

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

3
4 **Minutes of Special Meeting**
5 **Tuesday July 11, 2023**
6

7 The Board of Adjustment met on Tuesday July 11, 2023 at 6:00 PM at City Hall, 401 Laureate
8 Way, Kannapolis, North Carolina.
9

10 **Board Members Present:** Ryan French, Chair
11 Emily Joshi, Vice-Chair
12 Cyrus Rattler
13 Holden Sides
14 Wilfred Bailey, Sr.
15

16 **Board Members Absent:** Danielle Martini, Alternate Member
17

18 **City Attorney:** Walter M. Safrit
19

20 **Staff Present:** Richard Smith, Planning Director
21 Ben Barcroft, Senior Planner
22 Kathryn Stapleton, Planner
23

24 **Visitors Present:** Alan Overcash
25 Matthew Black
26 Valerie Mann
27 Leslie Buras
28

29 **CALL TO ORDER**

30 Chair French called the meeting to order at 6:00pm.
31

32 **OATH OF OFFICE**

33 Reappointed members Emily Joshi, Holden Sides and Wilfred Bailey were administered the Oath
34 of Office by Planner, Katherine Stapleton.
35

36 **ROLL CALL AND RECOGNITION OF QUORUM**

37 Ms. Stapleton called the roll and presence of a quorum was recognized.
38

39 **APPROVAL OF AGENDA**

40 Chair French asked for a motion to approve the agenda which was made by Vice-Chair Joshi,
41 second by Mr. Bailey and the motion was unanimously approved.
42

43 **APPROVAL OF MINUTES**

44 Chair French asked for a motion to approve the May 2, 2023 meeting minutes which was made by
45 Mr. Sides, second by Mr. Rattler and the motion was unanimously approved.
46

47 **SWORN IN FOR TESTIMONY**

48 Ben Barcroft and Alan Overcash.
49

1 **PUBLIC HEARING**

2
3 **BOA-2023-09 – Request for a Special Use Permit for property located at 1408 Mason Street**
4 **to allow for a single-family detached dwelling in the Residential 18 (R18) zoning district.**

5 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit
6 (SUP) and provided the application details for BOA-2023-09, attached to and made part of these
7 minutes as Exhibit 1. Mr. Barcroft directed the Board’s attention to the Vicinity map, identifying
8 the applicant as Jade Builders, the subject property as 1408 Mason Street and that the parcel size
9 is approximately 0.26 +/- acres. He identified the current zoning district as Residential 18 (R18)
10 and stated that a SUP is required for single-family detached dwelling in R18.

11
12 Mr. Barcroft utilized the Zoning and Future Land Use maps to illustrate the surrounding residential
13 uses and stated that staff found the SUP request to be compatible with existing and future land
14 uses. He further directed the Board’s attention to site photos (noting that the lot is currently vacant)
15 as well as the conceptual site plan and identified egress/ingress from the proposed structure. Mr.
16 Barcroft concluded his presentation and made himself available for questions.

17
18 City Attorney, Wally Safrit, asked the intention of the R18 zoning district. Mr. Barcroft responded
19 that the intent for R18 is higher density uses such as apartments and multi-family residential uses,
20 but that existing uses include single-family residential uses.

21
22 The applicant, Alan Overcash, Mooresville, NC, made himself available for questions.

23
24 There being no additional questions or comments for staff or the applicant, Chair French opened
25 the Public Hearing which was then closed with no public comment made.

26
27 Chair French asked for a motion to accept the City’s exhibits, including the staff report into the
28 record, which was made by Vice-Chair Joshi, second by Mr. Rattler and the motion was
29 unanimously approved.

30
31 Chair French asked for a motion to approve or revise the Findings of Fact. Mr. Rattler made the
32 motion to approve the Findings of Fact, second by Vice-Chair Joshi and the motion was
33 unanimously approved.

34
35 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the
36 Special Use Permit. Vice-Chair Joshi made the motion to approve, second by Mr. Rattler and the
37 motion was unanimously approved.

38
39 Chair French asked for a motion to issue the Order of Approval. Mr. Sides made the motion to
40 approve the Order, second by Mr. Bailey and the motion was unanimously approved.

