



BOARD OF ADJUSTMENT AGENDA

**Kannapolis City Hall
Laureate Center - Kannapolis, N.C.**

Tuesday August 1, 2023 at 6:00 PM

- 1. Call to Order**
- 2. Oath of Office for new Board Members**
- 3. Roll Call and Recognition of Quorum**
- 4. Approval of Agenda**
- 5. Approval of Minutes – July 11, 2023**
- 6. Swearing In for Testimony**
- 7. Public Hearing:**
 - a. BOA-2023-12 – Special Use Permit – 515 Oak Avenue**

Public Hearing to consider a request for a Special Use Permit (SUP) to allow for a single-family detached residential structure on property located at 515 Oak Avenue. Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance, a SUP is required for single-family detached residential uses in the Center City (CC) zoning district. The subject property is .15 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56134754630000.
- 8. Planning Director Update**
- 9. Other Business**
- 10. Adjourn**



**Board of Adjustment
August 1, 2023 Meeting**

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2023-12: Special Use Permit – 515 Oak Avenue
Applicant: John Suther

Request for a Special Use Permit to allow for a single-family detached dwelling on property located at 515 Oak Avenue.

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, John Suther, is requesting a Special Use Permit (SUP) to allow for a single-family detached dwelling in the Center City (CC) zoning district on approximately 0.154 +/- acres of property located at 515 Oak Avenue and further identified as Cabarrus County Parcel Identification Number 56134754630000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for single-family detached dwelling uses in the CC zoning district.

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.

Uses on the surrounding properties consist of single-family residential both attached and detached. The *Move Kannapolis Forward 2030 Comprehensive Plan* designates the subject property and surrounding properties as the "Downtown Center" Character Area.

While the proposed single-family detached dwelling is not listed as primary or secondary uses in the "Downtown Center" Character Area, staff has determined that the use is consistent and in harmony with existing and surrounding uses. Further, the KDO permits single-family detached housing in the CC district with the issuance of a SUP.

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.

There is an existing drive via Oak Avenue that the proposed dwelling will utilize and is therefore not anticipated to cause any traffic hazards or traffic congestion.

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

It is not anticipated that the addition of one single-family dwelling would create vibration, noise, odor, dust, smoke, or gas that would be noxious or offensive to the surrounding area.

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 addition of the proposed dwelling will not impede orderly development or improvement of surrounding property. The proposed single-family detached residential use is compatible with the adjacent uses of single-family residential.

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 use 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 Kannapolis Development Ordinance (KDO), 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 must be met.

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

N/A unless the Board of Adjustment determines to add conditions.

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 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 shall not be detrimental to or endanger the public health, safety, or general welfare.

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

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** 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.

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
City Attorney	X
Assistant City Manager	X



Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350

Special Use Permit

So that we may efficiently review your project in a timely manner, it is important that all required documents and fees listed on this form below are submitted with your application.

SPECIAL USE PERMIT REQUEST

Special Use Permit (SUP) – Request for SUP as required by Table 4.3.B(3) of the Kannapolis Development Ordinance (KDO).

Approval authority – Board of Adjustment.

Property Address: 315 Oak Ave Kannapolis 28081

Applicant: John Juthe

SUBMITTAL CHECKLIST

- Pre-Application Meeting – send an email to planreviewappointment@kannapolisnc.gov *discussed during meet.*
- SUP Checklist and Application – Complete with all required signatures
- Plot/Site Plan showing the proposed use
- Fee: \$625.00 (\$600 Application Fee + notification fee [see Fee Schedule])

PROCESS INFORMATION

Public Notification: This is a quasi-judicial process that requires a public hearing and public notification including first-class mailed notice to adjacent property owners and a sign posted prominently on the property (Table 2.4.F(2) of the KDO).

Review Process: All applications will be reviewed for compliance and then forwarded to the Board of Adjustment for consideration at a public hearing which is held monthly on the 1st Tuesday at 6:00pm in City Hall Laureate Center. The application and all fees must be paid prior to scheduling the public hearing. Please review Section 2.4.D of the KDO.

Action by Board of Adjustment: After conducting a public hearing, the Board of Adjustment may: approve; approve with conditions; deny; or conduct an additional public hearing on the application. Per Section 2.5.A(5)c, the Board may approve a petition only if compliance with all standards is obtained.

