

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

3
4 **Minutes of Meeting**
5 **Tuesday March 1, 2022**
6

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

9 Board Members Present: Ryan French, Chair
10 Emily Joshi, Vice-Chair
11 Cyrus Rattler
12 Daisy Malit
13 Holden Sides
14 Wilfred Bailey, Sr.
15 Danielle Martini, Alternate Member
16

17 Board Members Absent: None
18

19 Staff Present: Richard Smith, Planning Director
20 Ryan Lipp Senior Planner
21 Boyd Stanley, Assistant Planning Director
22 Pam Scaggs, Recording Secretary
23

24 City Attorney: Walter M. Safrit III
25

26 Visitors Present: Jessica Christie Mayank Gandhi
27 Nidhi Gandhi Tom McClellan
28 Ken Chapman Larry Lockhart
29 Cheryl Moncure Brady Christie
30 Curtis Van Dyke Barry Barnhardt
31 Wayne Overcash Sabrina Jamison
32 Corin Brown Betty Lambert
33 Barry Lambert Cynthia Fink
34 Dean Fink Pamela Blackwell
35 Carla Blackwell Johnny Watkins
36 Stevette Watkins Nicholas Conklin
37 Cynthia Barnhardt Andrea Jackson
38 Mitchell Jackson Ken Bonnio
39 Staci Sheffield Caleb Sheffield
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41 **CALL TO ORDER**

42 Chair French called the meeting to order at 6:00 PM.
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44 **ROLL CALL AND RECOGNITION OF QUORUM**

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

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APPROVAL OF MINUTES

Chair French asked for a motion to approve the January 4, 2022 meeting minutes. Mr. Bailey made a motion to approve, second by Mr. Rattler and the motion was unanimously approved.

APPROVAL OF AGENDA

Chair French recommended moving case No. BOA-2022-03 so that it could be heard first and asked for a motion to approve the amended Agenda, which was made by Mr. Sides, second by Ms. Malit and the motion was unanimously approved.

Planning Director, Richard Smith addressed the audience and noted that everyone should wear a mask per Covid 19 protocol. He also asked that anyone speaking on a case, either for or against the requested use, provide evidence as opposed to opinion.

PUBLIC HEARING

SWORN IN FOR TESTIMONY

Ryan Lipp, Mayank Gandhi, Nidhi Adhvanyu, Andrea Jackson, Cheryl Moncure, and Jessica Christie.

BOA-2022-03 – Request for a Special Use Permit for property located at 619 Breckenridge Road to allow a daycare use in the Residential Medium Density (RM-2) zoning district.

Senior Planner Ryan Lipp gave a presentation regarding a request for a Special Use Permit (SUP) to allow a daycare use on property located at 619 Breckenridge Road. He directed the Board’s attention to Vicinity, Zoning and 2030 Future Land Use maps, provided the application details for BOA-2022-03, attached to and made part of these minutes as Exhibit 1, noting the applicant, property owners, address, dates of public notice and the current zoning.

Mr. Lipp directed the Board’s attention to the submitted site plan and stated that access to the proposed use will look much different on the final site plan due to conditions of approval proposed by staff. He presented street views of the subject property and reviewed Policy Issues and staff Findings of Fact as follows:

1. The proposed 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 “Complete Neighborhood 1” Character Area as designated on the Future Land Use and Character Map in the Move Kannapolis Forward 2030 Comprehensive Plan. The Complete Neighborhood 1 establishes opportunities for Neighborhood-serving walkable commercial and civic uses. These uses should generate limited traffic and serve the neighborhood directly. The lot is a corner lot located on the corner of Kanas St. and Breckenridge Rd. The character area highlights corner lots as a potential for redevelopment by the use being proposed.

The surrounding area is almost exclusively residential in use and character. To help mitigate the effect a potential commercial use can have on the surrounding properties, staff

1 will be proposing certain conditions of approval, including increased buffering and limits
2 on the number of children allowed within the facility.

