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

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**Minutes of Special Meeting
Tuesday February 6, 2024**

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The Board of Adjustment met on Tuesday February 6, 2024, at 6:10 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina. This meeting was held in accordance with required Public Notice

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Board Members Present: Chris Dwiggins
Holden Sides
Mike McClain, ETJ Representative
Ryan French
Wilfred Bailey, Sr.

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Board Members Absent: Emily Joshi, Chair
Danielle Martini, Alternate Member

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Staff Present: Richard Smith, Planning Director
Elizabeth McCarty, Assistant Planning Director
Ben Barcroft, Senior Planner
Wilmer Melton, Assistant City Manager
Pam Scaggs, Recording Secretary

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Visitors Present: Stephen Overcash
John Kelly Atchley
John Carmichael
Joshua Taylor
Thomas Shirley
Joe Hatley

CALL TO ORDER

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

Planning Director, Richard Smith, noted that since the Chair, Emily Joshi, is absent, the Commission will need to approve a regular seated member to act as Chair and asked for a motion to approve Ryan French. The motion was made by Mr. Sides, second by Mr. Dwiggins and unanimously approved. Mr. Smith added that the Board will need to elect a new Vice-Chair at their next regularly scheduled meeting.

ROLL CALL AND RECOGNITION OF QUORUM

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

APPROVAL OF AGENDA

Acting Chair French asked for a motion to approve the agenda which was made by Mr. Bailey, second by Mr. McClain and the motion was unanimously approved.

1 **APPROVAL OF MINUTES**

2 Acting Chair French asked for approval of the October 3, 2023, November 7, 2023, and December
3 5, 2023, minutes which was made by Mr. Dwiggins, second by Mr. Sides and the motion was
4 unanimously approved.

5
6 **SWORN IN FOR TESTIMONY**

7 Ben Barcroft, John Carmichael, Thomas Shirley, Joshua Taylor, John Kelly Atchley, and Stephen
8 Overcash were sworn in for testimony.

9
10 **PUBLIC HEARING**

11 **BOA-2024-02 – Request for a Special Use Permit for property located at 3392 Cloverleaf**
12 **Parkway to allow for a self-service storage use in the General Commercial (GC) zoning**
13 **district.**

14 Mr. Barcroft, gave a presentation regarding a request for a Special Use Permit (SUP) and provided
15 the application details for BOA-2024-02, attached to, and made part of these minutes as Exhibit 1.
16 Mr. Barcroft identified the applicant, Evergreen Investment Company, LLC., the property located
17 at 3392 Cloverleaf Parkway and the size of the property as 2.39 acres. He added that the request
18 is for a SUP to allow a self-service storage facility in the General Commercial (GC) zoning district
19 as required per the Ordinance (KDO).

20
21 Mr. Barcroft utilized the Zoning and Future Land Use maps to illustrate surrounding zoning
22 districts and noted an adjacent medical office that will share access with the proposed facility. He
23 reiterated that the subject property, as well as surrounding properties, is zoned GC and that staff
24 has determined that the proposed development is compatible with the zoning and the existing uses.
25 Mr. Barcroft stated that the property is located within the Primary Activity Center Interchange
26 Character Area of the *Move Kannapolis Forward 2030 Comprehensive Plan (“2030 Plan”)*, which
27 calls for retail and office as primary uses and secondary uses as light manufacturing, multifamily
28 and single-family attached and noted that the proposed use is compatible with the recommended
29 uses. Mr. Barcroft directed the Boards attention to aerial photos to illustrate location of the subject
30 property as well as location of existing commercial uses. He further directed the Boards attention
31 to the conceptual site plan, stating that the applicant is proposing two (2) access drives with one
32 (1) being a shared existing entrance with the adjacent medical office and that the applicant is
33 proposing a climate-controlled structure with up to four (4) stories and 1,000 square feet. Mr.
34 Barcroft added that if the applicant installs a private septic system, they are requesting up to 750
35 storage units with a maximum of six (6) parking spaces, but that if they connect to the City’s sewer
36 system, they will be limited to 599 units which would reduce the maximum parking spaces to five
37 (5). Mr. Barcroft clarified that the number of storage units is dependent on whether they install a
38 private septic system or connect to the City’s sewer system. He then directed the Board’s attention
39 to site photos and renderings to illustrate what the structure could look like. Mr. Barcroft concluded
40 his presentation stating that staff found the requested use compatible and meets the Findings of
41 Fact as shown in the staff report (see Exhibit 1).

