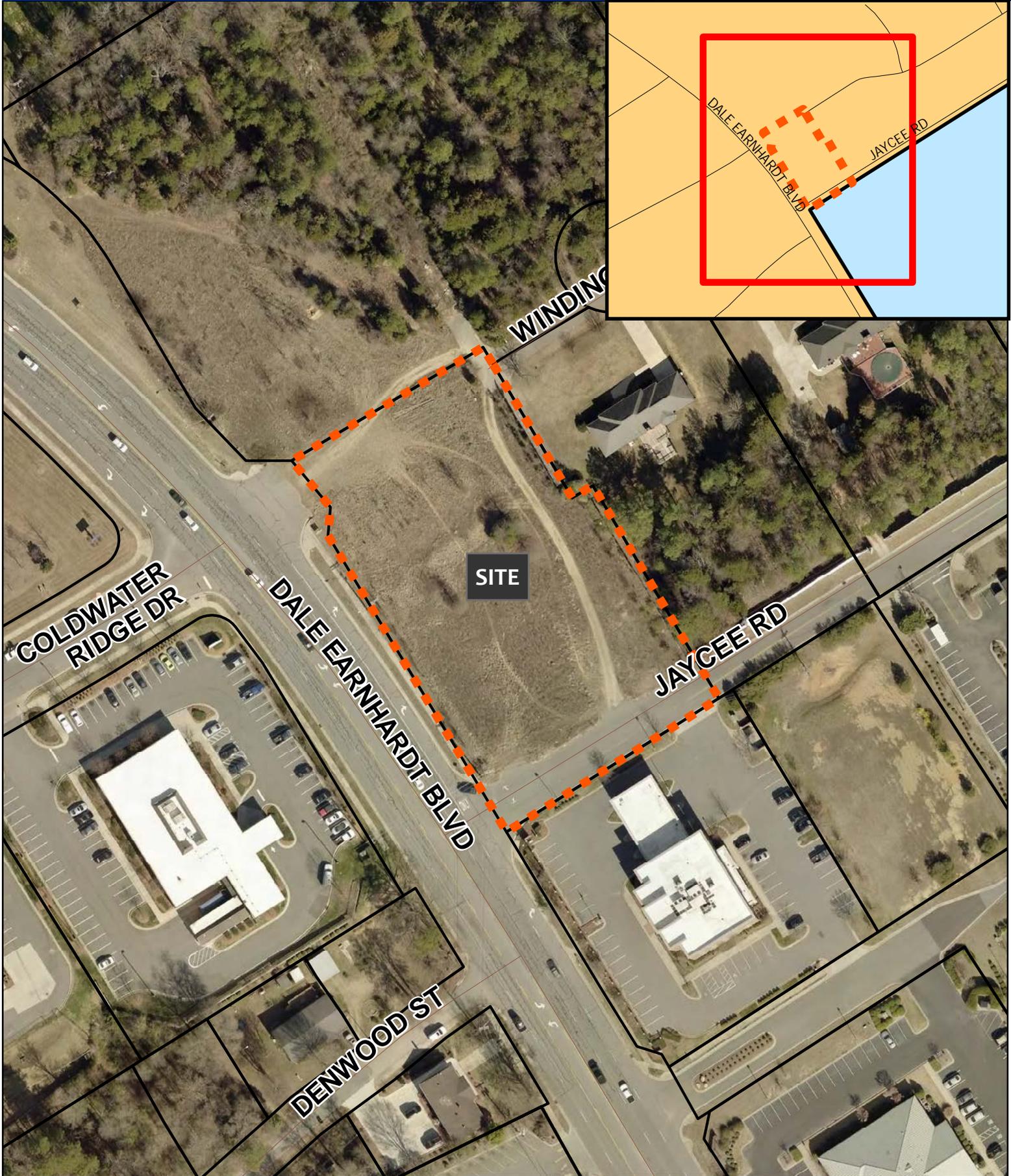
Please refer to fee schedule to determine applicable fees.

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



Vicinity Map

Case Number: CZ-2019-04
Applicant: Cognati Enterprises, LLC
Dale Earnhardt Bv. @ Jaycee Rd.





Kannapolis Current Zoning

Case Number: CZ-2019-04
Applicant: Cognati Enterprises, LLC
Dale Earnhardt Bv. @ Jaycee Rd.





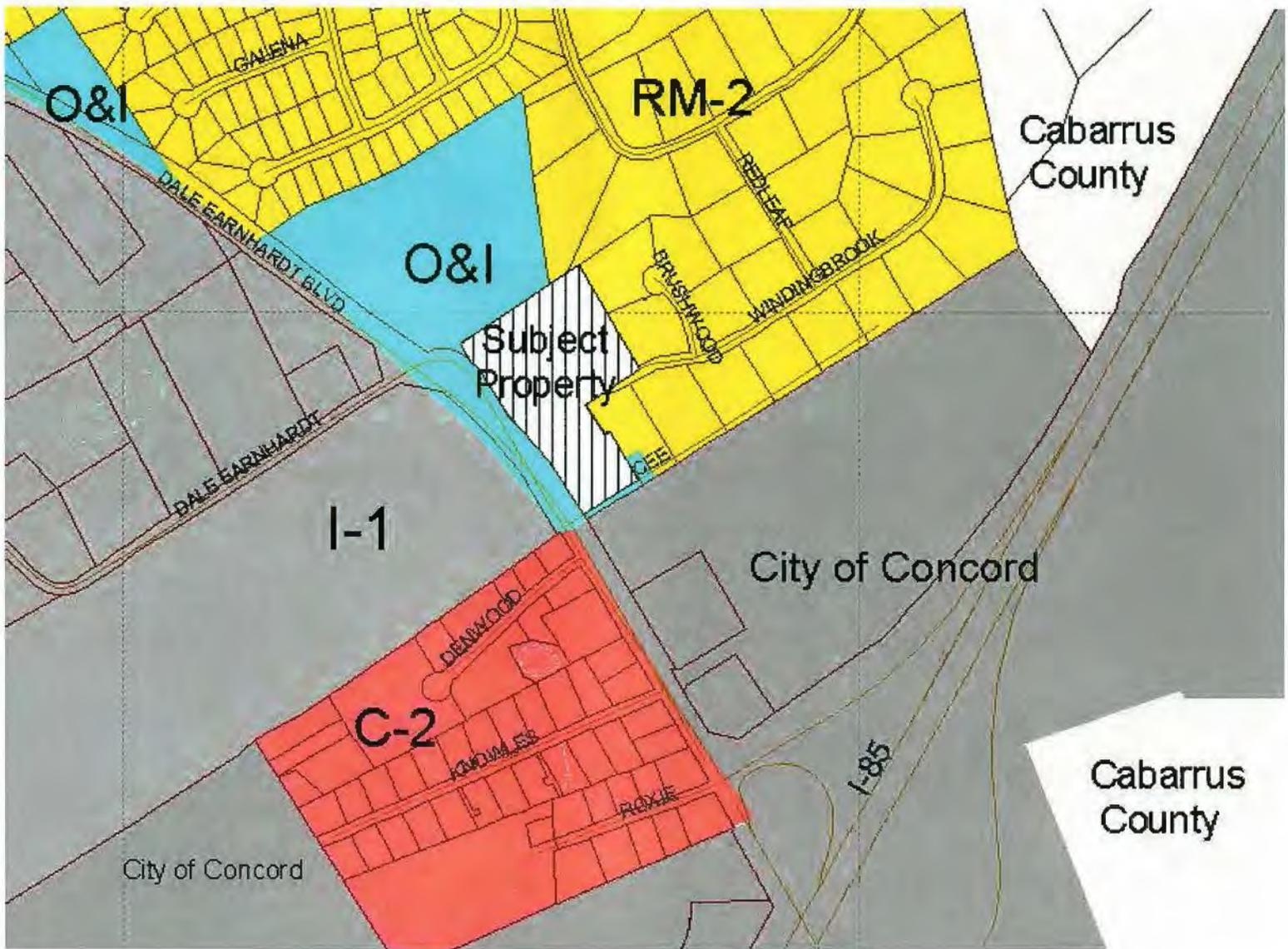
Kannapolis 2030 Future Land Use Map

Case Number: CZ-2019-04

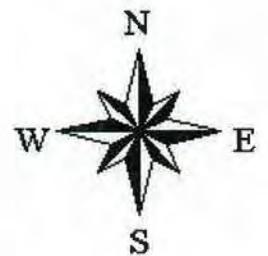
Applicant: Cognati Enterprises, LLC

Dale Earnhardt Bv. @ Jaycee Rd.