3
4 Based on the discussion above, and with the added conditions, the proposed development
5 is compatible with the future and existing uses in the surrounding area.
6

7 Mr. Lipp stated that staff received a plat map and a copy of the Breckenridge Covenants and that
8 while the subject property is not part of the Breckenridge development, and therefore not subject
9 to those covenants, still utilized them to add conditions of approval that will bring the site into
10 conformance. He added that a Type III landscape buffer with a fence will be required which will
11 assist in shielding the existing residential from the daycare use and that the number of children is
12 limited to twenty (20) which will lessen traffic impacts and future redevelopment of the property
13

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

16 The proposed development of this site as a Child Care Center has the potential to add
17 additional traffic beyond what is expected in a residential neighborhood. The property is
18 currently accessed off Breckenridge Road. To help alleviate some of the issues, staff is
19 adding a condition that will require the applicant to provide a one-way drive through the
20 property. This will require the applicant to add an additional access point of Kansas Street.
21 Both access points will be required to meet the minimum standards of the Land
22 Development Standards Manual (LDSM).
23

24 Mr. Lipp stated that staff has added a condition of approval regarding access and that the applicant
25 will be required to create a one-way drive with entrance on Breckenridge Road and exit on Kansas
26 Street. Additionally, the applicant will be required to provide directional signage in an effort to
27 prevent traffic on Breckenridge.
28

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

31 No vibration, noise, odor, dust smoke or gas beyond what would be anticipated for a
32 Child Care Center. To help alleviate any potential nuisance caused by an outdoor play
33 area, the applicant will be required to provide a Type III buffer in accordance with 7.4-4
34 of the UDO.
35

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

38 The proposed use would not impede development of the surrounding properties for uses
39 allowed within their respective zoning districts. The surrounding properties are zoned RM-
40 2, which allows for single-family detached homes. The Child Care Center should have no
41 impact on ability for these lots to continue in that function in the future.
42

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

1 There is no apparent danger or detriment to the overall public safety, health and welfare
2 resulting from the proposed use. The proposed development is subject to all the
3 requirements of the Unified Development Ordinance.
4

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

6 The proposed use shall comply with all sections of the City of Kannapolis Unified
7 Development Ordinance, conditions of approval, and any other applicable local, state and
8 Federal regulations. It is understood by the applicant that unless specifically relieved of a
9 requirement, in writing, all UDO requirements, including compliance with the Technical
10 Review Committee site plan review and approval process, must be met. Sewer service is
11 subject to allocation based upon sewer treatment capacity and availability.
12

13 Mr. Lipp stated that staff is recommending approval of the SUP with conditions and read those
14 conditions into the record:
15

- 16 1. The use permitted is Child Care Center with no more than 20 children permitted on
17 premise.
- 18 2. Development of the property must comply with Section 5.16 of the UDO, as well as all
19 other applicable sections.
- 20 3. A Type 3 Perimeter Buffer Yard will be required along all property lines adjacent to
21 residential uses.
- 22 4. A one-way drive, with an ingress point on Breckenridge Road and an egress point on
23 Kansas Street, is required. A sign shall be installed at the ingress point to properly direct
24 traffic through the site and away from further advancement down Breckenridge Road.
- 25 5. Must comply with current Land Development Standards Manual.
- 26 6. All road intersections where development has access and/or street frontage shall be
27 approved by the City.
- 28 7. The developer will construct curb and gutter and sidewalks along the entire road frontage
29 where development has access and/or street frontage. The improvements will be
30 constructed to NCDOT and City standards.
- 31 8. Additional right-of-way (ROW) needed for Kansas Street (existing 40' ROW). Shall
32 dedicate an additional 10' on development side.
- 33 9. The parking lot shall comply with all Fire Codes and Autoturn shall be run for a SU-30.
- 34 10. A NCDEQ Sediment & Erosion Control Permit will be required if disturbing > 1.0 ac.
- 35 11. Existing services shall be used or capped at the main. The applicant is responsible for
36 verifying that services are adequately sized for the building and use. Backflow preventor
37 shall be installed behind meter.
- 38 12. Driveway construction shall conform to LDSM and standard detail per commercial use.
39

40 Mr. Lipp concluded his presentation and made himself available for questions.
41

42 Ms. Joshi asked if the parking lot is required to be concrete, confirmation of access and definition
43 of a Type III buffer. Mr. Lipp responded that paved parking is a requirement and reiterated that
44 ingress will occur on Breckenridge Road and egress from Kansas Street. He added that zoning of
45 property and the proposed use typically determines the type of required buffers and since the

1 requested use is a commercial type use in a predominantly residential neighborhood, staff is
2 requiring a 15 foot landscape buffer which includes a higher density of plantings as well as a fence.

