



**BOARD OF ADJUSTMENT
AGENDA**

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

Tuesday November 2, 2021 at 6:00 PM

- 1. Call to Order**
- 2. Roll Call and Recognition of Quorum**
- 3. Approval of Agenda**
- 4. Approval of Minutes – August 3, 2021 and October 5, 2021**
- 5. Public Hearing:**
 - a. BOA-2021-15 – Special Use Permit – 516 Martin Circle**

Public hearing to consider a request for a Special Use Permit (SUP) to allow construction of a single-family residential detached home. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a SUP is required to permit single-family development. The subject property is located at 516 Martin Circle, is zoned Center City (CC), measures approximately .103 +/- acres, and is more specifically identified as Cabarrus County Parcel Identification Number 56135609370000.
- 6. Planning Director Update**
- 7. Other Business**
 - a. Approval of 2022 Meeting Schedule**
- 8. Adjourn**



**Board of Adjustment
November 2, 2021 Meeting**

Staff Report

TO: Board of Adjustment
FROM: Ryan Lipp, Senior Planner
SUBJECT: Case# BOA-2021-15: 516 Martin Circle
Applicant: David Miller

Request for a Special Use Permit to allow for construction of a single-family detached dwelling in the Center City (CC) 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 Miller, is requesting a Special Use Permit (SUP) to allow construction of a single-family residential dwelling unit in the Center City (CC) zoning district, on 561 Martin Circle, further identified as Cabarrus County Parcel Identification Number 56135609370000.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a SUP is required for a single-family dwelling in the CC zoning district. The subject property measures approximately 0.103 +/- total acres.

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.

The subject property is within the "Downtown Center" Character Area and the "Urban Corridor" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Urban Corridor Character Area establishes opportunities for infill redevelopment to occur.

Based on the character areas noted above, the proposed single-family detached residential use would be in harmony 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 development of this site for single-family detached residential is not anticipated to cause any traffic hazards or traffic congestion. Per a condition of approval, the development will be required to utilize an existing shared drive for ingress and egress.

 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 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 the CC 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.

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

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 number of single-family detached dwelling units permitted by this CUP shall be limited to one (1).
2. Property must access via an existing shared driveway on adjacent parcel, further identified as Cabarrus County Parcel Identification Number 56134790540000.
3. The site plan included is for illustrative purposes only. Final Design of the project is subject to all applicable requirements of the UDO for single-family detached residential.

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. 2030 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

pd
9-7-21



Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350
planningapps@kannapolisnc.gov

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. Submit digitals and 1 hard copy of applications and accompanying documents to the Planning Department at the address above.

SPECIAL USE PERMIT REQUEST

Special Use Permit (SUP) – Request for SUP as required by Table 4.6-1 of the Unified Development Ordinance (UDO).
Approval authority – Board of Adjustment.

Property Address: 516 Martin Circle, Kannapolis NC 28081

Applicant: David Miller Realty & Investment Inc

SUBMITTAL CHECKLIST

- Pre-Application Meeting – send an email to planreviewappointment@kannapolisnc.gov
- 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

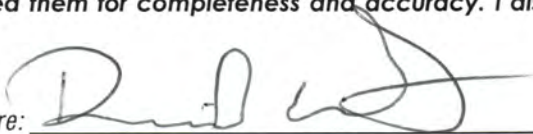
Public Notification: This is a quasi-judicial process that requires a public hearing and public notification including first-class mailed notice to adjacent property owners and a sign posted prominently on the property (Section 3.1.5.2 of the UDO).

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 first Tuesday at 6:00pm in City Hall Laureate Center. All items listed above on the submittal checklist must be received at least one month prior to the next scheduled public hearing.

Action by Board of Adjustment: After conducting a public hearing, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with conditions. The Board may approve a petition only if it reaches all of the required conclusions.

