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**CITY OF KANNAPOLIS, NC
BOARD OF ADJUSTMENT**

**Minutes of Special Meeting
Tuesday November 1, 2022**

The Board of Adjustment met on Tuesday November 1, 2022 at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina.

Board Members Present: Ryan French, Chair
Emily Joshi, Vice-Chair
Daisy Malit
Holden Sides
Wilfred Bailey, Sr.
Danielle Martini, Alternate Member

Board Members Absent: Cyrus Rattler

Staff Present: Richard Smith, Planning Director
Boyd Staney, Assistant Planning Director
Ben Barcroft, Senior Planner
Pam Scaggs, Recording Secretary
Kristin Jones, Assistant to the City Manager

Visitors Present: David Smith Jared Dullum
Jesse Robinson Kelvin Thompson
Jeanette Hyman Nicholas Lopez
Brianna Lopez

CALL TO ORDER

Chair Ryan French called the meeting to order at 6:00pm.

ROLL CALL AND RECOGNITION OF QUORUM

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

APPROVAL OF AGENDA

Chair French asked for a motion to approve the Agenda, which was made by Ms. Joshi, second by Mr. Bailey and the motion was unanimously approved.

APPROVAL OF MINUTES

Chair French asked for a motion to approve the October 4, 2022 meeting minutes which was made by Ms. Joshi, second by Mr. Sides, and the motion was unanimously approved.

PUBLIC HEARING

SWORN IN FOR TESTIMONY

Boyd Stanley, Ben Barcroft, Jeanette Hyman, David Smith, Jesse Robinson, Nicholas Lopez, Brianna Lopez and Kelvin Thompson

1 **BOA-2022-11 – Request for a Special Use Permit for unaddressed property located on the corner of**
2 **West 16th Street and North Main Street to allow a 6-unit townhome development in the General**
3 **Commercial (GC) zoning district.**

4 Assistant Planning Director, Boyd Stanley, stated that Case No. BOA-2022-11 had been continued from
5 the September 6, 2022 Board of Adjustment Meeting and provided the location. Mr. Stanley stated that the
6 applicant is requesting a Special Use Permit (SUP) to allow a townhome development and clarified that
7 application was made prior to adoption of the Kannapolis Development Ordinance (KDO) and therefore
8 the request will be reviewed under the Unified Development Ordinance (UDO). He noted that the UDO
9 allows separate platting for each townhome, whereas the KDO does not. Mr. Stanley provided the case
10 details and reiterated that the SUP is to allow construction of six townhomes.
11

12 Mr. Stanley directed the Board’s attention to the Vicinity, Zoning and Future Land Use map, as well as the
13 revised site plan. He reminded the Board of their concerns regarding parking, trash collection and
14 underground storage tanks at their September meeting and utilized the site plan to illustrate that the
15 applicant moved the townhomes closer to the front setback which facilitated three additional parking spaces.
16 Mr. Stanley further illustrated the location of trash receptacles and ingress/egress of the trash truck from
17 the proposed development. He noted that curb, gutter and sidewalks as well as screening of the trash
18 receptacles will be required if the Board approves the SUP request. Mr. Stanley directed the Board’s
19 attention to a letter from the NC Department of Environment and Natural Resources (NCDENR) regarding
20 previously housed underground storage tanks, which states that the property is suitable for development.
21 He indicated that staff felt that the applicant successfully addressed the Board’s concerns and proceeded to
22 further direct the Board’s attention to renderings stating that the units will have “rear-loading” garages and
23 will not access the development from N. Main Street. Mr. Stanley directed the Board’s attention to site
24 photos and talked about the need for a sidewalk in the area. He reviewed Policy Issues and staff Findings
25 of Fact as follows:
26

27 **1. The proposed use will be in harmony with the area in which it is to be located and in**
28 **general conformance with the City’s Land Use Plan.**

29 This property is in the “Urban Corridor” Character Area in the *Move Kannapolis Forward*
30 *2030 Comprehensive Plan*.