3
4 Mr. Bailey asked for confirmation that the subject property is not part of the Breckenridge
5 community. Mr. Lipp responded that a copy of the survey plat and neighborhood covenants had
6 been submitted to staff and that according to the survey, the property located at 619 Breckenridge
7 is not included in that neighborhood. Mr. Bailey asked whether buffers and a fence is still required
8 even though it is not part of the community. Mr. Lipp responded that even though it is not included
9 in the community, staff wanted to respect the adjacent property covenants and require as much
10 buffer as possible between the residential and commercial uses.

11
12 Chair French questioned the access shown on the submitted site plan. Mr. Lipp reiterated that the
13 final site plan will need to reflect the required one-way drive with ingress on Breckenridge Road
14 and egress on Kansas Street as well as directional signage. Mr. Bailey asked the location of the
15 drive. Mr. Lipp responded that location of the drive will need to be determined and that the project
16 will need to meet land development standards. City Attorney Wally Safrit advised Mr. Lipp to
17 utilize the Vicinity Map instead of the site plan to show the egress/ingress.

18
19 Mr. Rattler asked if curb, gutter and sidewalk are required for the length of property. Mr. Lipp
20 confirmed.

21
22 There was additional discussion regarding drive access.

23
24 Mr. Sides asked if Breckenridge Road is a private or City maintained road. Mr. Lipp responded
25 that both Breckenridge Road and Kansas Street are City maintained roads.

26
27 Attorney Safrit expressed concern that staff is allowing a maximum of 20 children but that the site
28 plan only shows five (5) parking spaces which could cause traffic to back-up onto Breckenridge
29 Road. Mr. Lipp stated that the submitted site plan is not the final site plan, and that both the drive
30 and parking will need to meet or exceed City standards. He added that the Board could add a
31 condition requiring some type of stacking requirement.

32
33 There being no additional questions or comments for staff, Chair French opened the Public
34 Hearing.

35
36 The applicant, Nidhi Adhvanyu, 619 Breckenridge Road, Kannapolis, provided a brief background
37 on her career and stated that she noticed a lack of quality daycare at an affordable price in the
38 Kannapolis area. She added that she wanted to provide a daycare with a STEM curriculum
39 (Science, Technology, Engineering and Mathematics) citing a study performed by the University
40 of California, which found that children between the ages of 3-4 years are more successful when
41 introduced to academics at an early age. Ms. Adhvanyu stated that she liked the neighborhood and
42 thought it would be a good location for the daycare. She introduced her husband, Mayank Gandhi
43 for additional information. Mr. Gandhi stated that staff is requiring twelve conditions of approval
44 and that while they support ten of those conditions, asked for leniency on two of those conditions.
45 He asked that the Board consider changing the condition limiting the number of children to twenty
46 (20).

1
2 Ms. Joshi interrupted and asked if there will be specific drop-off times. Mr. Gandhi stated that they
3 will have specific hours of operation but not specific drop off times. Ms. Joshi asked if the price
4 is the same no matter the time that the child is dropped off. Mr. Gandhi responded "yes". Ms.
5 Joshi expressed concern about traffic impacts regarding lack of specific drop off times and asked
6 the number of children they would like to serve. Mr. Gandhi responded that they would like to
7 change the number of children limit to 29 in order to maintain affordability. Ms. Joshi asked the
8 number of teachers that will work at the daycare and if Ms. Adhvanyu will be one of the teachers.
9 Mr. Gandhi responded that they would like to have 1-4 teachers and that the North Carolina
10 Department of Childcare requires a ratio of one teacher for every eleven (11) children and that yes,
11 his wife will be one of the teachers.

12
13 Mr. Gandhi stated that they would also like to eliminate the requirement for curb, gutter and
14 sidewalk since the rest of the neighborhood does not have these features.