42
43 Mr. Bailey expressed concern regarding the number of parking spaces. Mr. Barcroft responded
44 that the site will have six (6) parking spaces if the applicant installs their own private septic system,
45 and five (5) parking spaces if they connect to the City’s sewer system. He added that the applicant
46 is proposing a climate controlled, self-storage business that will not be staffed by on-site personnel.

1 Mr. Smith added that while it does not seem to be a lot of parking, it does meet the ordinance and
2 since it is a self-service facility, it is not anticipated that there will be a lot of users visiting the site
3 at the same time. Mr. Bailey asked for confirmation of the number of proposed units. Mr. Smith
4 **responded that there will be a maximum of 599 units if the applicant connects to the City’s sewer**
5 **system, or 750 units if they install their own private septic system.** He added that if the Board
6 approves the SUP request, they will need to make the number of units a condition of approval.
7

8 Mr. Bailey referred to the proposed shared access drive with the adjacent medical office and asked
9 if that has been approved by the medical office. Mr. Smith responded that the shared drive is a
10 NCDOT requirement and that since Cloverleaf Parkway is a NCDOT controlled street, NCDOT
11 can force that issue since they issued the permit for the drive. He added that when the drive for the
12 medical office was constructed, it was constructed **with a “stub-out”** assumption for future
13 development.
14

15 Representative for the applicant, John Carmichael (101 N. Tryon Street, Suite 1900, Charlotte,
16 NC.), stated that he has paper hand-outs (PowerPoint, see Appendix 1) and asked for assistance to
17 provide copies to the Board. Mr. Carmichael stated that there are six (6) Findings of Fact that the
18 Board needs to find in order to issue the SUP and that it is the obligation of the applicant to present
19 evidence confirming that the proposed use meets those Findings of Fact. He apologized for the
20 **“over kill” and stated that they will attempt to be as efficient as possible out of respect for time.**
21 Mr. Carmichael reintroduced himself, stating that he represents the applicant, Evergreen
22 Investment Company, and stated that also providing testimony on behalf of the applicant will be:
23 Josh Taylor (Evergreen Investment Company, LLC); John Kelly Atchley, Site Engineer (Kimley
24 Horne and Associates); Thomas Shirley, Traffic Engineer (Kimley Horne and Associates); and
25 Stephen Overcash (ODA Architecture). He directed the Boards attention to Exhibit A (aerial view
26 of the site) stating that the site is located on the south side of Cloverleaf Parkway, just west of
27 Concord Lake Road, and identified the address as 3392 Cloverleaf Parkway. Mr. Carmichael
28 directed the Board’s attention to Exhibit B (City of Kannapolis Zoning Map) stating that the
29 property is zoned GC as are the properties located to the north, east and west of the site. He stated
30 that Exhibit C (aerial photograph) shows that Interstate 85 (I-85) is located south of the site and
31 that parcels to the west are devoted to hotel uses, parcels to the east are devoted to a medical park
32 and parcels to the north of the site, across Cloverleaf Parkway, are devoted to large retail uses, a
33 tool store and small retail office and restaurant uses which consist of Home Depot; Rug & Home;
34 and Northern Tool and Equipment. Mr. Carmichael added that in addition to I-85, parcels to the
35 south are also devoted to commercial uses and that a self-service storage facility is permitted in
36 the GC zoning district upon issuance of a SUP. He reiterated that the applicant is requesting the
37 SUP to accommodate the development and operation of a climate controlled, self-storage building
38 that will be a maximum of four (4) stories in height and contain up to 100,000 square feet of gross
39 floor area, and up to 750 individual storage units. Mr. Carmichael stated that there are six (6)
40 Findings of Fact, that the hearing is a quasi-judicial process and that their intent is to present
41 competent, substantial material evidence that will show that the proposed use meets each of the
42 Findings of Fact.
43

44 Mr. Carmichael called his first witness, John Kelly Atchley (200 S. Tryon Street, Suite 200,
45 Charlotte, NC), to discuss the site plan (Exhibit D). He asked Mr. Atchley to state where he works
46 and to briefly describe his educational background and qualifications. Mr. Atchley stated that he