Scope of Approval: Per Section 2.5.A(5)a.2 of the KDO, approval of a SUP does not authorize any development activity, but shall authorize the applicant to apply for final site plan approval. Zoning clearance permits will not be issued until the SUP and final site plan have been approved.

By signing below, I acknowledge that I have reviewed the Submittal Checklist and have included the required submittal items and reviewed them for completeness and accuracy. I also acknowledge that my application will be rejected if incomplete.

Applicant's Signature: John Juthe Date: 7/11/23



Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350

SPECIAL USE PERMIT APPLICATION

Approval authority – Board of Adjustment

Applicant Contact Information

Name: John Suther
Address: 1316 S. Main St. Ste. D
Kannapolis NC 28081
Phone: 704-856-4148
Email: john.suther@sutherengineering.com

Property Owner Contact Information same as applicant

Name: Rand Bentley
Address: 616 W. Black St.
Kannapolis, NC 28081
Phone: 704-202-3660
Email: randy@bentleyrealtynr.com

Project Information

Project Address: 515 Oak Ave, Kannapolis NC 28081 Zoning District CC
Parcel PIN: 56134754630000 Size of property (in acres): 0.154

Current Property Use: Vacant.

Proposed Use: Single Family Detached.

The location of the above-mentioned proposed use is indicated on the accompanying site plan, and the nature of the proposed use is more fully described as follows (attach separate sheet if necessary):

Attached site plan.

REVIEW STANDARDS

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a Special Use Permit (SUP). Per Section 2.5.A(5)c of the Kannapolis Development Ordinance (KDO,) the applicant must demonstrate successful compliance with all standards to obtain a SUP. In the space provided below, indicate the **facts** that you intend to provide to convince the Board that it can properly reach the following conclusions:

1. 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.

yes, all existing adjoiners are single family detached
so another single family detached will match local
area.

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

yes, existing drive on oak ave prevents direct access to Dale Earnhardt.

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

no; single family detached

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

no, existing lot vacant; last on block.

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

no, single family detached

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

yes; refer to plat & site plan.

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

yes; consent.

By signing below, I certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief. I acknowledge that the Board of Adjustment may add conditions on the requested use as part of the approval to assure that adequate mitigation measures are associated with the use. For example, landscaping or fencing may be required, or a shift of operations away from adjoining properties may be stipulated.

John Smith
Applicant Signature

7/11/23
Date

Property Owner Signature

Date

Applicant is agent of owner.