15
16 Mr. Lipp clarified that changing the condition to allow 29 children instead of 20 will no longer
17 make the request compliant with the Unified Development Ordinance (UDO) and staff would no
18 longer support an approval. He added that the condition requiring curb, gutter and sidewalk is a
19 requirement of land development standards and cannot be removed.

20
21 Resident Jessica Christy, 603 Breckenridge Road, identified herself as a spokesperson for the
22 Breckenridge neighborhood. Ms. Christy stated that she is relatively new to the neighborhood but
23 that most of the other residents have been there for at least 40 years and that the neighborhood is
24 a diverse, quiet, residential community, not intended for commercial uses. She expressed concerns
25 regarding access, safety of the street network, pedestrian safety, decreasing home values, access
26 for emergency vehicles, posted speed limit and the potential use of other driveways as a turn-
27 around. Ms. Christy added that although the subject property is not shown as a property located
28 within the Breckenridge development, it is located at the entrance to the neighborhood and that
29 having a daycare at the entrance of their neighborhood will not only impact travel time and safety
30 for other residents but will be misleading since the proposed use is a commercial use. She added
31 that one of the covenants states that no signs, other than those showing a property for sale or for
32 rent are permitted in the neighborhood and that having a business sign and the directional signage
33 at the entrance of their neighborhood will violate that covenant. Ms. Christy questioned
34 enforcement of the directional signage and talked about existing stormwater issues in the
35 neighborhood. She presented pictures of this issue into the record, attached to and made part of
36 these minutes as Appendix 1. Ms. Christy stated that some of the residents work from home
37 which require quiet surroundings and inferred that having a daycare nearby will interrupt the
38 current quiet character of the neighborhood. She added that a lot of the residents have pets and
39 suggested that having the daycare will increase the liability for the residents. Ms. Christy stated
40 that there are eleven (11) other daycares within 5 miles of the proposed daycare and asked the
41 Board to deny the request.

42
43 Resident Cherl Moncure, stated that she has been a 27 year resident of the Breckenridge
44 neighborhood and that when her husband died, there were seven (7) emergency response vehicles
45 that responded to the 911 call. Ms. Moncure expressed concern having a commercial business at
46 the entrance to the neighborhood that could hinder emergency response vehicles. She expressed

1 additional concern regarding negative impacts to the character of neighborhood, traffic and home
2 values. Ms. Moncure stated that a lot of people invest into their homes as part of their retirement
3 plan and surmised that approving the proposed commercial use could negatively impact those as
4 well. She asked the Board to deny the request as approving it will destroy the entrance to the
5 neighborhood.

6
7 Resident Andrea Jackson, 1902 Carolina Ave. expressed concern regarding adding to the existing
8 traffic and congestion issues stating that residents are trying to get out of the neighborhood to
9 transport kids to school and inferred that the daycare will inhibit their ability to do so in a timely
10 manner. Ms. Jackson stated that drivers utilize Kansas Street as a cut-thru to the grocery store and
11 expressed concern regarding speed and the lack of specific drop-off/pick-up times. She added that
12 the majority of the neighborhood is older adults so current residents would not take advantage of
13 a neighborhood childcare facility. Ms. Jackson suggested that there are many properties within the
14 City already zoned commercial or mixed-use that would allow for the proposed daycare and that
15 it is unfair to the neighborhood to force the commercial use as it would compromise the character
16 of neighborhood. She asked the Board to deny the request.

17
18 Chair French asked the audience to stand if they are opposed to proposed daycare. The majority
19 of the audience stood in opposition. Chair French asked those who support the request to stand.
20 The applicants and family stood in support.

21
22 Mr. Bailey asked if the applicant currently lives in the home or if the specific use for the structure
23 is to be the daycare. Ms. Adhvanyu responded that they used to live in Skybrook Apartments in
24 Concord but purchased the home on Breckenridge Road. Attorney Safrit stated that Ms. Adhvanyu
25 should answer whether they currently live in the home located at 619 Breckenridge Road. Ms.
26 Adhvanyu responded that they do not live there and will not be living there and that it will be
27 solely used for the daycare.