1 works for Kimley Horne and Associates, has a Bachelor of Science degree in civil engineering,
2 and is a licensed professional engineer in the state of North Carolina. Mr. Carmichael asked the
3 length of time that he has been licensed. Mr. Atchley responded: **“7 months”**. Mr. Carmichael
4 asked if part of his duties include reviewing development ordinances and preparing site plans that
5 **comply with those ordinances**. Mr. Atchley replied: **“They do.”** Mr. Carmichael asked Mr. Atchley
6 if he has experience with **storm water and erosion control facilities**. Mr. Atchley responded: **“I do.”**
7 Mr. Carmichael asked if he has been to **the site**. Mr. Atchley replied: **“I have.”** Mr. Carmichael
8 asked if he, or someone under his supervision, prepared the site plan which is Exhibit D. Mr.
9 **Atchley replied: “Yes.”** Mr. Carmichael asked him to confirm that **Exhibit D is the site plan and**
10 **asked him to review the plan with the Board**. Mr. Atchley confirmed that Exhibit D is the site plan
11 prepared by Kimley Horne and stated that the proposed development, as shown on the plan, is
12 located on Cloverleaf Parkway, which is a three (3) lane road with the center lane dedicated as a
13 turn lane. He continued that there are two (2) proposed access points, with one being a new curb
14 cut on Cloverleaf Parkway and the other is adjacent to medical facility. Mr. Atchley addressed Mr.
15 **Bailey’s concern regarding the shared access drive, stating that** in reviewing the best opportunities
16 for access points, realized that there is an existing cross access easement that will allow for the
17 proposed access adjacent to the medical facility. He stated that parking and loading/unloading
18 areas meets the minimum requirements of Kannapolis Development Ordinance (KDO), and that
19 parking is as shown on the site plan with loading/unloading to the rear, adjacent to I-85 and that
20 the 10-foot front setback from Cloverleaf Parkway is as required by the KDO. Mr. Atchley
21 reiterated that the proposed building will be a maximum of four (4) stories, 100,000 square feet of
22 floor area, and 750 individual storage units.

23
24 Mr. Carmichael asked Mr. Atchley to talk about the environmental aspects of the development.
25 Mr. Atchley responded that the per the existing GC zoning district, there is a requirement of an
26 80% build upon impervious area threshold and as the site is currently shown on the site plan, they
27 are proposing to occupy approximately 50% impervious area which is less than the 80% threshold.
28 He added that the site must meet requirements for stormwater quantity and quality as shown in
29 Chapter 3 of Land Development Standards Manual (LDSM). Mr. Carmichael asked if the site plan
30 complies with those requirements and asked Mr. Atchley to talk about how the stormwater will be
31 handled. Mr. Atchley responded that the site plan complies with stormwater requirements and will
32 be handled by control measures that will be located either above or below ground which also must
33 meet all City requirements. Mr. Carmichael asked if the proposed use will cause adverse impacts
34 **from a stormwater perspective**. Mr. Atchley responded: **“No”**. Mr. Carmichael asked if there are
35 any wetlands or floodplains on the site. Mr. Atchley responded: **“To my knowledge, no.”** Mr.
36 Carmichael asked if the development will be required to comply with applicable erosion and
37 **sedimentation control ordinances** Mr. Atchley responded: **“Yes.”** Mr. Carmichael asked: **“And**
38 **applicable environmental regulations”** to which Mr. Atchley responded: **“Yes.”** Mr. Carmichael
39 asked if egress/ingress was designed to accommodate emergency vehicles. Mr. Atchley responded:
40 **“Yes.”** Mr. Carmichael asked if the site plan generally complies with the requirements of the KDO.
41 Mr. Atchley responded: **“Yes.”** Mr. Carmichael asked: **“In your professional opinion, would the**
42 **establishment, maintenance and operation of the proposed use be detrimental to or endanger public**
43 **health, safety, and general welfare from the stormwater erosion and sedimentation control or**
44 **environmental standpoint.”** Mr. Atchley responded: **“In my professional opinion, it would not.”**
45 Mr. Carmichael asked what was reviewed to determine location of egress/ingress access points.
46 Mr. Atchley responded that for the new curb cut on Cloverleaf Parkway, they reviewed driveway

1 spacing to ensure that it would conform to LDSM requirements along with preliminary evaluation
2 of site distance. He continued that review of the cross-access easement allowed them to determine
3 that tying in a new driveway would eliminate an additional curb cut on Cloverleaf Parkway. Mr.
4 Carmichael asked if adequate measures to provide egress/ingress have been designed to minimize
5 **traffic hazards and congestion on public roads. Mr. Atchley responded: "Yes." Mr. Carmichael**
6 **asked if those access points will operate in a safe and efficient manner, to which Mr. Atchley**
7 **responded: "Yes."**
8