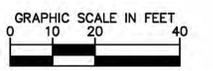
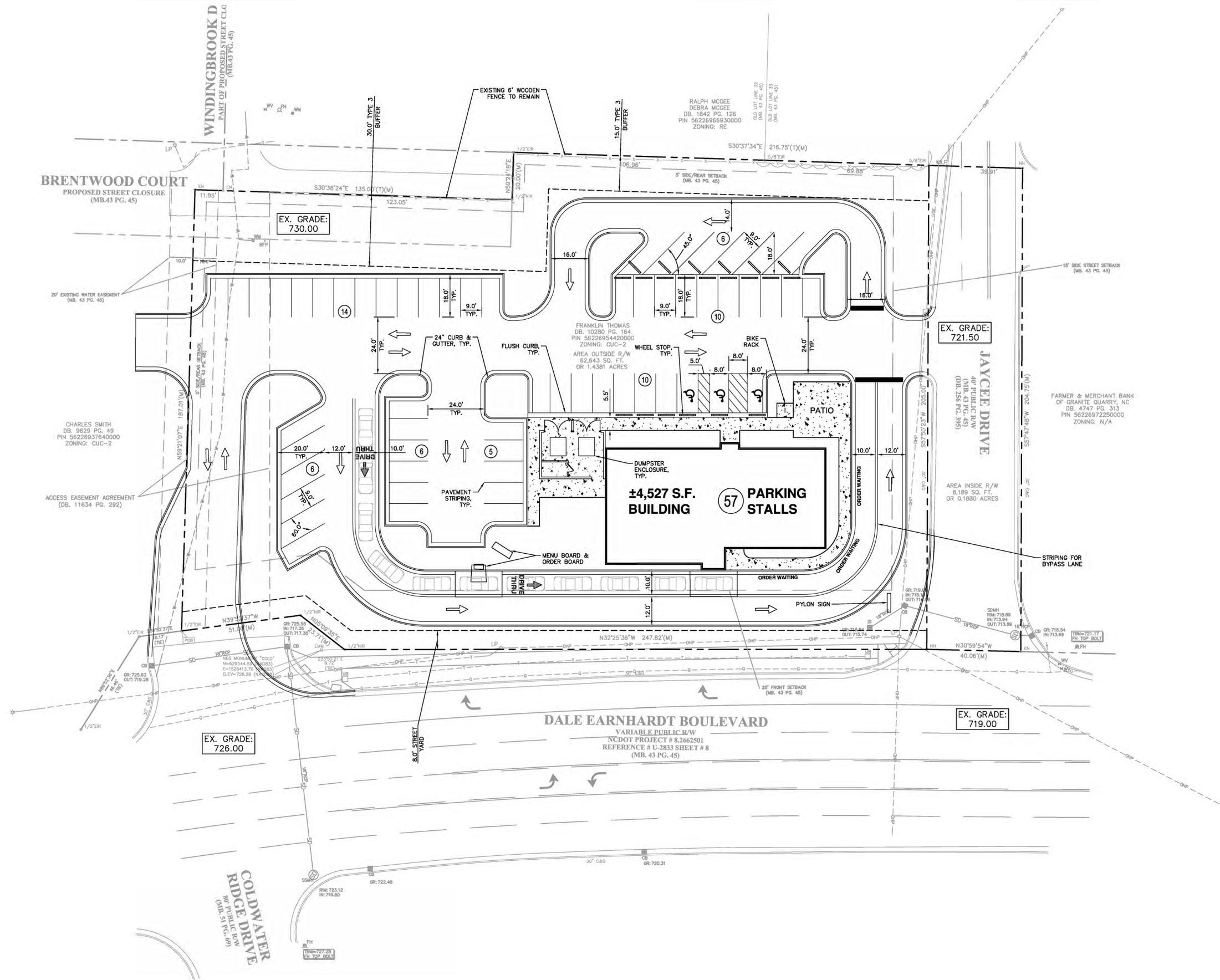
**2003 Rezoning
Case Z-219
Rezoning from
CU O&I to CU C-2
Applicant: Steve Smith**



Vicinity Map

PRELIMINARY
NOT FOR CONSTRUCTION

SITE DATA	
PROPERTY INFORMATION	
PROPERTY LOCATION	KANNAPOLIS CITY LIMITS
PIN	56226954420000
EXISTING ZONING:	CUC-2 (#2-219)
EXISTING USE:	VACANT
TOTAL SITE AREA:	1.63 ACRES (70,832 SF)
BUILDING SETBACKS:	PRIMARY STREET = 25' SIDE = 15' SIDE/REAR = 5'
LANDSCAPE BUFFERING:	ONLY YOSHINO CHERRY TREES ALLOWED IN STREET YARDS FRONTING DALE EARNHARDT BLVD.
TYPE 1 PERIMETER BUFFER YARD	8' (1.0 PLANT UNIT MULTIPLIER)
TYPE 3 PERIMETER BUFFER YARD	15' (1.3 PLANT UNIT MULTIPLIER) 30' (0.6 PLANT UNIT MULTIPLIER)
PROJECT DATA	
PROPOSED USE:	RESTAURANT WITH DRIVE-THRU
PROPOSED # OF BUILDINGS	1 (±4,527 S.F.)
BUILDING LOT COVERAGE:	6.4% (4,527 S.F./70,832 S.F.)
FLOOR AREA RATION:	6.4%
NUMBER OF SEATS:	95
PARKING:	MIN REQUIRED: 1 PER 3 SEATS + VEHICLE STACKING MAX ALLOWED: 1 PER 50 SF GFA + VEHICLE STACKING
VEHICLE STACKING:	4 BEFORE ORDER BOX 4 BETWEEN ORDER BOX & PICK-UP 8 TOTAL STACKING REQUIRED
TOTAL REQUIRED PARKING:	MIN: 95/3 = 32 + 8 = 40 SPACES MAX: 4,527/50 = 91 + 8 = 99 SPACES
TOTAL PROVIDED PARKING:	57 SPACES + 8 STACKING
ADA PARKING:	REQUIRED: 2 SPACES (1 VAN) PROVIDED: 2 SPACES (1 VAN)
BIKE PARKING:	PROVIDED: 1 RACK (2 SPACES)
PROPOSED BUILDING HEIGHT:	±23' (1 STORY)



This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Release of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

No.	REVISIONS	DATE	BY

Kimley»Horn
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421 FAYETTEVILLE STREET, SUITE 600, RALEIGH, NC 27601
PHONE: 919-677-2000
WWW.KIMLEY-HORN.COM