31
32 The Urban Corridor Character Area includes activity corridors with places to live, work, and
33 shop in a walkable configuration. The Area may include both vertically and horizontally
34 mixed uses, however infill development will be vertically mixed, with ground floor retail and
35 offices and housing on upper floors. These developments are located close together and near
36 the street, providing connections to surrounding development.
37

38 Based on the character areas noted above, the proposed development is compatible with the
39 future and existing uses in the surrounding area.
40

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

43 The townhomes shall have individual driveway access from a residential public alley located
44 along the rear of the property that is also to be used as a secondary Fire Department access for
45 the units. Although the property fronts both North Main Street and W 16th Street, access to
46 the project will be limited to W 16th Street only.
47

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

1 No vibration, noise, odor, dust, smoke, or gas beyond what is normal for a single-family use
2 is expected as a result of the development of this property.
3

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

6 The proposed use would not impede development of the surrounding properties for uses
7 allowed within their respective zoning districts.
8

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

11 There is no apparent danger or detriment to the overall public safety, health and welfare
12 resulting from the proposed use.
13

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

15 The proposed use shall comply with all sections of the City of Kannapolis Development
16 Ordinance, conditions of approval, and any other applicable local, state, and Federal
17 regulations. It is understood by the applicant that unless specifically relieved of a requirement,
18 in writing, all KDO requirements, including compliance with the Technical Review
19 Committee site plan review and approval process, must be met. Sewer service is subject to
20 allocation based upon sewer treatment capacity.
21

22 Mr. Stanley reminded the Board of the actions requested, concluded his presentation and made himself
23 available for questions.
24

25 Mr. Bailey stated that he agreed with staff that the applicant addressed all of the Board's concerns.
26

27 There being no additional questions or comments for staff or the applicant, Chair French opened the Public
28 Hearing.
29

30 City Attorney, Walter Safrit noted that there is an existing billboard on the property and asked the applicant,
31 Jesse Robinson, if a title exam had been completed on the billboard. Mr. Robinson identified himself and
32 responded that he has not yet acquired the property but that the lease on the billboard has expired.
33

34 Chair French acknowledged that Board member Daisy Malit arrived at 6:13 PM.
35

36 There being no additional questions or comments, Chair French closed the Public Hearing.
37

38 Chair French asked for a motion to accept the City's exhibits, including the staff report into the record
39 which was made by Mr. Sides, second by Ms. Joshi and the motion was unanimously approved.
40

41 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Joshi made the motion to
42 approve the Findings of Fact, second by Mr. Bailey and the motion was unanimously approved.
43

44 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the Special
45 Use Permit. Mr. Sides made the motion to approve, second by Ms. Martini and the motion was unanimously
46 approved.
47

48 Chair French asked for a motion to issue the Order of Approval, which was made by Ms. Joshi, second by
49 Ms. Martini and the motion was unanimously approved.
50

1 **BOA-2022-12 – Request for a Special Use Permit for property located at 401 Gay Street to allow a 6-**
2 **unit townhome development in the General Commercial-Conditional Zoning (GC-CZ) zoning**
3 **district.**

4 Mr. Stanley gave a presentation regarding a request for a Special Use Permit (SUP) to allow a 6-unit
5 townhome development on property located at 401 Gay Street. He provided the application details for
6 BOA-2022-12, attached to and made part of these minutes as Exhibit 2, noting that the applicant is the same
7 as was for the previous case [BOA-2022-11], as well as the property owners, address, size, and the current
8 zoning. Mr. Stanley added that this request was also submitted and will be reviewed under the UDO and
9 also that the applicants applied for, and were approved, for a rezoning on October 18, 2022 from Residential
10 Village (RV or R8 under the KDO) to General Commercial (C-2 or GC under the KDO) from the Planning
11 and Zoning Commission.

12
13 Mr. Stanley directed the Board’s attention to the Vicinity, Zoning map and Future Land Use Maps noting
14 that that these units will also be individually platted as in the previous case. He utilized the site plan to
15 illustrate ingress/egress, curb, gutter and sidewalk, parking for the units and fire access. Mr. Stanley stated
16 that each unit will have its’ own driveway with access from Gay Street and that since Gay Street terminates
17 just past the proposed development, and is not heavily traveled, was appropriate to have separate driveways.
18 He added that curb/gutter and sidewalks are being required along both Gay Street and J Avenue with room
19 for a car in the garage and another car in the driveway and that a fire access road from J Avenue is also
20 being required. Mr. Stanley directed the Boards attention to site photos, reviewed Policy Issues and staff
21 Findings of Fact. He reminded the Board of the actions requested, concluded his presentation and made
22 himself available for questions.