9 Mr. Carmichael called for his second witness, Thomas Shirley (200 S Tryon Street, Suite 200,
10 Charlotte, NC) Mr. Carmichael asked Mr. Shirley to state his background and qualifications. Mr.
11 Shirley stated that he is a Transportation Engineer, with a **bachelor's and master's** degree from
12 Clemson University, has been working in the transportation field for approximately four (4) years
13 and is a licensed Professional Engineer (PE) for seven (7) months. He added that he has completed
14 a Traffic Impact Analysis (TIA) and other transportation studies around the Charlotte metro area
15 regularly. Mr. Carmichael asked Mr. Shirley to identify Exhibit E, which Mr. Shirley identified as
16 the Trip Generation for the proposed site and stated that the data is directly from the Institute of
17 Transportation Engineers, who is an internationally recognized source for data. He added that the
18 land use code for mini warehouse (self-service storage) conservatively estimates 125 daily trips
19 with nine (9) [trips] in the AM and fifteen (15) [trips] in the PM peak hours. Mr. Shirley addressed
20 **Mr. Bailey's concern regarding the number of parking spaces**, stating that they have reviewed the
21 AM/PM peak hours and estimates that a total of five (5) vehicles entering during the AM and a
22 total of eight (8) leaving during an hour, which means that it is likely that there will be more
23 vehicles than those shown at the same time.
24

25 **Acting Chair French referred to the site plan and asked if the "hashed" area could be utilized for**
26 **additional parking or if it is allocated to loading/unloading. Mr. Carmichael asked Mr. Atchley to**
27 **respond, who stated that the ordinance requires a maximum of six (6) parking spaces and that the**
28 **hashed area shown is to be used for loading/unloading.**
29

30 Mr. Carmichael referred to Exhibit E (Trip Generation) and asked Mr. Shirley if Cloverleaf
31 Parkway can handle the number of additional trips that will be generated by the proposed
32 development. **Mr. Shirley responded: "Yes, yes it can. So, 145 daily trips, from the ADT**
33 **perspective, should have no impacts." Mr. Carmichael asked if in his professional opinion, from a**
34 **transportation standpoint, would the proposed use be detrimental to or endanger public health,**
35 **safety or general welfare. Mr. Shirley responded: "No it would not."**
36

37 Mr. Carmichael called his third witness, Josh Taylor (271 Winslow Way, East 10727, Bainbridge,
38 Washington) to discuss the facility relating to the Finding of Fact regarding noxious odors, gas, or
39 vibrations. He asked Mr. Taylor to describe his job with Evergreen. Mr. Taylor responded that he
40 is the Director of Asset Management and oversees all the property management for their real estate.
41 Mr. Carmichael asked if he was familiar with proposed use to which Mr. Taylor confirmed. Mr.
42 Carmichael asked for confirmation that the individual storage units will be located within the
43 building itself, accessed by internal hallways and that there will be no outdoor storage. Mr. Taylor
44 confirmed all to be correct. Mr. Carmichael noted that they have already discussed the parking
45 areas, and asked Mr. Taylor if tenants will store items or conduct activities within their units that
46 will be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. Mr. Taylor

1 responded: “No, it is prohibited by the lease.” Mr. Carmichael referred to Exhibit F, (standard
2 lease) and asked the Board to turn to page 3, Article 12 (Limitations on Use of the Space and
3 Facility) and asked Mr. Taylor to read the highlighted portion:
4

5 *The storage of food and any perishable goods is strictly prohibited. The use of electricity in*
6 *the Space is strictly prohibited unless agreed upon in writing by the Operator. It is specifically*
7 *understood and agreed that customer shall not store or use in the space or at the facility any*
8 *hazardous or toxic materials or any inherently dangerous or flammable substance.*
9

10 Mr. Carmichael reiterated and asked for confirmation that the proposed use will not be noxious or
11 offensive by reason of vibration, noise, odor, dust, smoke, or gas, to which Mr. Taylor confirmed.
12

13 Mr. Carmichael stated that his last witness is Stephen Overcash (2010 S Tryon St. Charlotte, NC)
14 and that he will be providing testimony regarding Exhibit G (Building Design). Mr. Carmichael
15 asked Mr. Overcash to identify where he works. Mr. Overcash responded: “ODA Architecture”
16 Mr. Carmichael asked for a brief background. Mr. Overcash responded that he has a bachelor’s
17 degree in architecture and has been practicing for 42 years. Mr. Carmichael asked if he reviews
18 zoning and development ordinances as part of his duties when designing buildings. Mr. Overcash
19 replied: “That’s right”. Mr. Carmichael asked if Mr. Overcash prepared the elevation of the
20 proposed building and in doing so, did he review the development requirements of the KDO. Mr.
21 Overcash responded: “Yes sir.” Mr. Carmichael asked if the development meets those
22 requirements and Mr. Overcash responded that it does. Mr. Carmichael asked him to talk about
23 the design of the building. Mr. Overcash stated that the building will consist of mainly brick and
24 stucco with the amount of glass as required by the KDO to engage the street and that it will be an
25 average height of approximately 42 feet, adding that the lot is sloping so that he utilized an average
26 grade due to the slope. Mr. Carmichael noted that one change from the elevation rendering shown
27 by Mr. Barcroft and the one shown in Exhibit G is the color change from red to green and explained
28 that it is due to “branding”.
29