KHA PROJECT
013431000
DATE
07-31-2019
SCALE AS SHOWN
DESIGNED BY WWH
DRAWN BY WWH
CHECKED BY COB

**CULVER'S
KANNAPOLIS**
DALE EARNHARDT BOULEVARD
CITY OF KANNAPOLIS CABARRUS COUNTY NORTH CAROLINA

PRELIMINARY SITE PLAN

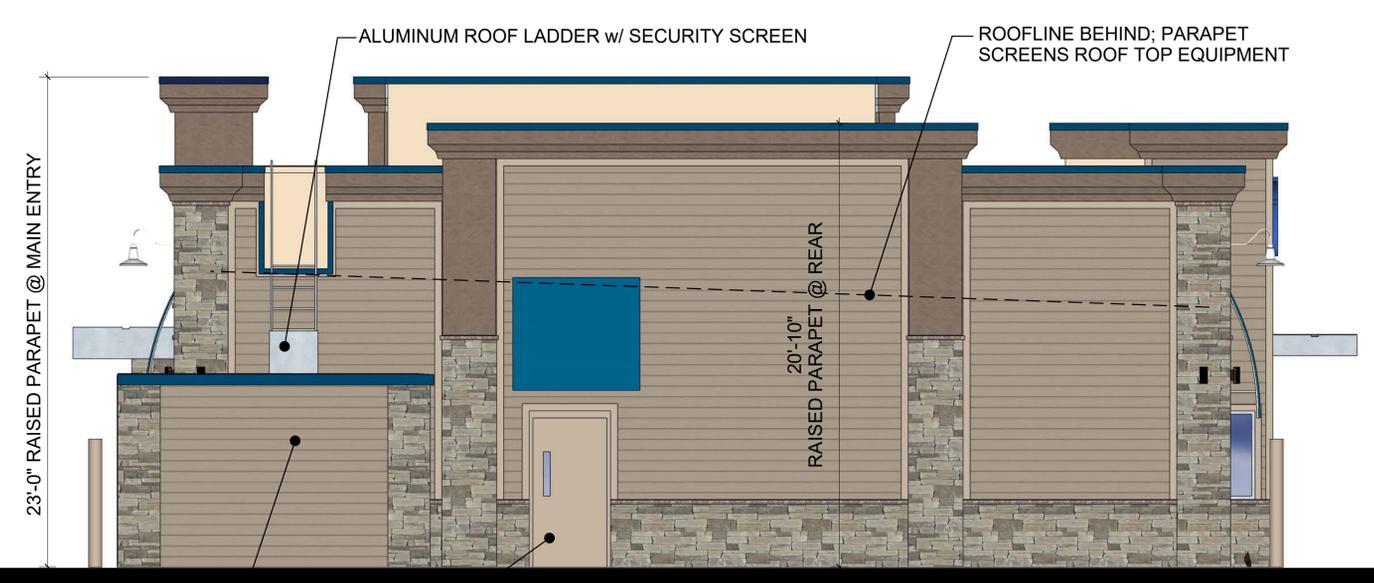
SHEET NUMBER
C1.0



DRIVE THRU (SOUTHWEST) ELEVATION



FRONT (SOUTHEAST) ELEVATION



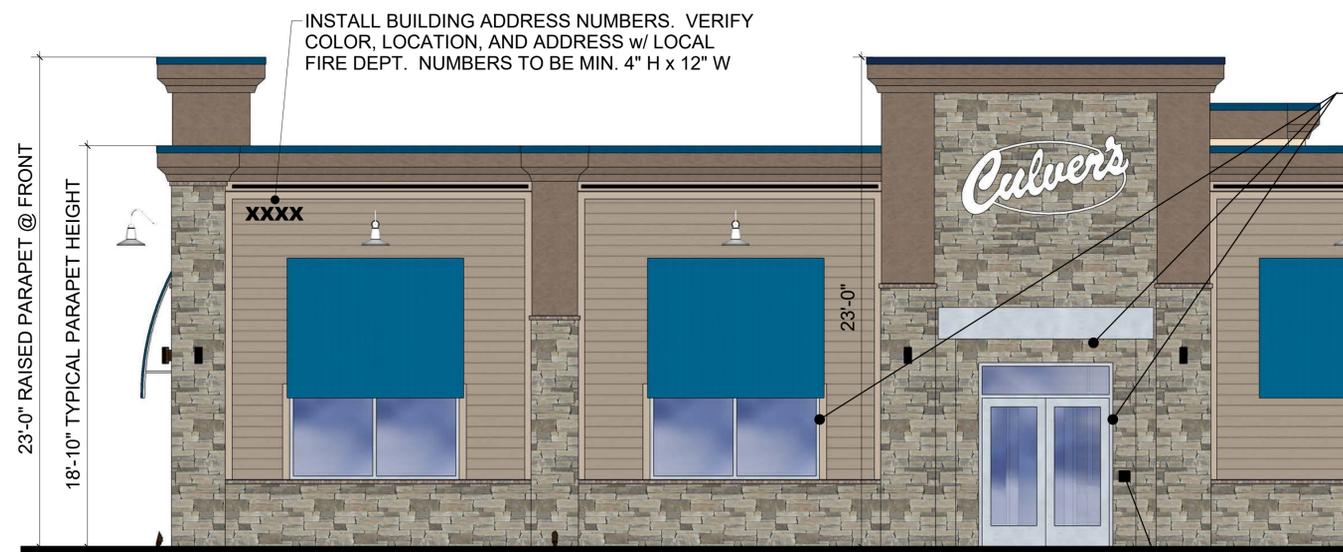
REAR (NORTHWEST) ELEVATION

DUMPSTER ENCLOSURE
EXTERIOR HOLLOW METAL SHALL BE PAINTED TO MATCH SIDING

EXAMPLE PROTOTYPE FINISHES ARE DEPICTED, ACTUAL COLORS MAY CHANGE

REPRESENTATION MATERIAL COLOR

- COPING, UNA-CLAD "REGAL BLUE"
- EIFS "CORNICHE" & UPPER PIERS "TIKI HUT" SW 7509
- GOOSENECK WHITE
- AWNING CANVAS (BY OTHERS) "ROYAL BLUE" 4617
- CEMENT BOARD SIDING "KHAKI BROWN" JAMESHARDIE
- MFGR'D STONE w/ STONE SILL TRIM "ECHO RIDGE" COUNTRY LEDGESTONE BORAL



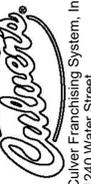
MAIN ENTRY (NORTHEAST) ELEVATION

KNOX BOX - VERIFY LOCATION & TYPE W/ LOCAL FIRE DEPT

SYNTHETIC WOOD OR CEDAR 2x6 PLANK BOARDS @ DUMPSTER GATE. COLOR TO MATCH SIDING

©2019

NEW CULVER'S RESTAURANT
Dale Earnhardt Boulevard
 Kannapolis, NC 28083
 County of CABARRUS


 Culver Franchising System, Inc
 1240 Water Street
 Prairie du Sac, WI 53578
 608-643-7980

OLLMANN ASSOCIATES
 ARCHITECTS, P.C.
 200 South State Street
 Belleville Illinois 61008
 815-544-7790 Phone

ELEVATIONS
 NOTE: THOUGH THESE IMAGES HAVE PHOTO REALISTIC QUALITIES, THE ACTUAL BUILDING MATERIALS MAY VARY IN APPEARANCE.

Date: 7-30-2019
 Revision:

2019-069

A1

Kimley»Horn

July 26, 2019

Dear Kannapolis Area Property Owner:

The purpose of this letter is to notify you of an application filed with the City of Kannapolis for a land use change or development proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Cabarrus County tax records. Per City of Kannapolis regulations, a Community Meeting will be held to provide information to area residents about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: August 5th, 2019 Meeting Time: 5:30 p.m.

Meeting Location: Dunkin' Donuts, 2257 Spider Dr NE, Kannapolis, NC 28083

Type of Application:	<u>Rezoning</u>
Project/proposal Property Address:	<u>910 Brentwood Court, Kannapolis, NC 28083</u>
Description of project/proposal:	<u>Proposed Culver's Restaurant</u>
Upcoming public meetings for this application:	<u>Public Hearing – September 4th, 2019</u>

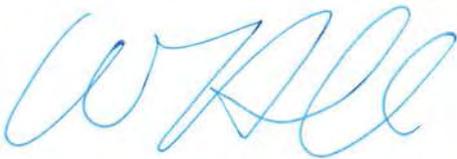
At a minimum, the following will be available for your inspection at the Neighborhood Meeting:

1. A copy of the project application
2. A map at a scale that is appropriate to the project and shows neighboring properties and roads.
3. A map, drawing, or other depiction of the proposed land use change or development proposal.