28
29 There being no additional questions or comments, Chair French closed the Public Hearing.

30
31 Ms. Martini asked about stacking restrictions. Mr. Lipp responded that stacking restrictions for
32 other businesses are recommended based on the code but there are no code rules regarding daycare
33 stacking. He added that the Board can add a stacking condition of approval. In an effort to alleviate
34 speeding concerns, Ms. Martini asked if a stop sign could be added on Kansas Street at the
35 intersection of Breckenridge Road. Mr. Lipp responded that the Board could make the addition of
36 a stop sign a condition of approval. Attorney Safrit clarified that the Board could suggest a stop
37 sign but that the City is not obligated to abide to the recommendation.

38
39 Ms. Joshi asked how the limited number of children will be enforced. Mr. Lipp responded that a
40 Code Enforcement officer will be responsible for enforcement but someone would have to report
41 that more than 20 children are attending the daycare. He added that it would be the same as a
42 restaurant exceeding their seating capacity in that there would be no way to know this unless it
43 was reported. Mr. Lipp stated that it is an assumed expectation that applicants abide by the
44 conditions of approval.

1 Chair French asked for a motion to accept the City’s exhibits, including the staff report into the
2 record which was made by Mr. Sides, second by Ms. Malit and the motion was unanimously
3 approved.
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5 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Joshi made the
6 motion to approve, second by Mr. Sides and the motion was approved 4-2 with Mr. Rattler and
7 Mr. Bailey casting the dissenting votes.
8

9 Mr. Sides asked for clarification regarding the Finding of Fact (FOF). Attorney Safrit directed the
10 Board to the FOF found in the Staff Report and stated that if the Board approves of staff’s findings
11 and agree that the use should be allowed, they should approve the FOF but if they do not agree,
12 they will need to revise them.
13

14 Several members of the Board indicated confusion regarding the FOF. Attorney Safrit cautioned
15 that if they have questions, there should be discussion until there is clarity. Planning Director,
16 Richard Smith, added that it is okay if the Board does not agree with staff findings but that the
17 finding will need to be revised. After additional discussion, Mr. Sides stated that he would like to
18 change his previous vote. Attorney Safrit recommended that the Board re-vote on the FOF. Mr.
19 Rattler made the motion to revise staff FOF, second by Ms. Malit and the motion was approved 5-
20 2 with Ms. Joshi and Ms. Martini casting the dissenting votes.
21

22 Attorney Safrit asked which FOF the Board would like to revise. Mr. Rattler responded that he
23 disagrees with FOF No. 1 regarding harmony because the requested commercial use is not in
24 harmony with existing residential uses. Both Mr. Bailey and Chair French agreed that the request
25 is not harmony with existing uses. Mr. Rattler stated that staff has added a condition regarding
26 FOF No. 2 to help mitigate ingress and egress from the site but feels that the condition will not
27 help mitigate traffic impacts.
28

29 Mr. Smith advised that since the Board is revising one of the FOF, the rest are essentially voided.
30 Attorney Safrit cautioned that the Board should review all of the FOF so that their finding are on
31 record in the event of an appeal or a lawsuit. Attorney Safrit added that the Board will need to
32 take action on the revised FOF as presented by Mr. Rattler. Mr. Bailey made the motion to revise
33 the FOF as presented by Mr. Rattler, second by Mr. Rattler and the motion was unanimously
34 approved.
35

36 Mr. Rattler made the motion to deny the Special Use Permit, second by Mr. Bailey, and the motion
37 was approved 4-3 with Ms. Malit, Ms. Joshi, and Ms. Martini casting the dissenting votes.
38

39 Mr. Smith clarified for the audience that the Special Use Permit request was denied. Attorney
40 Safrit stated that he will make himself available for any questions after the meeting.
41

42 **SWORN IN FOR TESTIMONY**

43 Tom McClellan, Larry Lockhart, and Ken Chapman
44

1 **BOA-2022-01 – Request for a Special Use Permit for property located at 5111 Rogers Lake**
2 **Road to allow a mini warehousing/self-storage leasing use in the General Commercial (C-2)**
3 **and Traditional Neighborhood (TND) zoning districts.**