30 Mr. Carmichael concluded his testimony by reviewing the six (6) Findings of Fact and reiterating
31 why they feel the proposed use meets those findings:
32

- 33 1. The proposed conditional use will be in harmony with the area in which it is to be located
34 and in general conformance with the City’s Land Use Plan.
35

36 Mr. Carmichael stated: “I-85 is to the south of the site, General Commercial uses are located to
37 the north, east, and west of the site, the proposed use will be a quiet, low-impact commercial
38 development located in, what we think, is an aesthetically appealing building. The use will be
39 located entirely within the building. There will be no outside storage. And the loading and
40 unloading areas will be located towards the rear of the building and as a result, we think the
41 proposed use will be in harmony with the surrounding commercial uses and the surrounding area.
42 In terms of the City’s comprehensive plan, Exhibit H, which is identical to one of the slides that
43 Mr. Barcroft showed, shows that the site is located in the Primary Activity Interchange Character
44 Area in the 2030 Comprehensive Plan. Page two of Exhibit H shows that primary uses are retail
45 and office in this character area, and the proposed use is consistent with that character area. The
46 project would provide supporting commercial services to area businesses and residents in terms of

1 a self-service storage facility. Self-storage facility uses are more akin to a retail use rather than an
2 industrial use; hence it being allowed with Special Use Permit in your CG zoning district. It will
3 be urban informed and will be pulled up to the street with parking to each side. The maximum
4 building height is four (4) stories, which is in keeping with the character area, and we'll note that
5 the Kannapolis planning staff has concluded, and is in the Staff Report, that the use will be in
6 harmony with the area and in general conformance with the City's Comprehensive plan.”

- 7
8 2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize
9 traffic hazards and to minimize traffic congestion on the public roads.

10
11 **Mr. Carmicheal stated:** “Mr. Kelly testified that safe egress/ingress to the site, to and from
12 Cloverleaf Parkway, will be provided and the **applicant’s traffic** engineer testified that Cloverleaf
13 Parkway could accommodate the minimal additional vehicular trips that would be generated by
14 this proposed use. We think that ingress and egress is being provided in a manner to minimize
15 traffic hazards and traffic congestion. **Mr. Taylor spoke to the third Finding of Fact.”**

- 16
17 3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor,
18 dust, smoke or gas.

19
20 **Mr. Carmichael continued:** “Once again, no outside storage, everything is internal, and the lease
21 prohibits dangerous or toxic or flammable substances. And this is really the purpose of this use
22 is just for people's personal property.”

- 23
24 4. The establishment of the proposed use shall not impede the orderly development and
25 improvement of surrounding property for uses permitted within the zoning district.

26
27 **Mr. Carmichael stated:** “Generally the 4th Finding of Fact is that the proposed use would not
28 impede the orderly development and improvement of the surrounding property for uses
29 permitted within the zoning district. I know that I'm being repetitive, but once again, I-85 is to
30 the south, parcels surrounding the site are zoned GC and **they’re** devoted to large retail uses, a
31 tool store, small retail office, and restaurant uses, and then a hotel and a medical clinic. Our use
32 would be a commercial use and it would be low impact. Additionally, the building will blend
33 nicely with a mixture of commercial uses surrounding the site, and as a result we don't think
34 that this proposed use would impede the orderly development and improvement of the
35 surrounding property for uses permitted within the GC zoning district. Once again, we'll note
36 that Planning staff has noted in the staff report, that the proposed use meets this Finding a Fact.”

- 37
38 5. The establishment, maintenance, or operation of the proposed use shall not be detrimental
39 to or endanger the public health, safety, or general welfare.