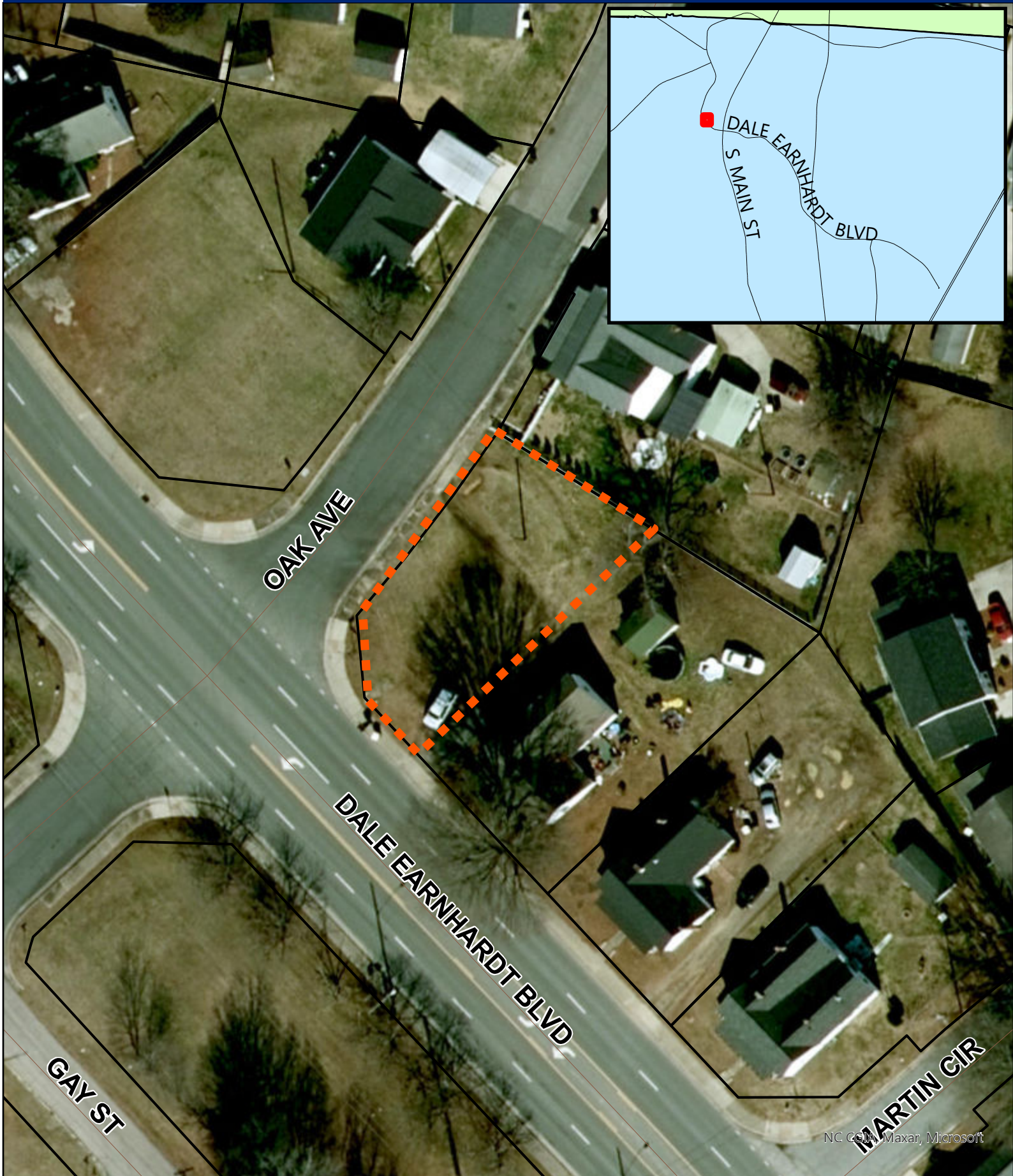


Vicinity Map

Case Number: BOA-2023-12

Applicant: John Suther

515 Oak Ave



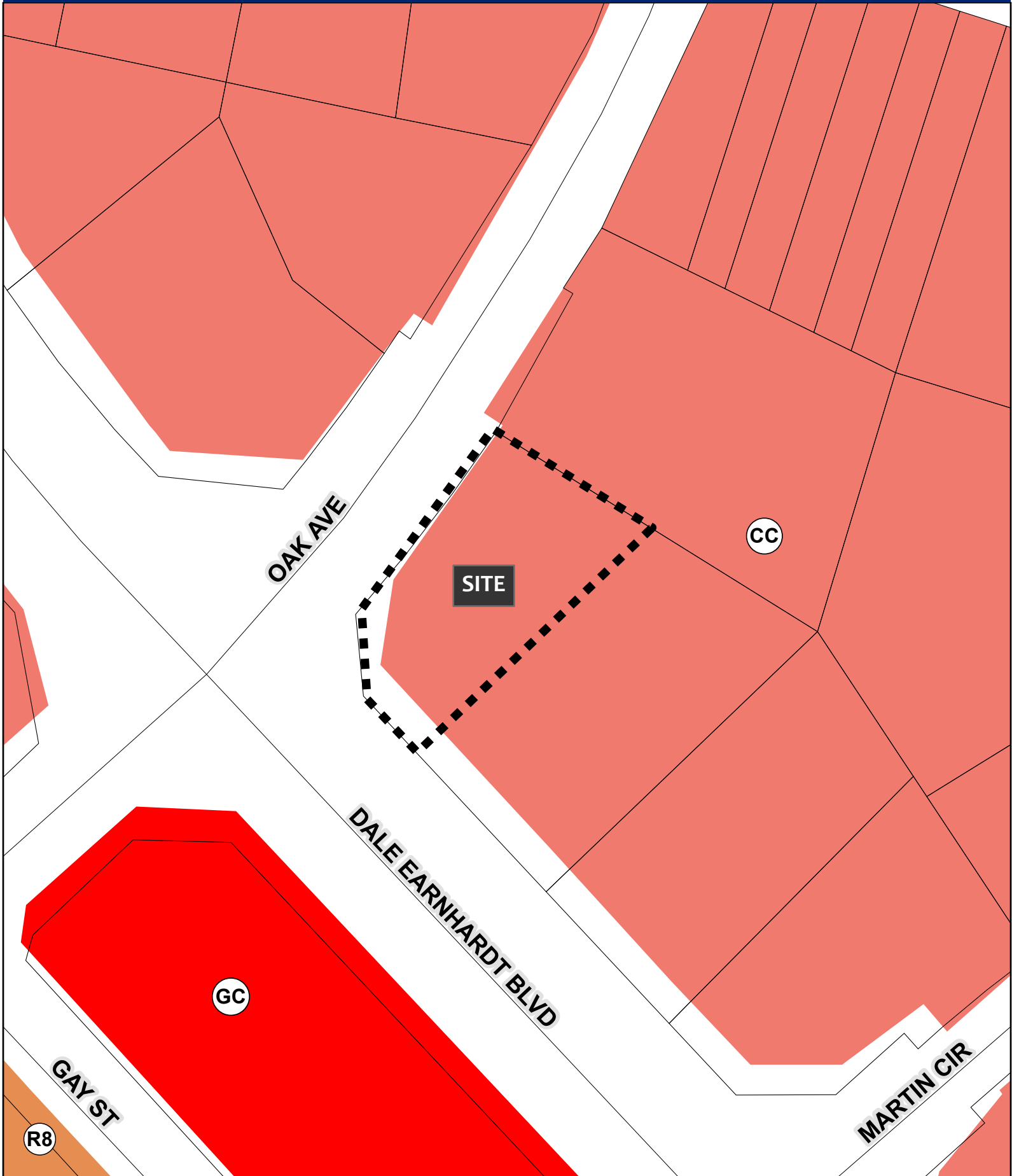


Kannapolis Current Zoning

Case Number: BOA-2023-12

Applicant: John Suther

515 Oak Ave