4 Senior Planner Ryan Lipp gave a presentation regarding a request for a Special Use Permit (SUP)
5 and provided the application details for BOA-2022-01, attached to and made part of these minutes
6 as Exhibit 2, noting the applicant, property owners, address, dates of public notice and the current
7 zoning.
8

9 Mr. Lipp directed the Board’s attention to the Vicinity, Zoning, and 2030 Future Land Use maps,
10 as well as the site plan, and talked about access to the site. Mr. Lipp directed the Board’s attention
11 to street views of the subject property and the submitted site plan, (existing curb cuts) to review
12 the proposed layout. He reviewed Policy Issues and staff Findings of Fact as follows:
13

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

16 The subject property is within the “Complete Neighborhood 2” Character Area as
17 designated on the Future Land Use and Character Map in the *Move Kannapolis Forward*
18 *2030 Comprehensive Plan*. The Complete Neighborhood 2 establishes opportunities for
19 neighborhood serving businesses.
20

21 The lot is located just outside the Coddle Creek Thoroughfare Protection (CCTP) Overlay
22 District, however, to ensure that the development remains compatible with existing and
23 future land uses in the area, a conditions has been added that will require the development
24 to meet the standards of the CCTP located in UDO Article 15.1.
25

26 Based on the character area noted above, and the conditions added by staff, the proposed
27 mini-warehousing/self-storage leasing development is compatible with the future and
28 existing uses in the surrounding area.
29

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

32 The proposed development of this site for mini warehousing/self-storage leasing is not
33 anticipated to cause any traffic hazards or traffic congestion. Egress/Ingress to the site was
34 addressed through previous development.
35

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

38 No vibration, noise, odor, dust, smoke, or gas is expected as a result of the development of
39 this property. A condition requiring a Type III buffer along the eastern property line,
40 bordering the TND zoning, is being added to help mitigate any potential nuisance caused
41 by use of the property as mini warehousing/self-storage leasing.
42

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

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

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

4 There is no apparent danger or detriment to the overall public safety, health and welfare
5 resulting from the proposed use. The proposed development is subject to all the
6 requirements of the Unified Development Ordinance.
7

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

9 The proposed use shall comply with all sections of the City of Kannapolis Unified
10 Development Ordinance, conditions of approval, and any other applicable local, state and
11 Federal regulations. It is understood by the applicant that unless specifically relieved of a
12 requirement, in writing, all UDO requirements, including compliance with the Technical
13 Review Committee site plan
14

15 Mr. Lipp stated that staff is recommending approval of the SUP with conditions, and reviewed
16 those conditions (Exhibit 2). He concluded his presentation and made himself available for
17 questions.
18

19 Mr. Bailey asked if staff would review the elevation rendering. Mr. Lipp responded that the
20 elevations provided in the staff report have been updated and that the applicant submitted updated
21 elevations that adhere to the Coddle Creek Thoroughfare restrictions. The applicant provided
22 updated elevation renderings for the Board.
23

24 There being no additional questions or comments for staff, Chair French opened the Public
25 Hearing.
26

27 The applicant, Tom McClellan, stated that they have worked and revised the plan to meet the
28 conditions of approval recommended by staff. Mr. McClellan added that the requested use is a
29 quiet, low traffic, good addition to a mixed-use development as opposed to other uses that could
30 be permitted by right and that there is a demand for storage in the area due to the addition of
31 apartment developments.
32

33 Ms. Joshi asked if tenants would have 24-hour access. Mr. McClellan responded “yes”.
34

35 Chair French asked if there will be onsite staff. Mr. McClellan responded that staff will be available
36 during typical business hours.
37

38 Mr. Bailey directed attention to the updated elevation renderings and asked if the look and access
39 to the storage units will change? Mr. McClellan responded that they will not change. Planning
40 Director, Richard Smith, added that the applicant can only enhance the building materials but
41 cannot change due to the conditions of the approval. Mr. McClellan added that the building will
42 be 90% brick and stucco and will look more like an office building than a typical storage facility.
43

44 Ken Chapman, 2400 S. Blvd., Charlotte, identified himself as the master developer and owner of
45 the remaining properties and expressed support for the proposed use. Mr. Chapman stated that it
46 will be in harmony with future development.