40
41 **Mr. Carmichael stated:** “The applicants traffic engineer testified about the low trip generation of
42 this type of use. Cloverleaf Parkway can accommodate the additional trips. Ingress and egress will
43 be designed in a manner to minimize traffic hazards and they [Mr. Atchley and Mr. Shirley] both
44 testified that from a transportation standpoint, the use will not be detrimental to the public health
45 safety and general welfare. The applicant site engineer, Mr. Kelly [Mr. Atchley] testified about
46 stormwater solarization sedimentation control, and environmental ordinances and regulations, and

1 that the site would comply with all of those requirements; that it would not adversely impact the
2 joining properties of streets from a stormwater perspective; and that the site does not contain any
3 wetlands or floodplain areas that could be impacted by the development. Therefore, they testified
4 that the use will not be detrimental to endanger the health safety and general welfare from an
5 environmental standpoint. And finally, Mr. Kelly [Mr. Atchley] the site engineer, testified that the
6 site plan complies with the applicable provisions of the KDO, and Mr. Overcash testified that the
7 building design met the applicable provisions of the KDO.”

8
9 6. The proposed use complies with all applicable provisions of the KDO.

10
11 Mr. Carmichael concluded, stating: “Finally the applicant will sign the conditions of approval, as
12 required by the KDO. We appreciate your consideration and your patience, and we appreciate the
13 Planning staff recommendation as well. We're happy to answer any questions that you may have.”

14
15 Mr. Dwiggins referred to the suggested condition regarding the number of units based on whether
16 the applicant connects to City sewer or provides their own private septic system and stated that he
17 would like to better understand the current status of that process before the Board approves the
18 SUP request. He also stated that he attempted to identify location of the private septic system on
19 the site plan but was unsuccessful. Mr. Carmichael utilized the site plan and Mr. Atchley stated:
20 “In previous coordination with City of Kannapolis Public Works staff, they were open to a septic
21 design for the facility given the constraints of the wastewater capacity within both Cabarrus
22 County and the City. If the existing soils are feasible and conducive to a septic design, then the
23 applicant would desire to have the 750 units. In the case that the existing soils are not feasible or
24 conducive to septic design, then the proposed development would need to connect to the existing
25 sanitary sewer main and be limited to 599 units.” Mr. Dwiggins asked if the soil samples have
26 been tested and Mr. Atchley responded that they have not. Mr. Carmichael reiterated that if the
27 Board was considering approval of the request, they will need to add a condition of approval
28 limiting the number of units to 750 if the applicant utilizes a private septic system or 599 units if
29 connecting to the City’s sewer system. Mr. Dwiggins asked if there will be any impacts to I-85
30 with regards to stormwater runoff. Mr. Atchley responded: “No”.

31
32 There being no additional questions or comments for staff or the applicant, Acting Chair French
33 opened the Public Hearing which was then closed with no public comment made.

34
35 Acting Chair French asked for a motion to accept the City’s exhibits, including the staff report into
36 the record, which was made by Mr. Sides, second by Mr. Bailey and the motion was unanimously
37 approved. Mr. Smith asked the Board to also admit the exhibits provided by the applicant into the
38 record. Mr. Dwiggins made the motion to approve, second by Mr. Sides, and the motion was
39 unanimously approved.

40
41 Acting Chair French asked for a motion to approve or revise the Findings of Fact. Mr. Sides made
42 the motion to approve the Findings of Fact, second by Mr. McClain, and the motion was
43 unanimously approved.

44
45 Acting Chair French asked for a motion to approve, approve with conditions, or deny the issuance
46 of the Special Use Permit. Mr. Dwiggins made the motion to approve with the condition that the

1 maximum number of individual units will be limited to 750 units if a private septic system is
2 **utilized or 599 units if utilizing the City's existing sewer system**, second by Mr. McClain, and the
3 motion was unanimously approved.

4
5 Acting Chair French asked for a motion to issue the Order of Approval. Mr. Dwiggin made the
6 motion to approve the Order, second by Mr. Bailey, and the motion was unanimously approved.

7
8 **BOARD TRAINING**

9 Mr. Smith conducted training for the Board which included: Quasi-judicial hearings and types of
10 cases heard by the Board; Variance procedures, Appeal procedures; SUPs and its process; rules of
11 procedures; quasi-judicial hearing procedures; conflicts of interest; evidence; and findings and
12 decisions.

13
14 **PLANNING DIRECTOR UPDATE**

15 Mr. Smith provided an update on the fourth quarter permit report and for calendar year 2023.

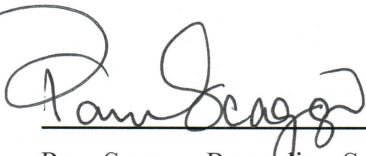
16
17 **OTHER BUSINESS**

18 None.

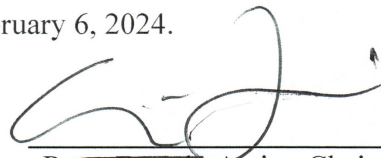
19
20 **ADJOURN**

21 There being no further business, Mr. Sides made the motion to adjourn, second by Mr. Bailey, and
22 the motion was unanimously approved.