Scope of Approval: Per Section 3.5.4 of the UDO, approval of an 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:  Date: 09-07-21



Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350
planningapps@kannapolisnc.gov

SPECIAL USE PERMIT APPLICATION

Approval authority – Board of Adjustment

Applicant Contact Information

Name: David Miller
Address: 1640 Dale Earnhardt Blvd
Kannapolis NC 28083
Phone: 704-791-5845
Email: david@apmrentals.net

Property Owner Contact Information same as applicant

Name: _____
Address: _____
Phone: _____
Email: _____

Project Information

Project Address: 516 Martin Circle, Kannapolis NC 28081 Zoning District CC - Center City
Parcel PIN: 5613560937 Size of property (in acres): .103

Current Property Use: Vacant lot

Proposed Use: New construction 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): _____

APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to approve a Special Use Permit (SUP). The Unified Development Ordinance requires that the applicant demonstrate successful compliance with several conditions 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:

- A. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.**

All adjoining parcels consist of single family detached homes and is consistant with the
_____ immediate are surround this parcel.

B. 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.

One single family detached home will have little to no impact on traffic or congestion.

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

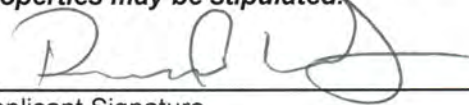
D. The establishment of the proposed use shall not impede the orderly development and improvement of surround property for uses permitted within the zoning district.

The proposed used is consistant with the long term plan for this location as well as the adjacent parcels.

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

F. Compliance with any other applicable Sections of the Unified Development Ordinance.

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.