23
24 Ms. Joshi noted that the site plan shows six (6) units but that the application requests eight (8) units and
25 asked for clarification of the correct number of units that are being proposed. Mr. Stanley responded that it
26 had been determined that there not enough room for the requested eight (8) units, so the applicant adjusted
27 the site plan to show a six (6) unit townhome development. He added that the public notice also stated the
28 request was for eight (8) units, but as long as there are less units approved than what was advertised, rather
29 than more, there is no public notice violation.

30
31 Mr. Bailey expressed concern regarding the parking. Mr. Stanley responded that 18 feet is enough room for
32 one car with one additional car in the garage and that on-street parking is permitted in the area. Mr. Bailey
33 noted the existing commercial building and asked if it will be demolished. Mr. Stanley replied that the
34 property has been replotted and that the existing building is separate from the proposed development. Mr.
35 Bailey asked if the building will be screened from the proposed development. Mr. Stanley deferred to the
36 applicant.

37
38 There being no additional questions or comments for staff, Chair French opened the Public Hearing.

39
40 The applicant, Jesse Robinson, stated that there will be a retaining wall as well as a fence constructed for
41 screening from the existing building.

42
43 Chair French asked if trash receptacles will be located for pickup along Gay Street and Mr. Robinson
44 confirmed.

45
46 There being no additional questions or comments, Chair French closed the Public Hearing.

47
48 Chair French asked for a motion to accept the City’s exhibits, including the staff report into the record
49 which was made by Ms. Malit, second by Ms. Joshi and the motion was unanimously approved.

50

1 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Joshi made the motion to
2 approve the Findings of Fact, second by Mr. Bailey and the motion was unanimously approved.

3
4 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the Special
5 Use Permit. Mr. Sides made the motion to approve, second by Ms. Malit and the motion was unanimously
6 approved.

7
8 Chair French asked for a motion to issue the Order of Approval, which was made by Ms. Malit, second by
9 Ms. Joshi and the motion was unanimously approved.

10
11 **BOA-2022-14 – Request for a Special Use Permit for property located at 837 S. Main Street to allow**
12 **a bar use in the General Commercial (GC) zoning district.**

13 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit (SUP) to
14 renovate an existing building to allow a bar use on property located at 837 S. Main Street and provided the
15 application details for BOA-2022-14, attached to and made part of these minutes as Exhibit 3.

16
17 Mr. Barcroft directed the Board’s attention to a zoning map which illustrates to proximity of the proposed
18 bar to residential zoning districts. He directed the Board’s attention to the Future Land Use Map, and the
19 site plan which was utilized to illustrate that a kitchen area is not being shown because food will not be
20 served. Mr. Barcroft utilized site photos to illustrate that parking for the establishment will be located to
21 the side and to the rear of the building. He provided further detail regarding requirements for a stand-alone
22 bar (not located within a hotel or restaurant):

23
24 Bars and nightclubs shall comply with the standards in this section, unless located completely
25 within a hotel or motel and occupying not more than 25 percent of the gross floor area of the
26 hotel or motel.

27 (a) A bar or nightclub shall not be established within 200 feet of any of the following:

- 28 1. A Residential zoning district; (see attachment 3)
29 2. A private, charter, or parochial school or a public school;
30 3. A childcare center;
31 4. An indoor public assembly use; or
32 5. An existing bar or nightclub.

33 (b) The minimum distance in subsection (a) above, shall be measured from the outer
34 building walls of the proposed use to the nearest property line of the other use.

35 (c) The application shall include a floor plan of the building in which the bar or nightclub is
36 proposed to be located. The floor plan shall delineate separately the areas of the building which
37 are used for the dispensing of food and beverages, entertainment, and/or dancing.

38
39 Mr. Barcroft reminded the Board of the actions requested, concluded his presentation and made himself
40 available for questions.

41
42 Ms. Joshi referred to the lack of a kitchen and asked about washing glasses. Mr. Barcroft deferred to the
43 applicant.

44
45 Mr. Bailey expressed concern that Mr. Barcroft used the term “not to my knowledge” when talking about
46 the 200-foot separation requirement and asked if he verified that the applicant is meeting this requirement.
47 Mr. Barcroft confirmed that he conducted a site visit and verified that none of the listed uses exist within
48 200 feet of the proposed use.