A map is enclosed with this letter showing the location of the property that is subject to this application for land use change and/or development proposal.

If you have any questions prior to or after this meeting, you may contact us at 919-677-2000. You may also contact the Planning Department at 704-920-4362.

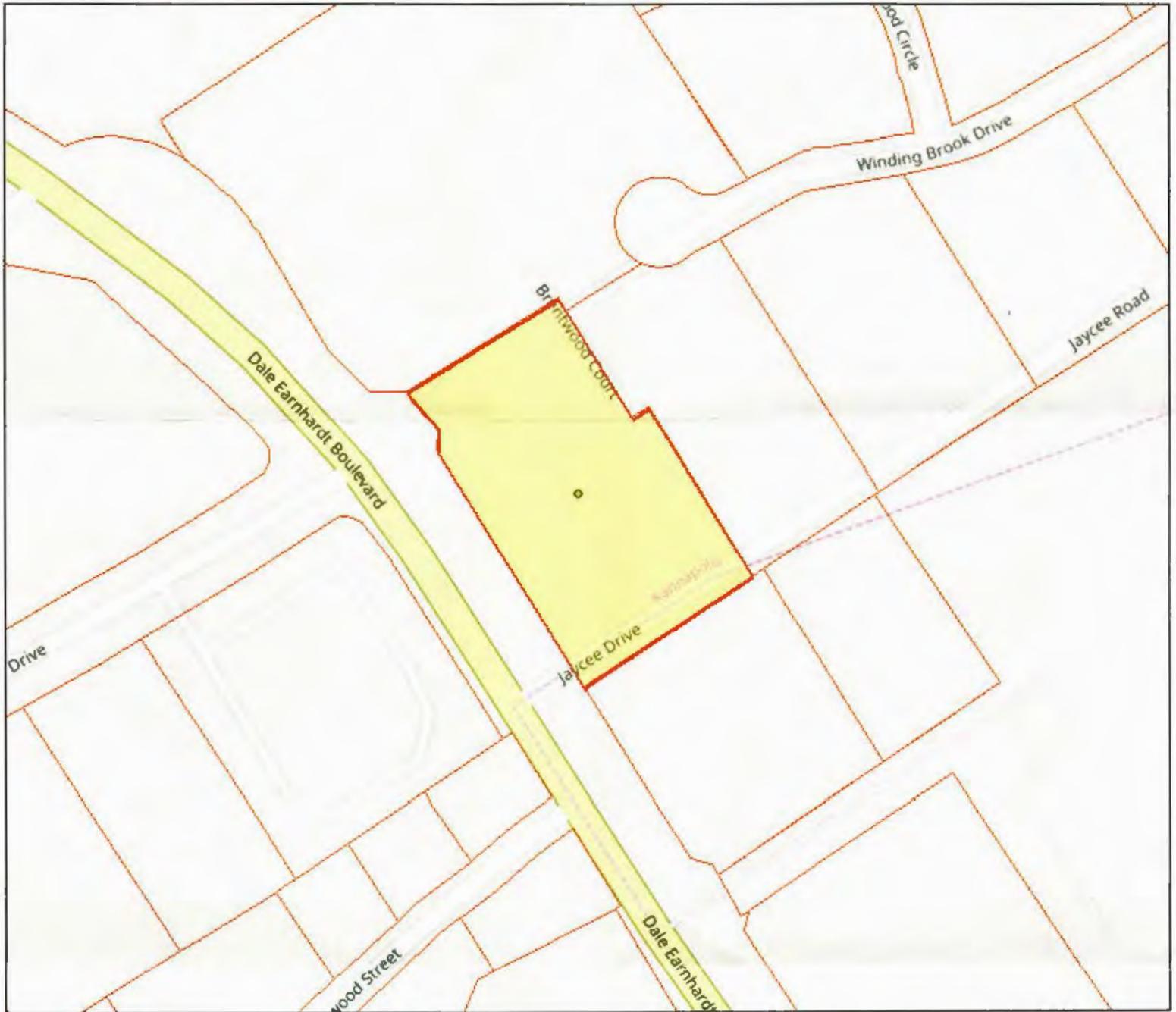
Sincerely,
Kimley-Horn & Associates, Inc.



Wes Hall, EIT

Cc: City of Kannapolis Planning Department

PIN 56226954420000

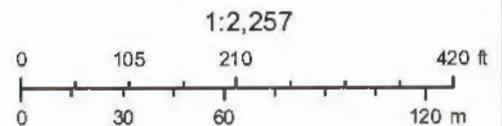


Property Real ID 04-086B-0033.00
Physical Address: No Parcel Selected
Owner Name 1: FRANKLIN G THOMAS
Owner Name 2:
Mailing Address: 766 COURTNEY ST SE
Mail City: CONCORD
Mail State: NC
Mail Zip: 28025

Parcel PIN 56226954420000
Land Units 1.63
Land Units Type AC
Land Value 1053800
Building Value 0
Assessed Value 1053800
Market Value 1053800

Cabarrus County shall not be held liable for any errors in the data represented on this record. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. The data cannot be construed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.

Map Created By Cabarrus County IT Department
Data Sources: Cabarrus County Land Records



Community Meeting Summary

Project: Culver's Kannapolis
Date of Mailing: July 26, 2019
Date of Meeting: August 5, 2019
Time of Meeting: 5:30pm
Location of Meeting: Dunkin' Donuts, 2257 Spider Drive NE, Kannapolis, NC 28083

Printed Name:

WES HALL

Signature:



Meeting Summary/Minutes:

I arrived at Dunkin' Donuts at 5:30 pm and Mr. Ralph McGee, Mr. John Bankhead, and Mrs. Gladys Bankhead were at the meeting location already.

We spoke for several minutes regarding post development and I explained what we were proposing and explained the next step in the process being the public hearing on Sept. 4th. They assured me that they would be at the meeting.

Mr. Ralph McGee left before filling out the attendance roster, so I added his name to be thorough.

I stayed at the site until 6:40 and no one else showed up.

PIN14	AcctName1	AcctName2	MailAddr1	MailAddr2	MailCity	MailState	MailZipCod
56226986780000	BRACERO VENTURA LF EST		2428 WINDINGBROOK DR		KANNAPOLIS	NC	28083
56226941670000	BANKHEAD GLADYS M		2300 DENWOOD ST		KANNAPOLIS	NC	28083
56226937640000	SMITH CHARLES S		PO BOX 166		KANNAPOLIS	nc	28082
56226931810000	BANKHEAD GLADYS M		2300 DENWOOD ST		KANNAPOLIS	NC	28083
56226922690000	GOODWILL INDUSTRIES OF		NORTHWEST NC INC	2701 UNIVERSITY PARKWAY	WINSTON-SALEM	NC	27105
56226966930000	MCGEE RALPH W	MCGEE DEBRA M WF	764 COURTNEY ST SE		CONCORD	NC	28025
56226983740000	JOHNSON FRANKIE COLINS LF EST	STAHL KENNETH K	24 LAMPLIGHTER DR		WAYNESVILLE	NC	28786
56227954490000	LOWE'S HOME CENTERS INC		A NC CORPORATION/ATTN:TAX DEPT	1000 LOWE'S BOULEVARD	MOORESVILLE	NC	28117
56226972250000	FARMERS & MERCHANTS BANK		OF GRANITE QUARRY N C	221 N MAIN ST	SALISBURY	NC	28144
56226950070000	LE DUOC V	LE TRANG LINH WF	208 S MCCOY RD		SALISBURY	NC	28144
56226954420000	FRANKLIN G THOMAS		766 COURTNEY ST SE		CONCORD	NC	28025
56225995970000	STATE EMPLOYEES'CREDIT UNION		DALE EARNHARDT BLVD BRANCH	P O BOX 26807	RALEIGH	NC	27611

Kimley » Horn

July 26, 2019

Dear Kannapolis Area Property Owner:

The purpose of this letter is to notify you of an application filed with the City of Kannapolis for a land use change or development proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Cabarrus County tax records. Per City of Kannapolis regulations, a Community Meeting will be held to provide information to area residents about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: August 5th, 2019 Meeting Time: 5:30 p.m.