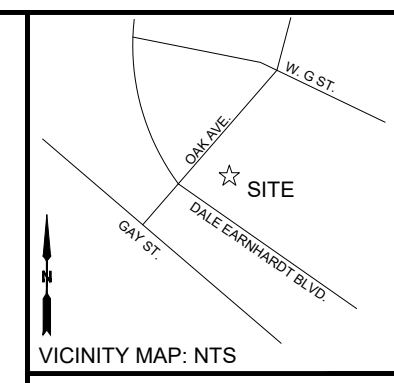
Kannapolis 2030 Future Land Use Map

Case Number: BOA-2023-12

Applicant: John Suther

515 Oak Ave





A SITE LAYOUT PLAN
FOR
RANDY BENTLEY
616 N. MAIN ST.
KANNAPOLIS, NC 28081

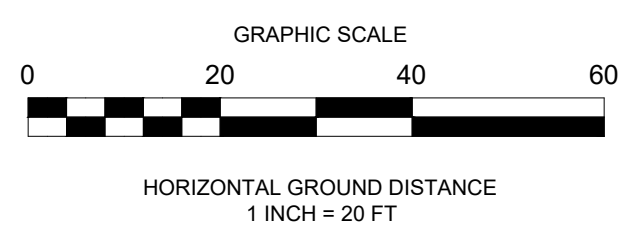
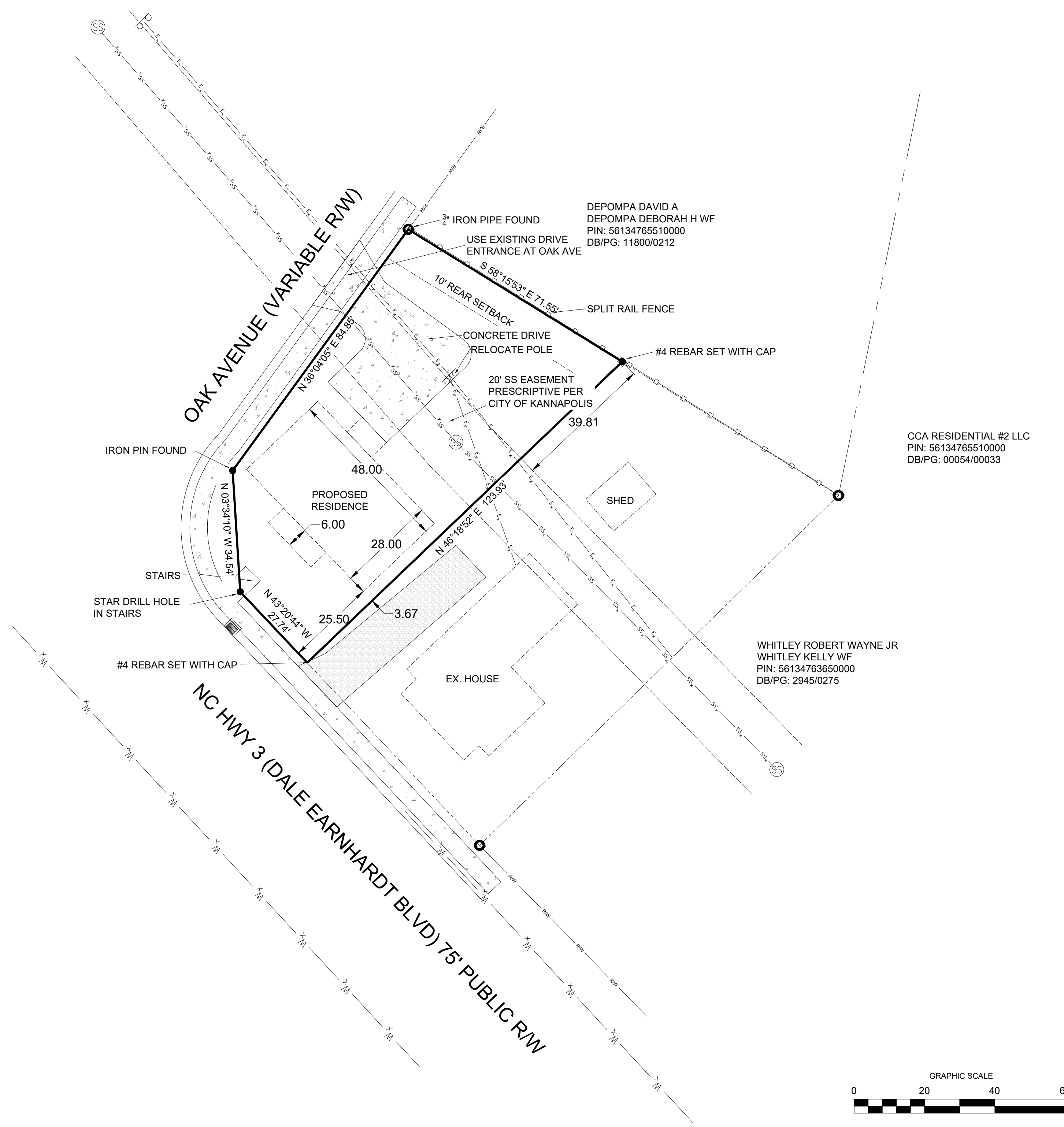
SUBJECT PROPERTY INFO:
PARCEL ID(S):
 56134764100000
DEED BOOK & PAGE:
 DB: 7183 PG: 0001
CURRENT ZONING:
 CC
PROPERTY LOCATION:
 #4 TOWNSHIP
 CITY OF KANNAPOLIS
 CABARRUS COUNTY
OWNER INFORMATION:
 ACADEMIA PROPERTIES, LLC
 4325 BENDER CT
 TROY, MI 48098