1 There being no additional questions or comments for staff or the applicant, Chair French opened the Public
2 Hearing.

3
4 The applicant, David Smith, Rockwell, NC responded to Ms. Joshi's concern regarding cleaning the
5 drinking glasses. Mr. Smith responded that plumbing is being added to allow for dishwashing and utilized
6 the site plan to show location of sink, dishwasher, office and extra storage behind stage.

7
8 Mr. Bailey asked if there will be any food available. Mr. Smith responded that he is working with Main
9 Street Pizza about possible delivery of food. There was discussion whether there is a requirement to provide
10 food. Attorney Safrit asked the type of permits that Mr. Smith is attempting to obtain for his business. Mr.
11 Smith responded that he has applied to provide malt, unfortified wine and mixed spirits. Attorney Safrit
12 confirmed that Mr. Smith is not obligated to provide food items under those permit types.

13
14 Mr. Sides noted the site photos showed power poles near the parking area and asked if they could be
15 relocated or removed. Mr. Smith responded that he has only had discussions with the railroad because they
16 have right-of-way on the property.

17
18 Mr. Bailey indicated that he would like to see a revised site plan illustrating location of appliances and the
19 sink area. Mr. Safrit advised the Board that Mr. Bailey's concern regarding the interior may not be relevant
20 unless it can be tied to the approval criteria.

21
22 Ms. Joshi asked the number of employees that Mr. Smith will employ. Mr. Smith responded that the fire
23 marshal capped maximum capacity at 49 people, so he expects to hire at least 2 employees.

24
25 Residents Brianna and Nicholas Lopez stated that they are speaking on behalf of her father due to a language
26 barrier and expressed concern regarding drug, crime, and parking concerns associated with a bar use. Ms.
27 Lopez stated that her father owns a barber shop near the proposed bar location.

28
29 Ms. Martini asked the location of Ms. Lopez's fathers barber shop. Mr. Stanley utilized site photos to
30 illustrate location of the barber shop. Ms. Lopez stated that they also have a convenience store in the same
31 area and is concerned about lack of parking.

32
33 Resident Jeannette Hyman, 3550 Camp Julia Road, stated that she opposes the proposed bar use. Ms.
34 Hyman stated that she owns a home directly behind the bar (across railroad tracks 828 S. Ridge Ave.) and
35 agreed that the area needs improvement but opposes the proposed bar use. She expressed concern regarding
36 increased crime and litter concerns.

37
38 Attorney Safrit asked for clarification that the subject property abuts the railroad tracks backs and that Ms.
39 Hyman's property also abuts the railroad tracks but from the S. Ridge Avenue. Ms. Hyman confirmed.

40
41 Ms. Malit asked the applicant, Mr. Smith, if he will allow patrons to go outside the bar with their drinks.
42 Mr. Smith responded that the rear doors are for egress only and that the front doors will be the primary
43 access for the proposed bar. Ms. Malit asked whether Mr. Smith will clean-up debris if patrons happen to
44 leave bottles or cans outside the building. Mr. Smith agreed and indicated that he has been cleaning up the
45 property. He added that the business immediately next door [Absolute Pest Control] has agreed to allow
46 use of their parking lot.

47
48 Chair French asked if screening or landscaping will be added to the exterior. Mr. Smith responded that he
49 has already agreed to install planters to the front of the building and is agreeable to any conditions placed
50 on the approval that will improve the value of the property.

1 Mr. Barcroft added that an updated site plan will be required when the applicant applies for permits and
2 that staff will address landscaping and buffering requirements at that point.

3
4 Attorney Safrit asked if there are required parking improvements. Mr. Barcroft confirmed that updating the
5 parking lot with paved, striped spaces is required.

6
7 There being no additional questions or comments, Chair French closed the Public Hearing.

8
9 Chair French asked for a motion to accept the City's exhibits, including the staff report into the record
10 which was made by Ms. Malit, second by Mr. Bailey and the motion was unanimously approved.

11
12 Chair French asked for a motion to approve or revise the Findings of Fact. Mr. Sides made the motion to
13 approve the Findings of Fact, second by Ms. Malit and the motion was unanimously approved.