Meeting Location: Dunkin' Donuts, 2257 Spider Dr NE, Kannapolis, NC 28083

Type of Application: Rezoning

Project/proposal Property Address: 910 Brentwood Court, Kannapolis, NC 28083

Description of project/proposal: Proposed Culver's Restaurant

Upcoming public meetings for this application: Public Hearing – September 4th, 2019

At a minimum, the following will be available for your inspection at the Neighborhood Meeting:

1. A copy of the project application
2. A map at a scale that is appropriate to the project and shows neighboring properties and roads.
3. A map, drawing, or other depiction of the proposed land use change or development proposal.

A map is enclosed with this letter showing the location of the property that is subject to this application for land use change and/or development proposal.

If you have any questions prior to or after this meeting, you may contact us at 919-677-2000. You may also contact the Planning Department at 704-920-4362.

Sincerely,
Kimley-Horn & Associates, Inc.



Wes Hall, EIT

Cc: City of Kannapolis Planning Department

Community Meeting Summary

Project: Culver's Kannapolis
Date of Mailing: July 26, 2019
Date of Meeting: August 5, 2019
Time of Meeting: 5:30pm
Location of Meeting: Dunkin' Donuts, 2257 Spider Drive NE, Kannapolis, NC 28083

Printed Name: _____

WES HALL

Signature: _____



Meeting Summary/Minutes:

Arrived at 5:30pm.

Ralph McGee owns the adjacent property to the NE that he uses as a rental property. He was not happy about the idea of developing the property and was frustrated that it was ever rezoned to commercial in the first place. He said he would attend the public meeting. He left without signing the sign in sheet (I wrote his name down after he left to make sure it was recorded).

Mrs. Bankhead said she would speak on it because previous rezonings have, in her opinion, messed up her neighborhood across Dale Earnhardt Blvd where she lives, and she doesn't want to see it happen to anyone else. Her main motivation for coming to the meeting was informational and she said she would attend the public meeting to see what happens.

Left at 6:35pm.



Order Confirmation

Order# 0000589812

PO Box 27283
Richmond, VA 23261-7283

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 Accnt Rep Ordered By
aboan aboan Pam

Fax: 7049337463
EMail: byow@kannapolisnc.gov

Total Amount \$510.34
Payment Amount \$510.34

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
0000589812-01 CLS Liner 2 X 41 li \$0.00

Production Method Production Notes
AdBooker (liner)

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

Run Schedule Invoice Text: NOTICE OF PUBLIC HEARING Kannapolis City Hall 401

Run Dates 8/23/2019, 8/30/2019

TagLine: NOTICEOFPUBLICHEARINGKANNAPOLISCITYHALL401LAUREATEWAYKANNAPOLISNC28081PLANNING ANDZONINGCOMMISSIONMEETINGWEDNESDAYSEPTEMBER42019AT6



NOTICE OF PUBLIC HEARING
Kannapolis City Hall
401 Laureate Way, Kannapolis, NC 28081

Planning and Zoning Commission Meeting
Wednesday September 4, 2019 at 6:00 pm

Zoning Map Amendment - CZ-2019-04 - Public hearing to consider a request to rezone approximately 1.63 +/- acres located on unaddressed property on Dale Earnhardt Boulevard from C-2-CZ (General Commercial-Conditional Zoning) to C-2-CZ (General Commercial-Conditional Zoning), further identified as Cabarrus County PIN #5622-69-5442 to allow for a restaurant with a drive-thru.

If you have questions or concerns regarding these cases, please contact the City of Kannapolis Planning Department at 704-920-4350.

Hearing impaired persons desiring additional information or having questions regarding this subject should call the North Carolina Relay Number for the Deaf (1-800-735-8262). The meeting facility is accessible to people with disabilities. To request special accommodations in advance, contact the City's ADA Coordinator at 704-920-4302 or email tcline@kannapolisnc.gov.

Publish: August 23, August 30, 2019.

AcctName1	Addr1	City	State	ZipCod
VENTURA BRACERO LF EST	2428 WINDINGBROOK DR	KANNAPOLIS	NC	28083
GLADYS M BANKHEAD	2300 DENWOOD ST	KANNAPOLIS	NC	28083
CHARLES S SMITH	PO BOX 166	KANNAPOLIS	nc	28082
GOODWILL INDUSTRIES OF NORTHWEST NC, INC.	2701 UNIVERSITY PARKWAY	WINSTON-SALEM	NC	27105
RALPH MCGEE & DEBRA MCGEE	764 COURTNEY ST SE	CONCORD	NC	28025
FRANKIE COLINS JOHNSON LF EST				
C/O KENNETH STAHL	24 LAMPLIGHTER DR	WAYNESVILLE	NC	28786
LOWE'S HOME CENTERS INC	1000 LOWE'S BOULEVARD	MOORESVILLE	NC	28117
FARMERS & MERCHANTS BANK OF GRANITE QUARRY	221 N MAIN ST	SALISBURY	NC	28144
DUOC V LE & LINH TRANG LE	208 S MCCOY RD	SALISBURY	NC	28144
G THOMAS FRANKLIN	766 COURTNEY ST SE	CONCORD	NC	28025
STATE EMPLOYEES'CREDIT UNION				
DALE EARNHARDT BLVD BRANCH	P O BOX 26807	RALEIGH	NC	27611



KANNAPOLIS
Planning

August 21, 2019

Dear Property Owner:

Please be advised that the City of Kannapolis Planning & Zoning Commission will conduct a Public Hearing on Wednesday, September 4, 2019 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

CZ-2019-04 – Zoning Map Amendment – Culver’s

The purpose of the Public Hearing is to consider a request by Cognati Enterprises, LLC to rezone property located at an unaddressed parcel located on Dale Earnhardt Boulevard from C-2-CZ (General Commercial-Conditional Zoning) to C-2-CZ (General Commercial-Conditional Zoning) to allow for a restaurant with a drive-thru. The subject property is approximately 1.63 +/- acres in size and further identified as Cabarrus County Parcel Identification Number(s) 5622-69-5442 (see reverse side of this letter for vicinity map showing the location of this property).

As an abutting property owner, you are being notified of this public hearing in accordance with the requirements of the Kannapolis Unified Development Ordinance; and are invited to attend the public hearing and present testimony, should you desire, to the Planning and Zoning Commission.