41
42 **BOA-2023-10 – Request for a Special Use Permit for property located at 1406 Mason Street**
43 **to allow for a single-family detached dwelling in the Residential 18 (R18) zoning district.**

44 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit
45 (SUP) and provided the application details for BOA-2023-10, attached to and made part of these
46 minutes as Exhibit 2. Mr. Barcroft stated that the subject property is adjacent to the previously

1 approved case [BOA-2023-09] and that the applicant is the same. He directed the Board's attention
2 to the Vicinity, Zoning and Future Land Use maps stating that all was also the same as the
3 previously approved case. He further directed the Board's attention to site photos, noting that the
4 existing mobile home on the property will be removed to allow for construction of the single-
5 family dwelling. Mr. Barcroft utilized the conceptual site plan, identifying egress/ingress,
6 concluded his presentation and made himself available for questions.
7

8 Mr. Bailey asked for confirmation that aside from a mobile home being removed from the subject
9 property, the request is essentially the same as was in the previous case. Mr. Barcroft confirmed.
10

11 There being no additional questions or comments for staff or the applicant, Chair French opened
12 the Public Hearing which was then closed with no public comment made.
13

14 Chair French asked for a motion to accept the City's exhibits, including the staff report into the
15 record, which was made by Mr. Sides, second by Mr. Bailey and the motion was unanimously
16 approved.
17

18 Chair French asked for a motion to approve or revise the Findings of Fact. Vice-Chair Joshi made
19 the motion to approve the Findings of Fact, second by Mr. Sides and the motion was unanimously
20 approved.
21

22 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the
23 Special Use Permit. Mr. Sides made the motion to approve, second by Mr. Bailey and the motion
24 was unanimously approved.
25

26 Chair French asked for a motion to issue the Order of Approval. Vice-Chair Joshi made the motion
27 to approve the Order, second by Mr. Sides and the motion was unanimously approved.
28

29 **BOA-2023-11 – Request for a Special Use Permit for property located at 429 Central Avenue**
30 **to allow for single-family detached dwellings on a portion of property located in the Center**
31 **City (CC) zoning district.**

32 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit
33 (SUP) and provided the application details for BOA-2023-11, attached to and made part of these
34 minutes as Exhibit 3. Mr. Barcroft directed the Board's attention to the Vicinity and Zoning maps,
35 identifying the applicant as Long Ridge Development & Properties, LLC., the subject property as
36 a portion of property located at 429 Central Avenue and that the SUP request is to allow several
37 residential dwellings. He stated that the SUP is required for single-family uses in the Center City
38 (CC) zoning district.
39

40 Mr. Barcroft further utilized the Vicinity map to illustrate that surrounding uses include residential,
41 retail and offices uses and stated that staff found the proposed development to be compatible with
42 existing and future land uses. He directed the Board's attention to the Future Land Use map, stating
43 that the subject portion is located within the Urban Residential Character Area, which allows for
44 both single-family attached and detached residential uses. Mr. Barcroft noted that the entire parcel
45 is located within both the Urban Residential and the Downtown Center Character Areas, but that
46 the proposed development will only be located in the Urban Residential Character Area. He

1 directed the Board's attention to site photos and identified a similar development that the applicant
2 recently developed across Vance Avenue. Mr. Barcroft utilized the conceptual site plan and
3 renderings of the proposed structures to further illustrate location of the homes and stated that the
4 applicant intends to build seven (7) structures, but that the parcel will need to be subdivided. He
5 concluded his presentation and made himself available for questions.
6

7 Vice-Chair Joshi asked the number of proposed structures. Mr. Barcroft stated that the applicant
8 intends to subdivide the parcel and build seven (7) homes. Vice-Chair Joshi asked how the homes
9 will be accessed. Mr. Barcroft utilized the conceptual site plan to illustrate location of the drive
10 and stated that garages will be located to the rear of the homes.
11

12 Mr. Bailey asked the location of trash pick-up. Planning Director, Richard Smith, responded that
13 trash bins will be located to the rear of the homes. Mr. Bailey asked if the road will be wide enough
14 for the trash truck to be able to turn around. After a conversation with the applicant, Mr. Smith
15 clarified that trash bins will be rolled to Vance Avenue by the homeowner during their designated
16 collection day. Mr. Bailey asked for confirmation that the applicant has another development
17 nearby. Mr. Barcroft utilized site photos to show location of the development across Vance Avenue
18 and Mr. Smith stated that the current development can be seen from Dale Earnhardt Boulevard
19 and that they are also accessed from a common drive located to the rear of the homes. He reiterated
20 that trash bins are kept in the back of the homes until their designated collection day and then
21 homeowners roll them to the front on their designated collection day. Mr. Bailey asked if staff has
22 received complaints regarding collection issues and Mr. Smith responded that staff has only
23 received compliments on the existing development.
24