14
15 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the Special
16 Use Permit. Ms. Malit made the motion to approve, second by Ms. Joshi and the motion was unanimously
17 approved.

18
19 Chair French asked for a motion to issue the Order of Approval, which was made by Ms. Joshi, second by
20 Ms. Malit and the motion was unanimously approved.

21
22 **BOA-2022-15 – Request for a Special Use Permit on property located at 2305 Moose Road for an**
23 **amendment to previously approved conditions under BOA-2020-18.**

24 Mr. Barcroft, gave a presentation regarding a request for a Special Use Permit (SUP) under Case No. BOA-
25 2022-15, attached to and made part of these minutes as Exhibit 4. Mr. Barcroft explained that the applicant
26 applied for and received approval for Case No. BOA-2020-18 (see Appendix A) and is requesting an
27 amendment to those conditions.

28
29 Mr. Barcroft directed the Board's attention to a site photo illustrating two parsonage homes that were
30 subject of the previous Board approval, stating that the applicant is requesting removal of condition No. 5
31 which states:

32
33 *5. Separate water and sewer service lines and connections are required for each structure/building.*

34
35 Mr. Barcroft stated that both staff and the engineering department have reviewed and approved removal of
36 the condition and further noted that this condition would not have been included if this case was submitted
37 today.

38
39 Mr. Bailey asked for clarification regarding the removal of the condition. Planning Director, Richard Smith
40 responded that the homes have been constructed and currently share one (1) meter and are requesting to
41 remove the noted condition that would require each home to have its' own separate meter. He added that
42 the request has been reviewed via the Technical Review Committee (TRC) and staff felt that the request is
43 not unreasonable.

44
45 There being no additional questions or comments for staff or the applicant, Chair French opened the Public
46 Hearing.

47
48 Kelvin Thompson, applicant and Pastor for the church, stated that the homes are being utilized for members
49 of the church and that they are connected to the existing church sewer lines.

50

1 There being no additional questions or comments, Chair French closed the Public Hearing.

2
3 Chair French asked for a motion to accept the City's exhibits, including the staff report into the record
4 which was made by Ms. Malit, second by Mr. Bailey and the motion was unanimously approved.

5
6 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Malit made the motion to
7 approve the Findings of Fact, second by Ms. Joshi and the motion was unanimously approved.

8
9 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the Special
10 Use Permit. Ms. Joshi made the motion to approve, second by Mr. Bailey and the motion was unanimously
11 approved.

12
13 Chair French asked for a motion to issue the Order of Approval, which was made by Ms. Malit, second by
14 Ms. Joshi and the motion was unanimously approved.

15
16 **PLANNING DIRECTOR UPDATE**

17 Mr. Smith stated that the research campus has been purchased by Insight Properties and are in the process
18 of creating a master plan for the project and hopes to have an update at a future meeting.

19
20 **OTHER BUSINESS**

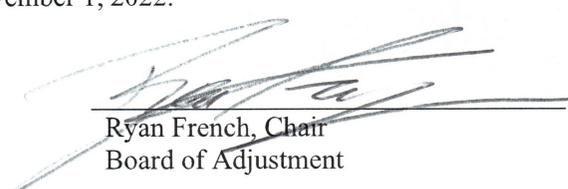
21 None

22
23 **ADJOURN**

24 There being no further business, Mr. Sides made the motion to adjourn, second by Ms. Malit and
25 unanimously approved.

26
27 The meeting was adjourned at 6:57 PM on Tuesday November 1, 2022.

28
29
30
31 
32 _____
33 Pam Scaggs, Recording Secretary
34 Board of Adjustment



Ryan French, Chair
Board of Adjustment



Board of Adjustment November 1, 2022 Meeting

Staff Report

TO: Board of Adjustment
FROM: Boyd Stanley, Assistant Planning Director
SUBJECT: Case# BOA-2022-11: Special Use Permit
Applicant: Jesse Robinson

Continued request for a Special Use Permit to allow for a multi-family townhome development in the General Commercial zoning district. The application was submitted prior to the adoption of the KDO and will be reviewed under the UDO requirements.