DATE OF SURVEY:
 05.18.2023
DRAWN BY:
 BAA
CHECKED BY:
 JES

- PLAN NOTES:**
1. PLAN NORTH IS BASED ON NAD83(2011)
 2. AREAS COMPUTED USING THE COORDINATE METHOD
 3. ANY TRAVERSE ADJUSTMENTS WERE PERFORMED USING THE LEAST SQUARES ADJUSTMENT METHOD
 4. GEODETIC MONUMENTS WERE SURVEYED AS SHOWN
 5. ALL DISTANCES ARE GROUND HORIZONTAL UNLESS OTHERWISE NOTED
 6. PROPERTY MAY BE SUBJECT TO BURDENS OR BENEFITS NOT SHOWN ON MAP.
 7. NO UNDERGROUND UTILITIES WERE LOCATED WITH THIS SURVEY. BEFORE DIGGING CALL NC ONE-CALL (1-800-632-4949)
 8. ZONING DISTRICTS NOTED ARE PER GIS INFORMATION AVAILABLE TO THE PUBLIC
 9. THE SUBJECT PARCEL(S) AND ANY ADJOINING PROPERTY OWNERS NAMES, DEEDS OF RECORD, AND TAX PARCEL IDENTIFICATIONS REFLECT THOSE AVAILABLE TO THIS SURVEYOR AS OF THE DATE OF THE SURVEY SHOWN

REVISION ISSUE		
00	SITE PLAN	05.18.2023

FIRM No. P-1946
 1316 S. MAIN ST. STE D
 KANNAPOLIS, NC 28081



AcctName1	MaiAddr1	MailCity	MailState	MailZipCod
ACADEMIA PROPERTIES LLC	4325 BENDER CT	TROY	MI	48098
ADAM JR & JANICE MASSEY	301 WEST G STREET	KANNAPOLIS	NC	28081
BOBBIE JEAN HUNTER	503 MARTIN CIR	KANNAPOLIS	NC	28081
CCA RESIDENTIAL #1 LLC	PO BOX 366	MT PLEASANT	NC	28124
CHRISTOPHER CLARK & LAUREN JOHNSON	269 W G ST	KANNAPOLIS	NC	28081
DAVID & DEBORAH DEPOMPA	501 OAK AVE	KANNAPOLIS	NC	28081
DIVERSIFIED RESIDENTIAL HOMES 1 LLC	3495 PIEDMONT RD NE BLDG 11 STE 300	ATLANTA	GA	30305
JOHN SUTHER	1316 S MAIN ST STE D	KANNAPOLIS	NC	28081
JUAN JIMENEZ & ARLENE DAMOTA	665 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28081
JUSTIN LANDIS & ELIZABETH CHERBA	253 W G ST	KANNAPOLIS	NC	28081
KEMEYA SPENCE	237 W G ST	KANNAPOLIS	NC	28081
LONG RIDGE DEVELOPMENT & PROPERTIES LLC	206 OAK AVE	KANNAPOLIS	NC	28081
MICHAEL MCINTOSH	245 W G ST	KANNAPOLIS	NC	28081
MITCH & MICA THOMAS	205 DALE AVE	KANNAPOLIS	NC	28081
OVERCASH REAL ESTATE LLC	1641 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28083
PAUL S HUIE	217 WEST G ST	KANNAPOLIS	NC	28081
RAND BENTLEY	616 N MAIN ST	KANNAPOLIS	NC	28081
RHONDA KAY CRAIG TRUSTEE	500 OAK AVE	KANNAPOLIS	NC	28081
ROBERT JR & KELLY WHITLEY	1417 MOORECREST PL	KANNAPOLIS	NC	28081
RONNIE JR & ANN FULBRIGHT	219 W G ST	KANNAPOLIS	NC	28081
SAMUEL WILLIAMS	229 W G ST	KANNAPOLIS	NC	28081
SARAH WOOTEN	305 W G ST	KANNAPOLIS	NC	28081
TERRELLE & ASHLEY GALLOWAY	261 W G ST	KANNAPOLIS	NC	28081
SOUTHLAND REALTY & DEVELOPMENT LLC	1104 N RIDGE AVE	KANNAPOLIS	NC	28083

July 19, 2023

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday August 1, 2023 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2023-12 – Special Use Permit – 515 Oak Avenue

The purpose of this Public Hearing is to consider a request for a Special Use Permit (SUP) to allow for a single-family detached residential structure on property located at 515 Oak Ave. Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance, a SUP is required for single-family detached residential uses in the City Center (CC) zoning district. The subject property is 0.15 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56134754630000 (Please see attached 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 Development Ordinance. You are welcome to attend the public hearing and present testimony to the Board of Adjustment if you so desire.

If you have any questions about the public hearing or request, please do not hesitate to contact the Planning Department at 704.920.4350 or bbarcroft@kannapolisnc.gov.