25 Mr. Rattler asked if the SUP applies to the entire 14-acre lot. Mr. Smith responded that if approved,
26 it will only apply to the 0.77 +/- portion of the 14 acres identified on the site plan.
27

28 Mr. Bailey asked if the applicant will have to apply for SUPs for additional homes. Mr. Smith
29 responded that if the applicant wanted to build more than the seven (7) homes shown on the site
30 plan, then yes, they would have to apply for additional SUPs. He added that the applicant will need
31 to subdivide the property and that the Board is only considering the SUP for the 0.77 portion of
32 the 14-acre parcel. Mr. Barcroft added that the applicant is not requesting development on the
33 remainder of the parcel.
34

35 **SWORN IN FOR TESTIMONY**

36 Matthew Black.
37

38 Representative for the applicant, Matthew Black, 206 Oak Avenue, made himself available for
39 questions.
40

41 Chair French asked if all the homes will consist of the same architecture. Mr. Black responded that
42 they will have different architecture although one or two may be the same.
43

44 Mr. Bailey asked if the homes will all be detached, and Mr. Black confirmed. Chair French asked
45 if the homes will have enough parking for two (2) vehicles. Mr. Black confirmed and added that
46 garages and driveways will be located to the rear of the homes.

1 Mr. Bailey commented that he likes the look of the homes.
2

3 Mr. Safrit asked if the applicant owns the property. Mr. Black confirmed. Mr. Safrit asked from
4 whom the property was purchased. Mr. Black responded that the property was purchased from
5 Castle & Cooke. Mr. Safrit noted that the property was previously utilized as an industrial dump
6 and asked if any soil testing had been completed. Mr. Black responded that he was aware of the
7 previous dump use and identified the portion of the property that was utilized for that purpose. Mr.
8 Safrit added that there are also utilities located on the property and reiterated his question regarding
9 testing. Mr. Black responded that the soil will be tested prior to construction. Mr. Safrit agreed that
10 **the applicants'** existing development is attractive and likes that the homes can be viewed from
11 Dale Earnhardt Boulevard but expressed concern that if approved, residents will now only be able
12 to see the back of the proposed homes. Mr. Black responded that they are discussing adding rooftop
13 terraces to the proposed homes to help with aesthetics and added that they hope to build additional
14 homes that will front Dale Earnhardt Boulevard in the near future. Mr. Safrit asked if there will be
15 any restrictions with the property. Mr. Black responded that a Homeowners Association (HOA)
16 will be established. Mr. Safrit asked if there is an HOA at the development across Vance Avenue.
17 Mr. Black confirmed and added that it has been successful.
18

19 Mr. Bailey asked if there is a legal requirement to make future homeowners aware that the land
20 was previously utilized as an industrial dump. Mr. Safrit responded that he is not aware of any
21 such requirement and that the burden is on the developer to show that they are offering a quality
22 product. Mr. Bailey expressed concern that potential buyers would not be made aware. Mr. Safrit
23 responded that as an industrial dump, it consists of bricks and mortar. Mr. Black added that the
24 dump was not located where the proposed homes will be built and that they would bear the cost of
25 debris removal if found when construction begins.
26

27 There being no additional questions or comments for staff or the applicant, Chair French opened
28 the Public Hearing which was then closed with no public comment made.
29

30 Chair French asked for a motion to accept the City's exhibits, including the staff report into the
31 record, which was made by Vice-Chair Joshi, second by Mr. Bailey and the motion was
32 unanimously approved.
33

34 Chair French asked for a motion to approve or revise the Findings of Fact. Mr. Rattler made the
35 motion to approve the Findings of Fact, second by Mr. Sides and the motion was unanimously
36 approved.
37

38 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the
39 Special Use Permit. Vice-Chair Joshi made the motion to approve, second by Mr. Bailey and the
40 motion was unanimously approved.
41

42 Chair French asked for a motion to issue the Order of Approval. Mr. Bailey made the motion to
43 approve the Order, second by Mr. Sides and the motion was unanimously approved.
44

45 **PLANNING DIRECTOR UPDATE**

46 Planning Director, Richard Smith, provided the 2023 second quarter permit report for the Board.

1 **OTHER BUSINESS**

2 Mr. Smith directed the Board's attention to the proposed 2024 meeting schedule. Chair French
3 made motion that the proposed Tuesday, July 2, 2024 meeting be moved to the following Tuesday,
4 July 9, 2024 due to the Independence holiday. The Board agreed and unanimously approved.
5