A. Actions Requested by Board of Adjustment

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

B. Required Votes to Pass Requested Action

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

C. Background

Continued from the September 6, 2022 Board of Adjustment meeting. The applicant, Jesse Robinson, is requesting a Special Use Permit (SUP) to allow for the development of a six-unit townhome development in the General Commercial (C-2) zoning district on unaddressed property located at the corner of W 16th Street and N. Main Street, further identified as Rowan County Parcel Identification Number 159 073. The property is now identified as GC (General Commercial) under KDO zoning, but the applicant made application to develop under the previous UDO requirements so the individual units can be platted. Under the new KDO requirements, individually platted townhomes are not defined as multi-family development. Under the UDO provisions, townhomes are included in the definition of multi-family development.

The applicant proposes to construct the units along N. Main Street with driveway access from a proposed residential public alley off W 16th Street. In response to the questions and concerns discussed at the September meeting, the applicant has provided a revised site plan and exhibit showing a solid waste/recycling container

storage area and exhibit showing the desired backing and pickup for service. Further, three additional visitor parking spaces have been added to the site. The applicant has also provided a copy of a "Notice of No Further Action" letter issued by the North Carolina Department of Environment and Natural Resources (NCDENR) to address concerns related to the previous use of the property and underground storage tanks.

As was required by the UDO, multi-family residential development is permitted in the C-2 (General Commercial) zoning designation with the issuance of a Special Use Permit (SUP).

D. Fiscal Considerations

None

E. Policy Issues

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

Staff Findings of Fact - Based on application review

Yes No

The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the City's Comprehensive Plan.

This property is in the "Urban Corridor" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*.

The Urban Corridor Character Area includes activity corridors with places to live, work, and shop in a walkable configuration. The Area may include both vertically and horizontally mixed uses, however infill development will be vertically mixed, with ground floor retail and offices and housing on upper floors. These developments are located close together and near the street, providing connections to surrounding development.

Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

Adequate measures shall be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

The townhomes shall have individual driveway access from a residential public alley located along the rear of the property that is also to be used as a secondary Fire Department access for the units. Although the property fronts both North Main Street and W 16th Street, access to the project will be limited to W 16th Street only.

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

No vibration, noise, odor, dust, smoke, or gas beyond what is normal for a single-family use is expected as a result of the development of this property.

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

The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts.

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

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use.

Compliance with any other applicable Sections of this Ordinance

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

The applicant consents in writing to all conditions of approval included in the approved special use permit.

The applicant has signed the Conditions of Approval acceptance.

F. Legal Issues

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

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

Yes No

The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the City's Comprehensive Plan.

Adequate measures shall be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

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

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

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

The proposed use complies with all applicable provisions of the Ordinance.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

G. Recommendation

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

Conditions of Approval proposed by staff:

1. The permitted uses allowed by this SUP shall only include six (6) townhome units.
2. Proposed site plan included with this application is for illustrative purposes only. Final design of the site shall comply with the Unified Development Ordinance.
3. Must comply with City's Land Development Standards Manual (LDSM).
4. The developer will construct curb, gutter and sidewalk along the entire road frontage where development has access and/or street frontage. These improvements will be constructed to NCDOT and City standards.
5. A Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
6. Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent residential property.
7. Proof of UST Site Investigation and Closure if necessary.
8. Adequate measures shall be considered by the Technical Review Committee to determine placement of mail delivery and solid waste collection facilities so as to minimize or avoid traffic congestion and hazards on Main Street.
9. A NCDEQ Sediment & Erosion Control Permit is not required since the site is < 1.0 ac, however, provide a basic erosion control plan with details. No calculations required.
10. Sanitary sewer service is subject to allocation based upon sewer treatment capacity.

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

H. Attachments

1. Special Use Permit Application

2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Conceptual Site Plan
6. Vehicle Movement
7. Notice from NCDENR
8. List of Notified Properties
9. Notice to Adjacent Property Owners
10. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X

EXHIBIT 2



Board of Adjustment November 1, 2022 Meeting

Staff Report

TO: Board of Adjustment

FROM: Boyd Stanley, Assistant Planning Director

SUBJECT: Case# BOA-2022-12: Special Use Permit
Applicant: Jesse Robinson

Request for a Special Use Permit to allow a multi-family townhome development in the General Commercial (C-2-CZ) zoning district. The application was submitted prior to the adoption of the KDO and will be reviewed under the UDO requirements

A. Actions Requested by Board of Adjustment

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

B. Required Votes to Pass Requested Action

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

C. Background

The applicant, Jesse Robinson, is requesting a Special Use Permit (SUP) to allow development of a six-unit townhome development in the General Commercial-Conditional Zoning (C-2-CZ) zoning district on approximately 0.44 +/- acres of property located at 401 Gay Street, further identified as Cabarrus County Parcel Identification Number 56134732130000. The property is now identified as GC (General Commercial) under KDO zoning, but the applicant made application to develop under the previous UDO requirements so the individual units can be platted. Under the new KDO requirements, individually platted townhomes are not defined as multi-family development. Under the UDO provisions, townhomes are included in the definition of multi-family development.