23
24 The meeting was adjourned at 7:17 PM on Tuesday, February 6, 2024.

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29
30 Pam Scaggs, Recording Secretary
31 Board of Adjustment



Ryan French, Acting Chair
Board of Adjustment

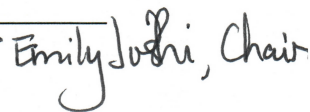


EXHIBIT 1



Board of Adjustment February 6, 2024 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2024-02: Special Use Permit – 3392 Cloverleaf Pkwy
Applicant: Evergreen Investment Company, LLC

Request for a Special Use Permit to allow for a self-service storage facility on property located at 3392 Cloverleaf Parkway.

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, Evergreen Investment Company, LLC, is requesting a Special Use Permit (SUP) to allow for a self-service storage facility in the General Commercial (GC) zoning district on approximately 2.39 +/- acres of property located at 3392 Cloverleaf Parkway, further identified as Cabarrus County Parcel Identification Number 56222159950000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for Self-service storage uses in the GC 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 "Primary Activity Center Interchange" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This area calls for primary uses consisting of retail and office. This Character Area is composed primarily of retail uses.

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

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

The proposed use of a self-service storage facility 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 self-service storage facility 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 self-service storage facility would have a minimal impact on the surrounding properties.

 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, 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 been informed they must sign the Conditions of Approval for this special use permit.

F. Legal Issues

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

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

Yes

No

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

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

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

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

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

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

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

G. Recommendation

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

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

H. Attachments

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

I. Issue Reviewed By:

Planning Director	X
Assistant City Manager	X
City Attorney	X



Special Use Permit

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

SPECIAL USE PERMIT REQUEST

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

Property Address: 3392 Cloverleaf Parkway, Kannapolis, NC 28083

Applicant: Evergreen Investment Company, LLC

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

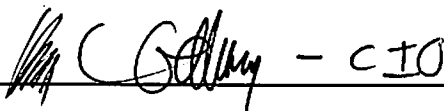
Public Notification: This is a quasi-judicial process that requires a public hearing and public notification including first-class mailed notice to adjacent property owners and a sign posted prominently on the property (Table 2.4.F(2) of the KDO).

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

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

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

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

Applicant's Signature:  - CIO Date: 1/8/2024



Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350

SPECIAL USE PERMIT APPLICATION

Approval authority – Board of Adjustment

Applicant Contact Information

Name: Evergreen Investment Company, LLC, c/o Jessica McClendon

Address: 271 Winslow Way E., Unit 10727
Bainbridge Island, WA 98110

Phone: 580-319-6869

Email: jessica@evergreeninvestco.com

Property Owner Contact Information same as applicant

Name: Cloverleaf Parkway Development II, LLC, c/o Keith E. Greenspon

Address: 3028 Cambridge Road
Charlotte, NC 28209

Phone: 912-239-4838

Email: keith@greenspon.com

Project Information

Project Address: 3392 Cloverleaf Parkway, Kannapolis, NC 28083 Zoning District GC

Parcel PIN: 56222159950000 Size of property (in acres): 2.39 acres

Current Property Use: Vacant

Proposed Use: A four story, climate controlled self-service storage building that would contain a maximum of 100,000 square feet of gross floor area and a maximum of 750 individual storage units. The maximum building height in feet would be 48 feet.

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):

A four story, climate controlled self-service storage building that would contain a maximum of 100,000 square feet of gross floor area and a maximum of 750 individual storage units. The maximum building height in feet would be 48 feet.

REVIEW STANDARDS

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

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

See Exhibit A attached hereto

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

See Exhibit A attached hereto

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

See Exhibit A attached hereto

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

See Exhibit A attached hereto

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

See Exhibit A attached hereto

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

See Exhibit A attached hereto

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

Applicant consents in writing to all conditions of approval

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

1/8/2024
Date

See Attached Signature Page

Property Owner Signature

Date

January 9, 2024

Mr. Ben Barcroft
The City of Kannapolis Planning Department
401 Laureate Way
Kannapolis, NC 28081

RE: Special Use Permit Application for Property Located at 3392 Cloverleaf Parkway in
Kannapolis (PIN No. 56222159950000)

Dear Mr. Barcroft:

Cloverleaf Parkway Development II, LLC is the owner of that approximately 2.39 acre parcel of land located at 3392 Cloverleaf Parkway in Kannapolis that is designated as PIN No. 56222159950000 (the "Property").