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
Senior Planner

Enclosure

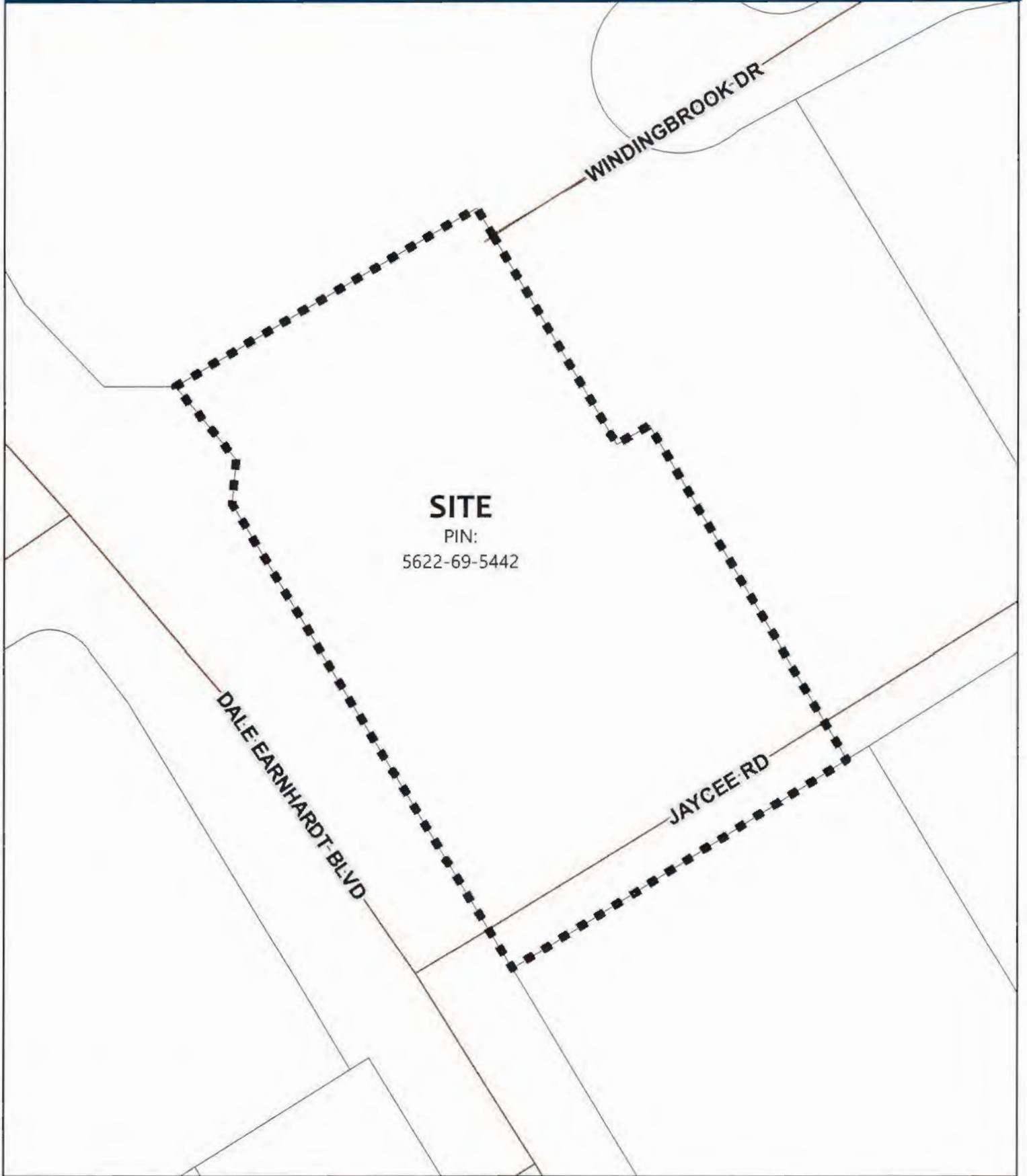
The meeting facility is accessible to people with disabilities. To request special accommodation in advance, contact the City's ADA Coordinator at 704-920-4302 or e-mail to tcline@kannapolisnc.gov.



Conditional Rezoning

Case Number: CZ-2019-04

Applicant: Cognati Enterprises, LLC
Dale Earnhardt Bv. @ Jaycee Rd.





FOR SALE
1.63 ± ACRES
 ZONED C2

 DALE EARNHARDT BLVD.
704.699.0248
704.962-2880

KANNAPLIS
PLANNING
ZONING
COMMISSION
 PUBLIC HEARING
 INFORMATION
 CALL 704-920-4350
 CASE # CZ - 2019 - 04





**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
WITH REGARD TO CASE # CZ-2019-04**

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 September 4, 2019 the Planning and Zoning Commission conducted a public hearing to consider a request to rezone property located on an unaddressed parcel on Dale Earnhardt Boulevard (Cabarrus County Parcel Identification Number(s) 5622-69-5442) owned by Franklin Thomas, from City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) Designation to City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) Designation.

NOW, THEREFORE BE IT RESOLVED *that the Planning and Zoning Commission finds this rezoning consistent with the Move Kannapolis Forward 2030 Comprehensive Plan, adopted by City Council, which locates this property within the Primary Activity Center - Interchange Character Area, which calls for retail as a primary use. Staff finds the request for rezoning reasonable and in the public interest because it provides for a commercial use of a scale appropriate along Dale Earnhardt Blvd., and includes adequate screening along the eastern property line to buffer the existing residential area. The proposed rezoning is compatible with the surrounding zoning and is not anticipated to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, utilities are available to serve the proposed use.*

Adopted this the 4th day of September 2019:

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission



RESOLUTION TO ZONE

Case # CZ-2019-04

(Unaddressed parcel on Dale Earnhardt Boulevard)

City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) District to City of Kannapolis General Commercial-Conditional Zoning (C-2-CZ) 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 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 September 4, 2019 for consideration of rezoning petition Case #CZ-2019-04 as submitted to the City of Kannapolis Planning Department; and

WHEREAS, the request was to rezone property located on an unaddressed parcel on Dale Earnhardt Boulevard (Cabarrus County Parcel Identification Number(s) 5622-69-5442) owned by Franklin Thomas, from City of Kannapolis Zoning Designation C-2-CZ – General Commercial-Conditional Zoning to City of Kannapolis Zoning Designation C-2-CZ – General Commercial-Conditional Zoning; and

WHEREAS, the Commission has approved the request for rezoning and found it to be consistent with the *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 tracts to be rezoned is 1.63± acres. This parcel is a portion of the 2 parcels previously subject of rezoning application Z-219.

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?

This property is located in the “Primary Activity Center - Interchange” Character Area as designated in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Primary Activity Center - Interchange Character Area calls for primary uses of retail and office. Secondary uses are intended to be a mixture of single family and multifamily residential, and light manufacturing. The CZ-C2 conditional zoning district with this rezoning proposes a restaurant with drive-through, which fits with the primary uses of the Primary Activity Center - Interchange Character Area.

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

The subject property is located along Dale Earnhardt Blvd., which is primarily a commercial corridor. The property abuts residentially zoned land used for single family residential homes, however adequate buffering is provided to screen between the commercial and residential uses.

The site will not have access through the residential area. The requested rezoning proposes a restaurant with drive-through of a scale that is appropriate for the location.

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

The subject property is accessed from Dale Earnhardt Blvd., which is an NCDOT street. A full site plan submittal will be required should the rezoning be approved. Appropriate access and roadway design will be required at that time per NCDOT and City access, roadway and safety standards.

5. Will there be parking problems?

The site plan submitted with this request for rezoning includes adequate parking for the proposed use.

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 environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, all development will be required to conform to all applicable local, state, and federal environmental regulations.

The required site plan will also be reviewed by City staff to ensure the development meets all stormwater requirements.

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 character of the area in immediate proximity to the proposed use has remained relatively stable over the recent past.

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

Utilities are available to serve the proposed use.

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

Parcels to the north and west along Dale Earnhardt Blvd. are zoned C-2 (General Commercial). The parcel directly north is vacant and is the subject of the 1998 and 2003 rezoning. The parcels to the west are used for retail purposes. The parcels to the east are zoned RE (Rural Estate) and are used as residential parcels. The parcel to the south of Jaycee Rd. is in the City of Concord and is used for retail purposes.

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

The subject property is currently zone CZ-C2, but due to previous restrictions placed on the property, does not permit restaurants with drive-through. The applicant is seeking to remove that restriction.

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

The requested rezoning proposes restaurant development of a scale that is appropriate along Dale Earnhardt Blvd., with adequate buffering along the eastern property line to screen the existing residential area.