Applicant Signature

9-7-21

Date



Property Owner Signature

9-7-21

Date



Vicinity Map

Case Number: BOA-2021-15

Applicant: David Miller

516 Martin Circle



SITE

GAY ST

DALE EARNHARDT BLVD

MARTIN CIR

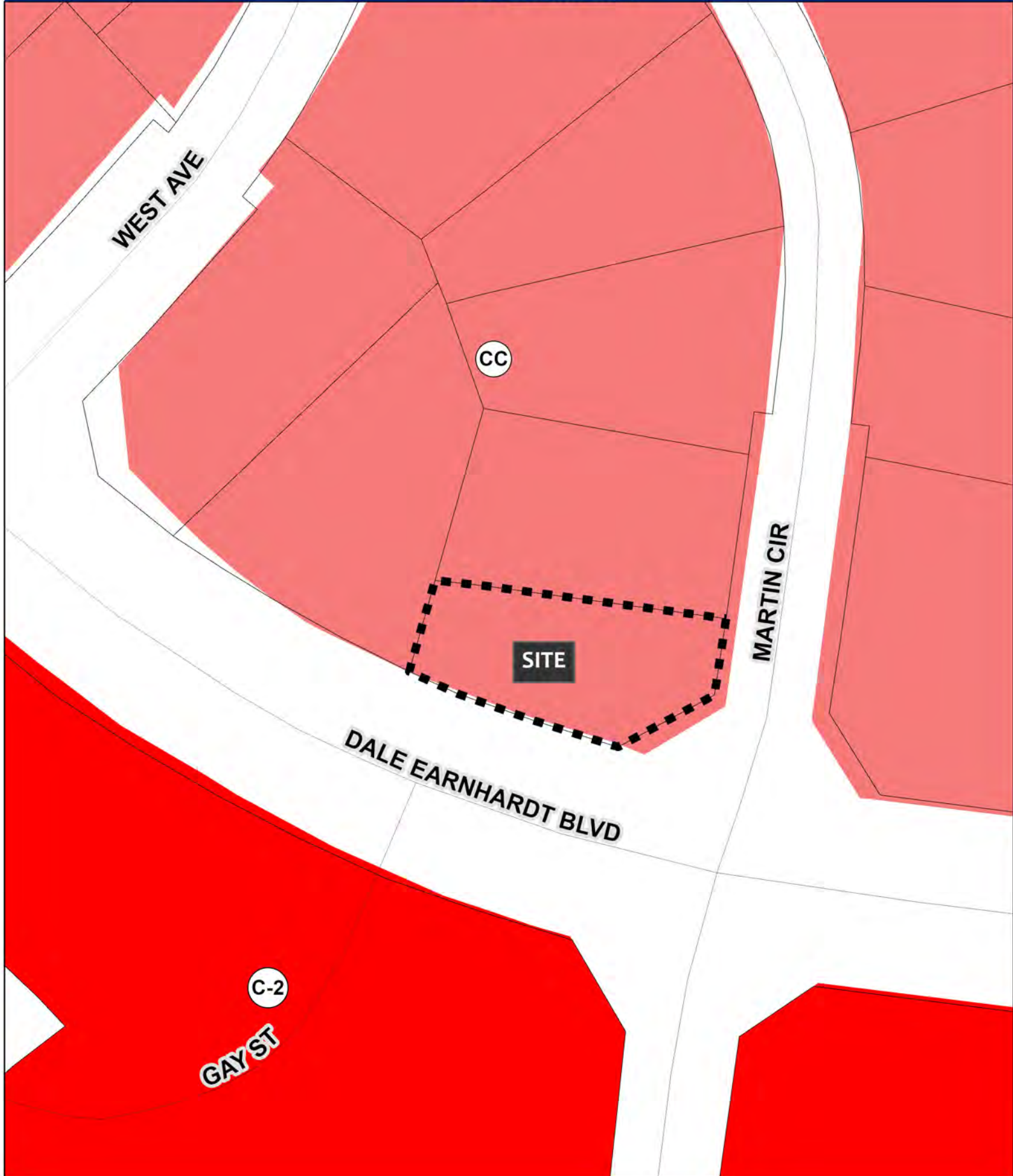


Kannapolis Current Zoning

Case Number: BOA-2021-15

Applicant: David Miller

516 Martin Circle





Kannapolis 2030 Future Land Use Map

Case Number: BOA-2021-15

Applicant: David Miller

516 Martin Circle



Downtown Center

SITE

Urban Corridor

GAY ST

DALE EARNHARDT BLVD

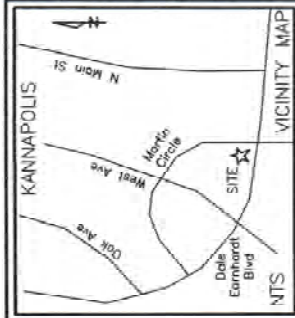
MARTIN CIR

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	535.46'	68.71'	68.66'	N 87°36'25" W	7°21'06"

LINE	BEARING	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
L1	S 07°01'54" W	23.93'			
L2	S 62°15'13" W	40.91'			
L3	N 75°16'04" W	19.08'			
L4	N 17°04'43" E	29.25'			
L5	S 82°07'36" E	4.75'			

#5613479254
David Miller Realty
& Investment, Co. Inc.
Deed Book 7, Block 19
Kannapolis Subdivision SW,
Section II
Plat Book 19
Page 93

#5613570053
David Miller Realty
& Investment, Inc.
Deed Book 1080, Page 328
Lot 2, Block C
Kannapolis Subdivision SW,
Plat Book 19
Page 99



- LEGEND**
- E.I.P., EXISTING IRON PIN
 - N.I.P., NEW IRON PIN
 - C.P., COMPUTED POINT
 - R.W., RIGHT-OF-WAY
 - SETBACKS
 - PROPERTY ADJACERS
 - PROPERTY LINE
 - RIGHT-OF-WAY
 - MANHOLE
 - WATER VALVE
 - WATER METER

OWNER
David Miller Realty
& Investment, Inc.
1640 Dale Earnhardt Blvd.
Kannapolis, NC 28063