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

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

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

10
11 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the
12 SUP. Mr. Sides made the motion to approve with conditions as proposed by staff, second by Bailey
13 and the motion was unanimously approved.

14
15 Chair French asked for a motion to issue the Order of Approval which was made by Ms. Joshi,
16 second by Mr. Rattler and the motion was unanimously approved.

17
18 **PLANNING DIRECTOR UPDATE**

19 Planning Director, Richard Smith, stated that the Planning & Zoning Commission (P&Z) will
20 review final edits and the zoning map of the Kannapolis Development Ordinance (KDO) and
21 hopeful that City Council will take action regarding adoption of the KDO in April or May. He
22 added that City Council has approved a sewer allocation policy and explained the process for
23 project approval. Mr. Smith stated that there is no moratorium but that sewer capacity is certainly
24 limited.

25
26 **OTHER BUSINESS**

27 Mr. Smith stated that City Council approved a rezoning that was previously denied by the Planning
28 and Zoning Commission. The rezoning request was to allow a mini warehouse/self-storage leasing
29 facility on property located in the Farm Hill Small Area Plan (FHSAP) and that it will now require
30 a SUP. He added that the Board should anticipate hearing the case at their April meeting.

31
32 Mr. Smith noted that City Council has also approved the Landis annexation agreement and an
33 agreement to legislatively swap properties in the Irish Creek area which designates the area as
34 Future Growth Area for the City of Kannapolis.

35
36 **ADJOURN**

37 There being no further business, Ms. Joshi made the motion to adjourn, second by Ms. Malit and
38 approved by unanimous vote.

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40 The meeting was adjourned 7:52 PM at on Tuesday, March 1, 2022

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Pam Scaggs, Recording Secretary



Ryan French, Chair
Board of Adjustment

EXHIBIT 1



Board of Adjustment March 1, 2022 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ryan Lipp, Senior Planner
SUBJECT: Case# BOA-2022-03: 619 Breckenridge Road
Applicant: Mayank Gandhi

Request for a Special Use Permit to allow for a Child Care Center in the Residential Medium Density (RM-2) 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, Mayank Gandhi, is requesting a Special Use Permit (SUP) to allow a Child Care Center use in the Residential Medium Density (RM-2) zoning district, on property located at 619 Breckenridge Road, further identified as Cabarrus County Parcel Identification Number 56220903130000.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a SUP is required for a Child Care Center use in the RM-2 zoning district.

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 "Complete Neighborhood 1" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Complete Neighborhood 1 establishes opportunities for Neighborhood-serving walkable commercial and civic uses. These uses should generate limited traffic and serve the neighborhood directly. The lot is a corner lot located on the corner of Kansas St and Breckenridge Rd. The character area highlights corner lots as a potential for redevelopment by the use being proposed.

The surrounding area is almost exclusively residential in use and character. To help mitigate the effect a potential commercial use can have on the surrounding properties, staff will be proposing certain conditions of approval, including increased buffering and limits on the number of children allowed within the facility.

Based on the discussion above, and with the added conditions, 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 development of this site as a Child Care Center has the potential to add additional traffic beyond what is expected in a residential neighborhood. The property is currently accessed off Breckenridge Road. To help alleviate some of the issues, staff is adding a condition that will require the applicant to provide a one-way drive through the property. This will require the applicant to add an additional access point off Kansas St. Both access points will be required to meet the minimum standards of the Land Development Standards Manual (LDSM).

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 Child Care Center. To help alleviate any potential nuisance caused by an outdoor play area, the applicant will be required to provide a Type III buffer in accordance with 7.4-4 of the UDO.

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 surrounding properties

are zoned RM-2, which allows for single-family detached homes. The Child Care Center should have no impact on ability for these lots to continue in that function in the future.

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 and availability.