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

The subject property has been vacant since at least 2008.

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

There is an adequate supply of parcels in the subject area to accommodate different development types.

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. **All Conditions of Approval previously approved under Z-219 remain applicable unless otherwise amended herein.**
2. **The permitted uses allowed by this rezoning shall only include a restaurant with a drive thru as generally depicted on the site plan submitted with this rezoning.**
3. **A Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.**
4. **Building materials shall be generally consistent with the building elevations provided for this rezoning, dated 7.30.19. Color variations are acceptable.**
5. **Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent residential property.**
6. **Driveway locations shall be approved by NCDOT and the City.**
7. **Driveways and parking lots shall comply with all Fire Codes.**
8. **Hydrants and fire protection shall comply with UDO Appendix C.3 and Fire Codes.**
9. **A Stormwater Management Permit will be required for this Development in accordance with Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be provided for all stormwater structures and Stormwater Control Measures.**
10. **The project developer shall be responsible for extension of all water and sewer infrastructure needed to serve the project.**
11. **The property shall be subject to the restrictions and guidelines of Article 15.2 DEB Thoroughfare Protection Overlay District.**

Adopted this the 4th day of September 2019:

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission



**Planning and Zoning Commission
September 4, 2019 Meeting**

Staff Report

DATE: August 27, 2019
TO: Planning and Zoning Commission Members
FROM: Ryan Lipp, Senior Planner

SUBJECT: Text Amendment – TA-2019-06 Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Article 5, Supplemental Use Regulations and Appendix A, – Public Hearing to consider a text amendment to Article 4, Table 4.6-1, Article 5 and Appendix A of the Unified Development Ordinance (UDO), to allow mobile food vending with in the CC (Center City), C-1 (Light Commercial and Office), and the C-2 (General Commercial) districts with specific standards.

A. Actions Requested by Planning and Zoning Commission Members

1. Hold Public Hearing
2. Consider Resolution to Adopt a Statement of Consistency for TA-2019-06
3. 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 Article 4, Table 4.6-1, Article 5, Supplemental Use Regulation, and Appendix A to allow for mobile food vending as a permitted use in the CC (Center City), C-1(Light

Commercial and Office), and C-2 (General Business) zoning districts with standards. This text amendment proposes to:

1. Permit the use within the CC, C-1, and C-2 districts
2. Delete Mobile Food Vending Service from 5.22.2.8, delete Section 5.22.3.4 and add standards in Article 5.38 of the UDO (see attached for reference)
3. Amend the definition for mobile food vending in Appendix A

D. Fiscal Considerations

The proposed text amendment helps foster small business investment and economic development in mixed-use corridors and the urban core.

E. Policy Issues

The proposed text amendment to the UDO is **attached** and shown 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 **Article 4, Table 4.6-1, Article 5, and Appendix A** of the Unified Development Ordinance.

The following actions are required to recommend approval of TA-2019-06

1. Consider Resolution to Adopt a Statement of Consistency for TA 2019-06
2. Consider motion to recommend approval of proposed text amendments by City Council.

The following actions are required to recommend denial of TA-2019-06

1. Consider Resolution to not Adopt a Statement of Consistency for TA 2019-06
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: Article 4, Article 5, and Appendix A
3. Resolution to Adopt a Statement of Consistency

I. Issue Reviewed By:

City Manager
City Attorney
City Engineer
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 | <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)

 July 10, 2019
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:

Article 4, Table 4.6-1, Appendix A, Article 5

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.

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

C - Conditional Use (-) Prohibited Use

ZONING DISTRICTS

USE	NAICS	AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R ^A	CD*	I-1*	I-2
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	-	P/S	-	(24)P/S	P/S	-
Electronics & Appliance Rental	53221	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Electronics, Camera & Appliance Stores	443	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Electronic Gaming Operations (§ 5.31) ⁽²³⁾	-	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	P/S	P/S
Farmer's Market	44523	P	-	-	-	-	-	-	P	-	P	-	P	-	-	-	-
Fitness & Recreational Sports Centers ⁽²⁾	713490	-	-	-	-	-	-	-	C	-	P	P	P	-	P	P	-
Florist	4531	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Formal Wear & Costume Rental	53222	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Furniture & Home Furnishings	442	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Furniture/Party Supply/Sporting Goods Rental	53229	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Game Preserves	7114	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General Merchandise Stores (less than 25,000 sq. ft.)	452	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Gift, Novelty & Souvenir Stores	45322	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Grocery/Food Stores (excl. convenience stores)	4451, 4452	-	-	-	-	-	-	-	C	-	P	P	P	-	P	-	-
Heavy Truck, RV, and Semi-Trailer Leasing ⁽¹⁾	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P
Hobby, Toy & Game Stores	45112	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Hotel, Motels & Extended Stay Lodging Facilities	72111	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-
Ice Vending Operations	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	P/S
Jewelry, Luggage and Leather Goods	4483	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Lawn & Garden Supply (with outdoor storage) (§ 11.1)	4442	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	-
Lawn & Garden Supply (with no outdoor storage)	4442	-	-	-	-	-	-	-	P	-	P	P	P	-	P	P	-
Liquor Sales (ABC stores)	4453	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-
LP Gas & Heating Oil Dealers	45431	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-
Manufactured Home Sales (§ 5.23)	45393	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	-	-
Micro-brewery (²⁵ §5.37)	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	-	-	-	-
Miniature Golf course	713990	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Mini-warehousing/Self-storage Leasing (§ 5.15) ⁽¹⁵⁾	53113	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	C/S	C/S
Mobile Food Vending (§ 5.38)		-	-	-	-	-	-	-	-	-	P/S	P/S	P/S	-	-	-	-
Motion Picture Theaters (excl. drive-in)	512131	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-
Motion Picture Theaters, drive-in	512132	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-
Motorcycle, Boat & RV Dealers, New & Used	4412	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-
Musical Instrument & Supplies	45114	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Nurseries	44422	P	-	-	-	-	-	-	-	-	-	C	P	-	P	-	-
Office Supplies & Stationery Stores	45321	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Parking Lots & Structures, Commercial	-	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P
Pawnshops (subject to NCGS, Chapter 91A)	522298	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-
Pet & Pet Supply Stores	45391	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Pharmacies, Health & Personal Care Stores	446	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS.

Temporary Use Type	Per Location				Section of UDO
	Min. Permit Length	Time Between Expiration	Max. Time Allowed Per year	Permit Required	
Agriculture Products, Non-Residential	180 days	NA	180 days**	Yes	5.22.3.2
Agriculture Products, Residential	7 days	NA	180 days**	Yes	5.22.3.2
Amusement Enterprises	21 days	90 days *	21 days**	Yes	5.22.5
Fireworks Stands	45 days	90 days *	45 days**	Yes	5.22.3.1
Mobile Food Vending Service	30 days	Renewable	90 days	Yes	5.22.3.5
Promotional Activities	7 days	1 day*	21 days	Yes	5.22.7
Contractors Office, Equipment, Sheds	30 days	NA	12 months	Yes	5.22.4.1
Real Estate Office, Trailer	6 months	Renewable	12 months	Yes	5.22.4.2
Real Estate Office, Model Home	6 months	Renewable	12 months	Yes	5.22.4.3
Single Family, Temporary Structure	12 months	NA	12 months**	Yes	5.22.4.4
Religious Events, Offsite	30 days	Renewable	60 days	Yes	5.22.6
Religious Events, Onsite	NA	NA	NA	No	5.22.9.1
Sidewalk Vendors	90 days	90 days *	90 days**	Yes	5.22.3.4
Special Events and Activities	NA	NA	NA	No	5.22.9.2
Yard Sales	2 days	Renewable	8 days	Yes	5.22.8

*The period of time between an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on the same parcel per fiscal year (July 1st to June 30th).