Pursuant to Table 4.6-1 of the UDO, a SUP is required for MFR uses in the C-2-CZ Zoning District. The applicant is proposing two buildings, each containing three attached townhome units on individual lots. Individual driveways for each dwelling are proposed off Gay Street with a garage option. Additionally, a 20-foot wide, paved fire access easement is proposed along the rear of all units with access onto J Avenue.

The applicant recently received conditional rezoning approval for this project from the Planning and Zoning Commission under Case No. CZ-2022-05 on October 18, 2022.

D. Fiscal Considerations

None

E. Policy Issues

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

Staff Findings of Fact - Based on application review

Yes No

 The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

This property is in the "Urban Residential" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area allows for multi-family townhome development consistent with the proposed use(s) and site plan.

Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

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

The townhomes will have individual driveway access off Gay Avenue, which is not a heavily used side street and terminates to the northwest. Additional fire access will be provided along the rear of the proposed units with access onto J Avenue.

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

No vibration, noise, odor, dust, smoke, or gas beyond what is normal for a single-family attached uses is expected as a result of the development of this property.

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

The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts.

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

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

Compliance with any other applicable Sections of this Ordinance.

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

The applicant consents in writing to all conditions of approval included in the approved special use permit.

The applicant has signed the Conditions of Approval acceptance.

F. Legal Issues

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

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

Yes No

The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

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

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

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

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

Compliance with any other applicable Sections of this Ordinance.

G. Recommendation

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

Conditions of Approval proposed by staff:

1. The permitted uses allowed by this SUP shall only include six townhome units as generally depicted on the submitted site plan.
2. The proposed townhomes will be required to meet the architectural standards of the provided renderings.
3. A Final Site Plan, in compliance with all applicable City UDO standards shall be submitted to and approved by City Staff prior to issuance of a Zoning Clearance Permit.
4. Must comply with the current Land Development Standards Manual (LDSM).

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

H. Attachments

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

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X

EXHIBIT 3



Board of Adjustment November 1, 2022 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2022-14: Special Use Permit
Applicant: David Smith

Request for a Special Use Permit to allow a bar use in the General Commercial (GC) zoning district.

A. Actions Requested by Board of Adjustment

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

B. Required Votes to Pass Requested Action

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

C. Background

The applicant, David Smith, is requesting a Special Use Permit (SUP) to allow a bar use in the General Commercial (GC) zoning district on approximately 0.13 +/- acres of property located at 837 S. Main Street, further identified as Cabarrus County Parcel Identification Number 56135468780000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for bar uses in the GC zoning district. David Smith proposes to upfit the existing structure.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5.A(5) of the KDO requires that the Board of Adjustment shall only approve a special use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

Staff Findings of Fact - Based on application review

Yes No

The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

This property is in the "Urban Corridor" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area allows for bars and many other commercial uses.

Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

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

The proposed use of this building as a bar is not anticipated to cause any traffic hazards or traffic congestion. There is adequate parking available for this use.

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

No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a bar is expected as a result of this proposed use. In addition, development will be required to conform to all applicable local, state, and federal environmental regulations.

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

The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts. The proposed bar is compatible with the adjacent area, which includes commercial development along S. Main Street. The use of a bar shall also comply with the following standards specific to a bar or nightclub according to section 4.2.D:

Bars and nightclubs shall comply with the standards in this section, unless located completely within a hotel or motel and occupying not more than 25 percent of the gross floor area of the hotel or motel.

(a) A bar or nightclub shall not be established within 200 feet of any of the following:

1. A Residential zoning district; (see attachment 3)
2. A private, charter, or parochial school or a public school;
3. A childcare center;
4. An indoor public assembly use; or
5. An existing bar or nightclub.