6 Mr. Smith indicated that election of Chair and Vice-Chair should be made. Chair French asked for
7 nominations for Vice-Chair. Mr. Rattler asked that he be considered for Vice-Chair which the
8 Board unanimously approved. Chair French asked for nominations for Chair. Ms. Joshi asked that
9 she be considered for Chair which the Board unanimously approved.
10

11 Mr. Smith noted that Board members should have received tickets for the July 25, 2023 Cannon
12 Baller game and asked that if they cannot attend, to please let staff know and to return their tickets.
13 He advised the Board of new appointments to the Board which consisted of an Extra Territorial
14 Jurisdiction (ETJ) representative, Mike McClain, and explained the process by which an ETJ
15 representative is appointed. Mr. Smith added that new member Chris Dwiggin was also
16 appointed, but that he could not attend the meeting due to prior commitments. He continued stating
17 that existing Board member, Daisy Malit, was appointed to the Planning and Zoning Commission
18 and will no longer be serving on the Board, and that Danielle Martini will continue to serve as an
19 Alternate Board member.
20

21 Mr. Smith stated that Assistant Planning Director, Boyd Stanley, resigned from the City and that
22 as soon as the position is filled, the new Assistant Planning Director will be introduced to the
23 Board.
24

25 **ADJOURN**

26 There being no further business, Ms. Joshi made the motion to adjourn, second by Mr. Bailey and
27 the motion was unanimously approved.
28

29 The meeting was adjourned at 6:42 PM on Tuesday, July 11, 2023.
30
31

32 
33
34

35 Pam Scaggs, Recording Secretary
36 Board of Adjustment


37 Ryan French, Chair
38 Board of Adjustment

EXHIBIT 1



Board of Adjustment July 11, 2023 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2023-09: Special Use Permit – 1408 Mason Street
Applicant: Jade Builders

Request for a Special Use Permit to allow for a single-family detached dwelling on property located at 1408 Mason St.

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, Jade Builders, is requesting a Special Use Permit (SUP) to allow for a single-family detached dwelling in the Residential 18 (R18) zoning district on approximately 0.26 +/- acres of property located at 1408 Mason St., further identified as Cabarrus County Parcel Identification Number 56039992450000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for single-family detached dwellings uses in the R18 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.

This property is in the "Complete Neighborhood 1" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area calls for both single-family detached and attached residential uses, as well as multi-family residential 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 construction of a single-family detached dwelling is 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.

No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a single-family detached residential use is expected as a result of this proposed use.

 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 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 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.

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

EXHIBIT 2



Board of Adjustment July 11, 2023 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2023-09: Special Use Permit – 1406 Mason Street
Applicant: Jade Builders

Request for a Special Use Permit to allow for a single-family detached dwelling on property located at 1406 Mason St.

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, Jade Builders, is requesting a Special Use Permit (SUP) to allow for a single-family detached dwelling in the Residential 18 (R18) zoning district on approximately 0.27 +/- acres of property located at 1406 Mason St., further identified as Cabarrus County Parcel Identification Number 56130902260000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for single-family detached dwellings uses in the R18 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.

This property is in the "Complete Neighborhood 1" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area calls for both single-family detached and attached residential uses, as well as multi-family residential 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 construction of a single-family detached dwelling is 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.

No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a single-family detached residential use is expected as a result of this proposed use.

 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 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 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.

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

EXHIBIT 3



Board of Adjustment July 11, 2023 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2023-11: Special Use Permit – Portion of property located at 429 Central Avenue
Applicant: Long Ridge Development & Properties, LLC

Request for a Special Use Permit to allow for a single-family detached dwelling on a portion of property located at 429 Central Ave.

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, Long Ridge Development & Properties, LLC., is requesting a Special Use Permit (SUP) to allow for single-family detached residential uses in the Center City (CC) zoning district on a 0.77 portion of approximately 14.25 +/- acres of property located at 429 Central Ave., further identified as Cabarrus County Parcel Identification Number 46133894130000.

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

This property was conditionally rezoned by the Planning and Zoning Commission at their June 20, 2023 meeting from Residential 8 (R8) to Center City Conditional-Zoning (CC-CZ).

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 Residential" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area calls for both single-family detached and attached residential uses as primary uses. There is a small portion of the back of the property within the "Downtown Center" Character Area. The proposed development is not within this area.

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 construction of a single-family detached dwelling is 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.

No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a single-family detached residential use is expected as a result of this proposed use.

 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 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.

The applicant has agreed in writing to the recommended Conditions of Approval.

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 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. Development of the lot shall be held to the proposed site plan of seven (7) single-family dwellings.

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