**Even if at any time the temporary use does not occupy the permitted site, the noted day/month limit shall not be extended

5.22.3. TEMPORARY RETAIL SALES USES.

5.22.3.1. Fireworks Stand. Limited to only non-residential zones ⁽²⁾. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

5.22.3.2 Seasonal Sale of Agricultural Products. (including Christmas Trees). ⁽²⁾A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet in non-residential districts. The ⁽¹⁾building/display booth must be portable and completely removed at the end of the period. A maximum display area of 100 square feet shall be allowed in residential districts. Such residential sales are limited to selling excess vegetables and fruits incidental to the residence. Residential seasonal sales shall be limited to the daylight hours.

5.22.3.3. Sidewalk Vendors ⁽²⁾Limited non-residential outdoor sales (sidewalk vendors) may receive a temporary use permit if the sales activities are incidental to the primary use, the sales activity is conducted with property owner permission and the display area is located in the C-1 or C-2 zoning districts. The display area shall not extend beyond the sidewalk or concrete apron entrance of the building, nor encroach into a public right-of-way. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. ⁽²⁾Temporary sales activities are prohibited on vacant property and from vehicles.

~~**5.22.3.4 ⁽²⁾Mobile Food Vending Service.** The sale of food or beverages from a mobile food vending unit shall only be permitted in the C-1 or C-2 zoning districts on occupied lots. Mobile food vending services are prohibited on vacant properties. The mobile food vending service shall not be located in any required setback, any sight distance triangle, or required buffer. Trash receptacles must be provided for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food, and other such waste. Such receptacle shall be located no more than 10 feet from the mobile food vendor. The vendor is responsible for removing all trash, litter, and refuse from the site at the end of each business day. The hours of operation shall be between 8:00am and~~

~~9:00pm. The mobile food vending service shall provide one (1) parking space per 250 square feet of the mobile food vending unit. The mobile food vending service shall not be located in any minimum required parking spaces for other businesses on the site. There shall be a minimum of 400 feet of separation from any other mobile food vending service. These restrictions shall not be applicable to special events recognized by the City where mobile food vendors are permitted or non-profit fundraising events of five (5) days or less. ⁽²⁾A zoning compliance permit must be placed in the front window of the mobile food vendor vehicle or trailer while in use.~~

5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.

5.22.4.1. ⁽¹⁾Contractors Office and Equipment / Storage Sheds. Accessory to a Construction Project (Residential and/or non-residential) Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator. A construction trailer may be used for a contractor's office and/or for the contractor's storage of equipment and/or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of either a Certificate of Occupancy on the last permitted Residential unit and/or completion of the Non-Residential construction project which has been issued a Certificate of Occupancy.

5.22.4.2. ⁽¹⁾Real Estate Office in a Construction or a Temporary Modular Unit.

Temporary structures, such as a construction trailer(s) and/or temporary modular unit(s) may be used as a real estate sales office, promotion and management office in any new construction project for the sale and promotion of properties within that project and/or its future phases only. Such a temporary use shall be allowed in all zoning districts, ⁽²⁾if approved by the Administrator. A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

5.22.4.3. Real Estate Office in a Model Home.

Accessory to Construction of a New Residential Development, ⁽²⁾if approved by the Administrator.

(1) City Council approved 12/12/2005

(2) TA-2009-02 – City Council approved /5/11/2009

5.38 MOBILE FOOD VENDING

5.38.1 APPLICABILITY.

The provisions of this Section shall apply to any mobile food vending as defined in Appendix A and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

5.38.2 Permit Requirement.

5.38.2.1 A mobile food vendor, or the property owner, on which mobile food vending will be placed shall obtain a zoning clearance permit. Permits must be posted in a visible location on the mobile food vending unit.

5.38.2.2 The property owner will be issued a notice of violation if no permit has been issued for the location. However, the mobile food vendor will be cited if located on a property without property owner approval.

5.38.2.3 A permit shall be valid for one calendar year and must be renewed on an annual basis.

5.38.2.4 All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.

5.38.3 Site Criteria

5.38.3.1 No mobile food vending unit shall be located in any required setback, sight distance triangle, or required buffer, nor shall any drive aisle, loading/service area, pedestrian walkway, emergency access, or fire lane be impeded.

5.38.3.2 Trash receptacles must be provided by the property owner, or designee, for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such trash receptacles shall be located no more than 10 feet from the mobile food vending unit. The property owner, or designee, is responsible for removing all trash, litter, and refuse from the site at the end of each business day.

5.38.3.3 No mobile food vending unit shall operate as a drive-thru service.

5.38.3.4 In all districts where food trucks are allowed, the mobile food vending unit shall provide one (1) parking space per 250 square feet of the mobile food vending unit. Mobile food vending units located in the Center City (CC) district are exempt from this regulation.

5.38.3.5 Any sidewalk encroachment shall require permit approval from the Public Works Department.

5.38.3.6 Mobile food vending units are required to returned to their associated commissary at the end of each business day.

5.38.3.7 These restrictions shall not be applicable to special events recognized by the City where mobile food vending is permitted or non-profit events of five (5) days or less.

MINOR THOROUGHFARE - A Minor Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

MITIGATION - The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

MIXED USE DWELLING - See BUILDING, MIXED USE

MIXED USE DEVELOPMENT OR MIXED-USE PROJECT - A proposed development that includes primary non-residential and primary residential uses on the same development site.

MOBILE FOOD VENDING SERVICE – A service establishment operated from a licensed and moveable vehicle (with or without an attached trailer), a portable vending cart, or mobile food stand that sells food and/or drink processed or prepared on-site to walk-up customers.

MOBILE HOME - A single-family dwelling, factory built and factory-assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C. § 5401, 1978, as amended) or the State Building Code.

MODERATE INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed one hundred percent (100%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MODULAR HOME - A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of one or more sections transported to the site in a manner similar to a mobile home or manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

MOTEL - A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

MOTOR HOME - A vehicular-designed unit built on, or permanently attached to, a self-propelled vehicle chassis, van, or chassis cab, which is an integral part of the complete vehicle, to provide temporary living quarters for recreational, camping, or travel use.

MOTOR VEHICLE - See VEHICLE, MOTOR

MOTOR VEHICLE REPAIR SHOP - See AUTOMOBILE REPAIR SHOP

MOTORSPORTS COMPLEX - A facility consisting of a racetrack, seating, concession areas, suites, and parking facilities, with accessory offices, residences, and/or retail facilities, and which is utilized primarily for the hosting of automobile racing events.

MULTI-FAMILY DWELLING - A structure arranged, designed, and intended to be the residence of more than one family, with each family having independent cooking and bathing facilities.

MULTIPLE DWELLING - See APARTMENT HOUSE

MUNICIPALITY - An incorporated city or town.

MUNICIPAL STREET - A street or highway accepted by the City and which is not a State Highway. (Source: 19A NCAC § 20.0404).



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY WITH REGARD TO
TEXT AMENDMENT TA-2019-06**

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, the text amendment to **Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Article 5, Supplemental Use Regulations, and Appendix A, Definitions** of the Unified Development Ordinance (UDO) to allow mobile food vending in the CC (Center City), C-1 (Light Commercial and Office), and the C-2 (General Commercial) districts, is consistent with policy 5.1.4 Support Small Businesses and policy 5.6.1 Facilitate Development of Urban Centers, of the *Move Kannapolis Forward 2030 Comprehensive Plan*, because it helps foster small business investment and economic development in mixed-use corridors and the urban core; and

WHEREAS, the Planning and Zoning Commission conducted a Public Hearing on September 4, 2019 for consideration of text amendment Case# TA-2019-06 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-2019-06 is 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 4th Day of September 2019;

David Steele, Chairman
Planning and Zoning Commission

Attest:

Pam Scaggs, Recording Secretary
Planning and Zoning Commission