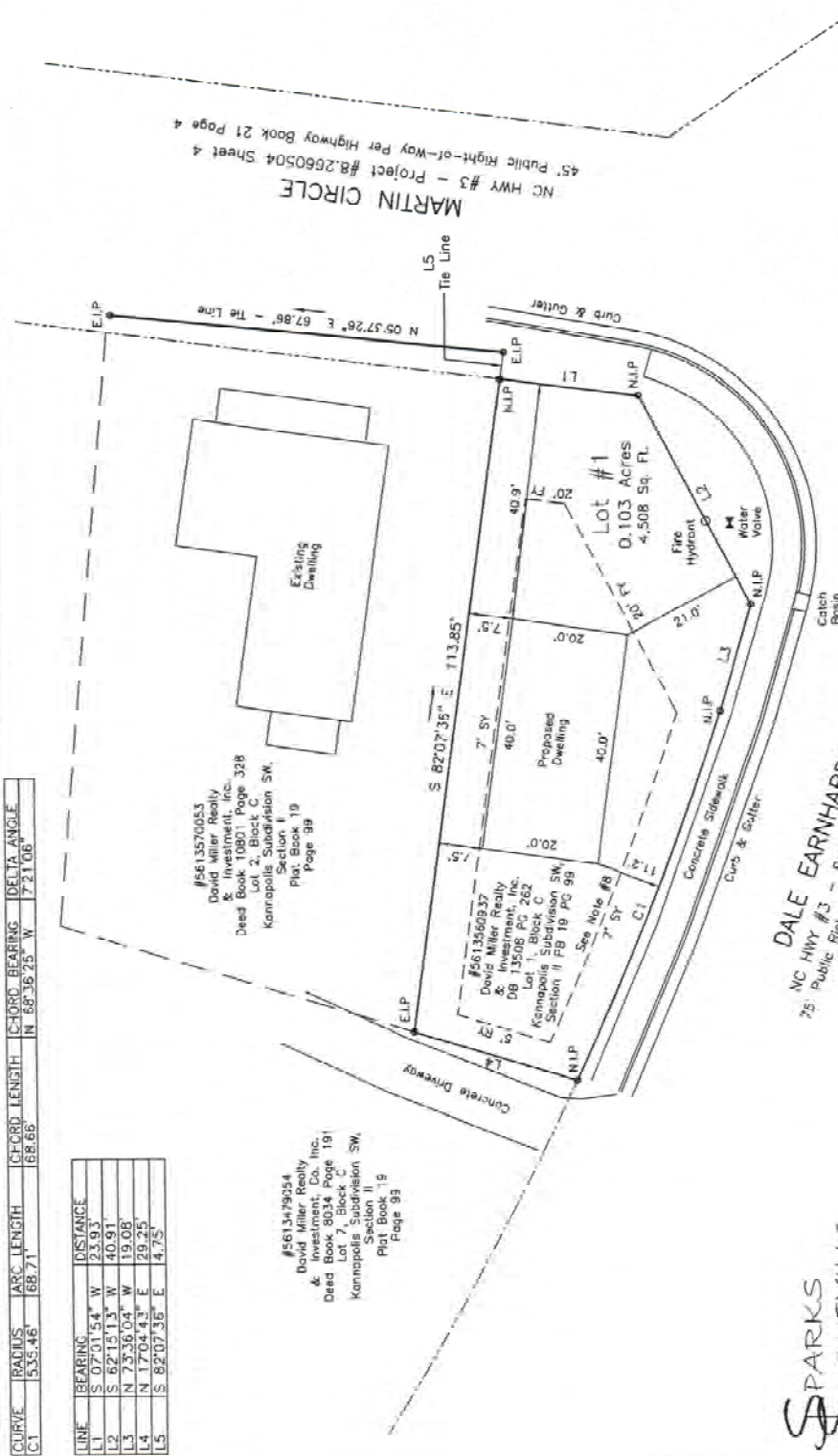
ZONING
ZONED: CC
RC SETBACKS USED
20' FRONT SETBACK
5' REAR YARD
7' SIDEYARD



BOUNDARY SURVEY

of
516 MARTIN CIRCLE
KANNAPOLIS, NC 28021

PIN# 5613560937 DB 13508 PG 262, PB 19, PG 99
Number 4 Township Cabarrus County, N.C.