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 use permitted is Child Care Center with no more than 20 children permitted on premise.
2. Development of the property must comply with Section 5.16 of the UDO, as well as all other applicable sections.
3. A Type 3 Perimeter Buffer Yard will be required along all property lines adjacent to residential uses.
4. A one-way drive, with an ingress point on Breckenridge Road and an egress point on Kansas Street, is required. A sign shall be installed at the ingress point to properly direct traffic through the site and away from further advancement down Breckenridge Road.
5. Must comply with current Land Development Standards Manual.
6. All road intersections where development has access and/or street frontage shall be approved by the City.
7. The developer will construct curb and gutter and sidewalk along the entire road frontage where development has access and/or street frontage. The improvements will be constructed to NCDOT and City standards.
8. Additional right-of-way needed for Kansas Street (existing 40' r-o-w). Shall dedicate an additional 10' on development side.
9. The parking lot shall comply with all Fire Codes and Autoturn shall be run for a SU-30.
10. A NCDEQ Sediment & Erosion Control Permit will be required if disturbing > 1.0ac.
11. Existing services shall be used or capped at the main. The applicant is responsible for verifying that services are adequately sized for the building and use. Backflow preventor shall be installed behind meter.
12. Driveway construction shall conform to LDSM and standard detail per commercial use.

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. Neighbor Opposition
7. List of Notified Properties
8. Notice to Adjacent Property Owners
9. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X



Board of Adjustment March 1, 2022 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ryan Lipp, Senior Planner
SUBJECT: Case# BOA-2022-01: 5111 Rogers Lake Rd
Applicant: Tom McClellan

Request for a Special Use Permit to allow for construction of a mini warehousing/self-storage leasing use in the General Commercial (C-2) 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, Tom L. McClellan, is requesting a Special Use Permit (SUP) to allow construction of a mini-warehousing/self-storage leasing development in the General Commercial (C-2) zoning district, on 5111 Rogers Lake Rd, further identified as Cabarrus County Parcel Identification Number 5603-40-1204-0000.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a SUP is required for mini warehousing/self-storage leasing in the C-2 zoning district. The subject property measures approximately 2.279 +/- acres. A portion of the property is zoned Traditional Neighborhood Development (TND). Mini warehousing/self-storage leasing is not permitted in the TND district; therefore, the development must be contained entirely within the portion of the site zoned C-2.

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 "Complete Neighborhood 2" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Complete Neighborhood 2 establishes opportunities for neighborhood serving businesses.

The lot is located just outside the Coddle Creek Throughfare Protection (CCTP) Overlay District, however, to ensure that the development remains compatible with existing and future land uses in the area, a condition has been added that will require the development to meet the standards of the CCTP located in UDO Article 15.1.

Based on the character area noted above, and the conditions added by staff, the proposed mini warehousing/self-storage leasing 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 development of this site for mini warehousing/self-storage leasing is not anticipated to cause any traffic hazards or traffic congestion. Egress/Ingress to the site was addressed through previous development.

 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. A condition requiring a Type III buffer along the eastern property line, bordering the TND zoning, is being added to help mitigate any potential nuisance caused by use of the property as mini-warehousing/self-storage.

 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 and availability.

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. Use permitted is mini warehousing/self-storage leasing as generally depicted on the included site plan. Final design of the site shall comply with the standards of the Unified Development Ordinance.
2. Development of the mini warehousing/self-storage leasing facility must be contained within the portion of the site zoned General Commercial (C-2).
3. The site must comply with UDO Article 15.1 Coddle Creek Thoroughfare Protection Overlay District.
4. A Type 3 Perimeter Buffer Yard will be required along the eastern property line adjacent to parcel 5602-49-8922-0000 in accordance with table 7.4-4 of the UDO.
5. Must comply with current Land Development Standards Manual.
6. All road intersections where development has access and/or street frontage shall be approved by NCDOT and the City.
7. The developer will construct curb and gutter and sidewalk along the entire road frontage where development has access and/or street frontage. The improvements will be constructed to NCDOT and City standards.
8. The sidewalks shall be to current City standards and the curb & gutter and pavement structure shall be constructed to current NCDOT standards.
9. The parking lot shall comply with all Fire Codes and Autoturn shall be run for an SU-30 and Bus-45 (mimics ladder truck).
10. A NCDEQ Sediment & Erosion Control Permit will be required if disturbing > 1.0ac.

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. Elevations
7. List of Notified Properties
8. Notice to Adjacent Property Owners
9. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X