Sincerely,



Ben Barcroft
Senior Planner

Enclosure

The meeting is accessible to people with disabilities. To request special accommodation in advance, contact the City's ADA Coordinator at 704-920.4302.

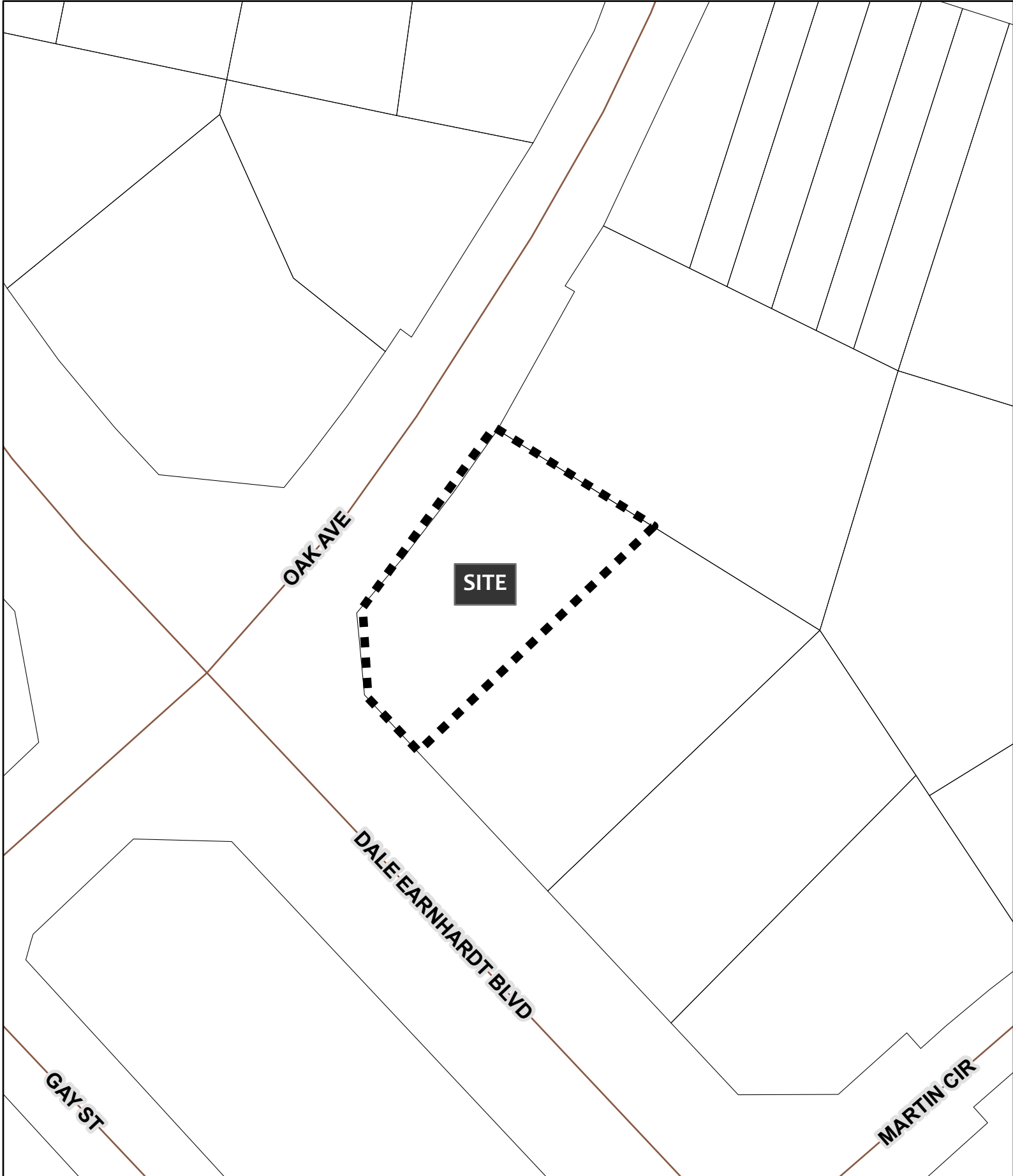


Special Use Permit

Case Number: BOA-2023-12

Applicant: John Suther

515 Oak Ave





BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION**

CALL 704-920-4350

CASE #BOA - 2023 -12