DALE EARNHARDT BLVD.
75' Public Right-of-Way Per Highway Book 21 Page 4
Project #8.2660504 Sheet 4

- Notes:**
- Iron pins at all lot corners unless otherwise noted
 - This property lies within the City of Kannapolis
 - Property may be subject to recorded or unrecorded rights-of-way or easements not observed.
 - No USGS monument found within 2000'.
 - This property does not lie within a special hazard area per FEMA Flood Insurance Rate Map #3710561300K, dated November 18th, 2018.
 - Property does not lie within a regulated watershed.
 - Property is served by City water & sewer.
 - 10' Building Setback shall be maintained from Dale Earnhardt Blvd/Lisp Road per Section 11.5.1.5. of Kannapolis UDO



SPARKS SURVEYING PLLC
4485 NEEDMORE RD,
WOODLEAF, N.C. 27054
PHONE(704) 577-8429
P-2041

SURVEYOR'S CERTIFICATION
I, Christopher S. Sparks certify that this map was drawn by me from an actual survey made by me and described as recorded in Book 13508 Page 262, etc., of the State of North Carolina, that the boundaries not surveyed are shown as 1:10,000 scale, that the information found in Book 19 Page 99; that this map was prepared in accordance with the standards of practice for land surveying in North Carolina
Witness my hand and seal this 5th day of September, 2021.
Christopher S. Sparks
Professional Land Surveyor
L-4349

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
NICHOL BERNS	515 MARTIN CIR	KANNAPOLIS	NC	28081
CABARRUS COUNTY	PO BOX 707	CONCORD	NC	28026
RAQUEL GASCA CASTILLO	510 MARTIN CIR	KANNAPOLIS	NC	28081
CENTRAL DISTRIBUTING C/O T J OVERBAY	3099 JOE BOST RD	CONCORD	NC	28025
DANNY & LINDA CROWELL	771 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28081
DAVID MILLER REALTY & INVESTMT CO INC	1640 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28083
FIRST BAPTIST CHURCH OF KANNAPOLIS	101 N MAIN ST	KANNAPOLIS	NC	28081
FIRST CHARTER REAL ESTATE	38 FOUNTAIN SQUARE PLZ	CINCINNATI	OH	45202
SHUN GILL	813 DALE EARNHARDT BLVD	KANNAPOLIS	NC	28081
KRISTOPHER & KRISTIN GURLEY	511 MARTIN CIR	KANNAPOLIS	NC	28081
K TOWN HOMES LLC	119 WEST AVE	KANNAPOLIS	NC	28081
KG CONSTRUCTION AND REMODELING LLC	511 MARTIN CIR	KANNAPOLIS	NC	28081
NICHOLAS & TRINA SMITH	508 MARTIN CIR	KANNAPOLIS	NC	28081
NANCY WELLS	512 MARTIN CIR	KANNAPOLIS	NC	28081



October 21, 2021

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday, November 2, 2021 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2021-15 – Special Use Permit – 516 Martin Circle

This Public Hearing is to consider a request for a Special Use Permit (SUP) to allow construction of a single-family residential detached home. Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), an SUP is required to permit single-family development. The subject property is located at 516 Martin Circle, is zoned Center City (CC), measures approximately .103 +/- acres, and is more specifically identified as Cabarrus County Parcel Identification Number 56135609370000. **(Please see attached vicinity map showing the location of this property.)**

As an adjacent property owner, you are being notified of this public hearing in accordance with the requirements of the Kannapolis UDO; and are invited to attend the public hearing and present testimony, should you desire, to the Board of Adjustment.