(b) The minimum distance in subsection (a) above, shall be measured from the outer building walls of the proposed use to the nearest property line of the other use.

(c) The application shall include a floor plan of the building in which the bar or nightclub is proposed to be located. The floor plan shall delineate separately the areas of the building which are used for the dispensing of food and beverages, entertainment, and/or dancing

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

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

The proposed use complies with all applicable provisions of the KDO.

The proposed use shall comply with all sections of the City of Kannapolis Unified Development Ordinance, conditions of approval, and any other applicable local, state and Federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all KDO requirements.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

The applicant has signed the Conditions of Approval acceptance.

F. Legal Issues

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

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

Yes **No**

 The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

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

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

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

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

Compliance with any other applicable Sections of this Ordinance.

G. Recommendation

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

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

H. Attachments

1. Special Use Permit Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Floor Plan
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X

EXHIBIT 4



Board of Adjustment November 1, 2022 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2022-15: 2305 Moose Rd.
Applicant: Kelvin Thompson

Request to amend conditions of approval for property located at 2305 Moose Road and an unaddressed parcel further identified as Rowan County Parcel Identification Numbers 145 1220000001, and 145 1220000002. The project was previously approved under Case No. BOA-2020-18.

A. Actions Requested by Board of Adjustment

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

B. Required Votes to Pass Requested Action

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

C. Background

The applicant, Kelvin Thompson with Bal Perazim Interdenominational Christian Center, is requesting to amend the previous case BOA-2020-18 (see attachment 5) by removing the condition #5 of the following conditions:

1. The homes are permitted to be used as an ancillary use to the principal use of Religious Institution. They are not permitted to be used as rental property or to be sold as separate single-family homes.
2. The included site plan is for illustrative purposes only. The applicant will be required to go through the site plan approval process as outlined in UDO Section 3.6 Site Plan Review.
3. Must comply with current Land Development Standards Manual (LDSM).
4. Driveways shall comply with LDSM for offsets, distances, and separations.
5. **Separate water and sewer service lines and connections are required for each structure/building.**

6. Streams and wetlands buffers should be in accordance with Article 4 of the Kannapolis UDO. Construction of buildings, roads, and other structures must comply with AE Zone & RSOD Buffer requirements or be relocated.
7. A Stormwater Management Permit will be required in accordance with Article 9 of the Kannapolis UDO.
8. Easements for Sanitary Sewer lines, Water lines and Storm Sewer pipes need to be a minimum of 20-foot wide. Viable access shall be provided along all easements with a grade no greater than 15% for maintenance vehicles and cross slopes shall not exceed 5%.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5A(5) of the KDO requires that the Board of Adjustment shall only approve a special use permit (previously conditional use) if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

Staff Findings of Fact - Based on application review

Yes No

 The proposed special (conditional) use will be in harmony with the area in which it is to be located and in general conformance with the City's Comprehensive Plan.

This is only an amendment to previous conditions and will not change the use of the property. All the other conditions will still apply.

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

N/A

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

N/A.

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

N/A.

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

There is no apparent danger or detriment to public health, safety, or general welfare with this proposed amendment to previous conditions.

 The proposed use complies with all applicable provisions of the KDO.

The removal of the condition is consistent with the KDO. Engineering and Water Resources staff have reviewed the request and found it to be reasonable and consistent with the uses. Under the KDO a Special Use Permit (Conditional Use Permit previously) would not be required for this type of project.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

The applicant has signed the Conditions of Approval acceptance.

F. Legal Issues

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

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

- | Yes | No | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed special (conditional) use will be in harmony with the area in which it is to be located and in general conformance with the City's Comprehensive Plan.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | Adequate measures shall be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed use complies with all applicable provisions of the KDO.
<hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | The applicant consents in writing to all conditions of approval included in the approved special use permit.
<hr/> |

G. Recommendation

Based on the above findings, staff recommends **approval** to remove condition #5 from case **BOA-2020-18** based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, state, and federal requirements.

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

H. Attachments

1. Special Use Permit Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use Map
5. Exhibit A BOA-2020-18 Staff Report
6. Site Plan
7. List of Properties Notified
8. Notice to Adjacent Property Owners
9. Posted Public Notice

I. Issue Reviewed By:

City Attorney	✓
Planning Director	✓