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Ryan Lipp
Senior Planner

Enclosure

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

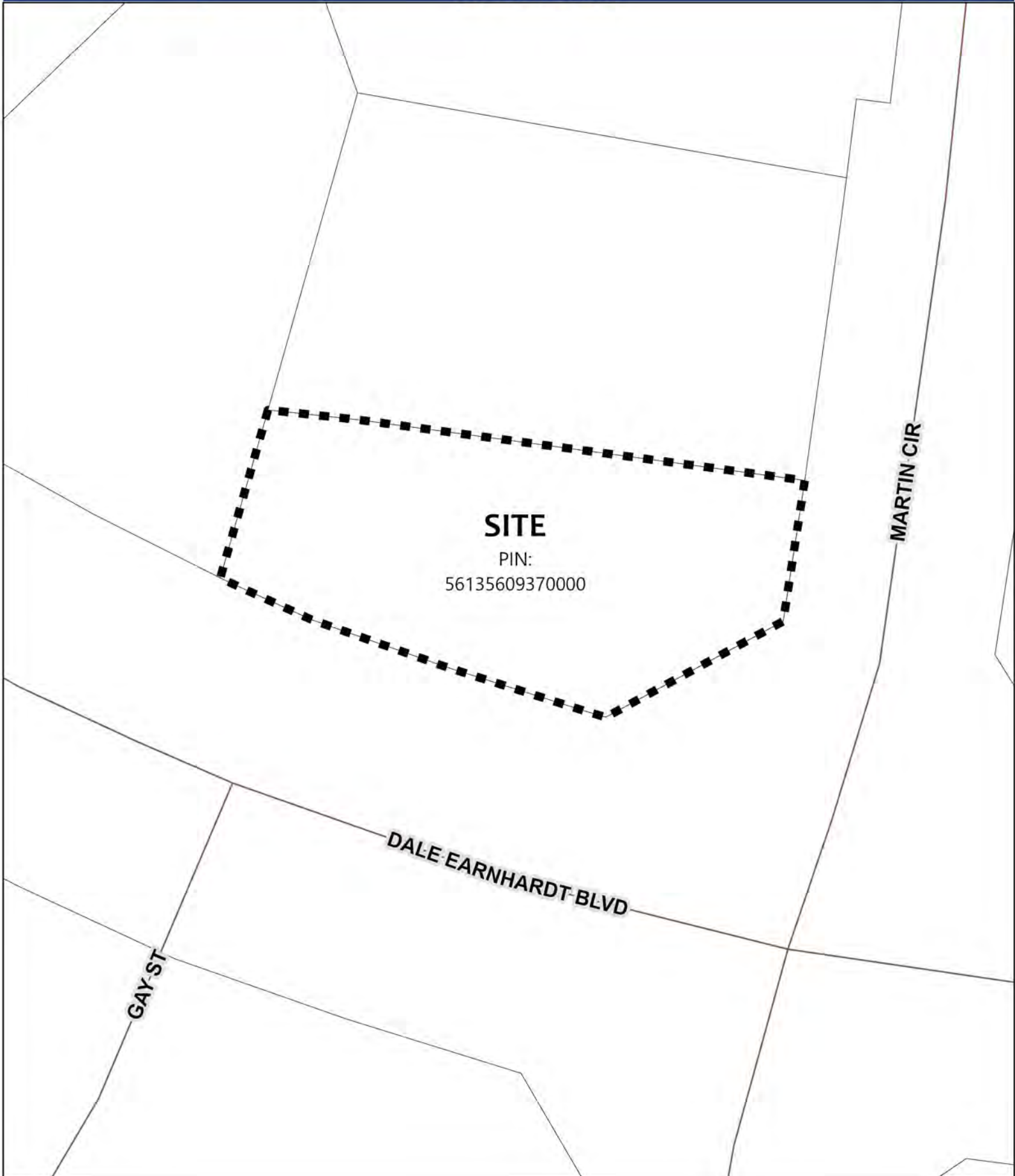


Special Use Permit

Case Number: BOA-2021-15

Applicant: David Miller

516 Martin Circle





BOARD OF
ADJUSTMENT
PUBLIC HEARING
INFORMATION
CALL 704-920-4350
CASE #BOA-2021-15

35
MPH