This letter will confirm that Cloverleaf Parkway Development II, LLC, as the owner of the Property, consents to Evergreen Investment Company, LLC submitting a Special Use Permit Application for the Property to the City of Kannapolis Planning Department requesting the issuance of a Special Use Permit to allow the development of a climate controlled self-storage building on the Property.

Thank you for your assistance on this matter.

CLOVERLEAF PARKWAY DEVELOPMENT II, LLC


By: 

Name: Keith Greenspan

Title: Managing Member

**Signature of Property Owner to Special Use Permit Application Filed by
Evergreen Investment Company, LLC**

CLOVERLEAF PARKWAY DEVELOPMENT II, LLC

By: 
Name: Keith Greenspan
Title: Managing Member

Date: December 7, 2023

Exhibit A to Special Use Permit
Application Filed by Evergreen Investment Company, LLC

Cloverleaf Parkway Site

Review Standards

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

Testimony will be provided at the public hearing that shows that the proposed climate controlled, self-storage building that will contain a maximum of 100,000 square feet of gross floor area and up to 750 individual storage units (the "Project") will be in harmony with the area in which it is to be located and in general conformance with the City's Comprehensive Plan. The site on which the Project is proposed to be developed is located at 3392 Cloverleaf Parkway and is designated by Parcel Number 56222159950000 (the "Site"). The Site is surrounded by Interstate 85 to the south and a mixture of commercial uses to the north, east and west of the Site. The commercial uses are comprised of large retail uses, a tool store, small retail and office uses, restaurant uses, hotels and a medical clinic. The proposed Project will be a low impact commercial use located in an aesthetically appealing building, and the self-storage use will be located entirely within the building. As a result, the proposed special use will be in harmony with the surrounding commercial uses and the area in which it is to be located.

In terms of the City's Comprehensive Plan, the Site is located in a Primary Activity Center –Interchange Character Area under the Comprehensive Plan. Consistent with a Primary Activity Center –Interchange Character Area, the Project will provide supporting commercial services (climate controlled, self-storage) to area businesses and residents. Climate controlled, self-storage is akin to a retail use. The Project will have an urban form with the building pulled up to the street and parking will be located to the sides of the building. The maximum building height will be 4 stories, which is also consistent with a Primary Activity Center –Interchange Character Area.

In short, the Applicant will provide testimony to the effect that the Project will be in general conformance with the City's Comprehensive Plan.

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

The Applicant's traffic engineer will testify at the public hearing that the vehicular access points for the Project will provide safe ingress to the Project from Cloverleaf Parkway and safe egress from the Project to Cloverleaf Parkway. Moreover, in view of the low vehicular trip generation of the Project (particularly at the peak hours) and the existing three lane section of Cloverleaf Parkway, the Applicant's traffic engineer will testify that Cloverleaf Parkway can accommodate the vehicular trips that will be generated by the Project. Therefore, the Applicant's traffic engineer will testify that the Project will

provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

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

The Project is not an industrial use or a use that will generate vibration, noise, odor, dust, smoke or gas. The Project is a climate controlled, self-storage building. The storage units and the storage use will be located entirely inside the building and there will not be any outside storage. The unloading and loading areas will be located toward the rear of the building, near Interstate 85, as shown on the site plan. As a result, the Project will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

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

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 Site is vacant. Immediately to the south of the Site is Interstate 85. The parcels located to the north of the Site across Cloverleaf Parkway are zoned GC and are devoted to large retail uses, a tool store and small retail, office and restaurant uses.

The parcels located to the west of the Site are zoned GC and are devoted to hotel uses. The parcel located to the east of the Site is zoned GC and is devoted to a medical clinic.

The Project will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. The surrounding parcels are all zoned GC and are devoted to commercial uses. The proposed use of the Site will also be a commercial use, however, it will be a low impact commercial use in terms of traffic generation and noise generation.

Additionally, the proposed climate controlled, self-storage building will be an aesthetically appealing building that will blend nicely with the mixture of commercial uses surrounding the Site.

As a result, the Project will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

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

At the hearing on this Application, the Applicant will present testimony and evidence that will show that the establishment, maintenance, or operation of the proposed Project will not be detrimental to or endanger the public health, safety or general welfare.

The Applicant's traffic engineer will testify that the Project will generate minimal daily vehicular trips due to the nature of the use, and that Cloverleaf Parkway, which is a three lane street, can accommodate the minimal daily vehicular trips that will be generated by the Project. The Applicant's traffic engineer will also testify that the Project will provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads. In short, the minimal daily vehicular trips that will be generated by the Project will not have an adverse impact on the surrounding transportation system. As a result, the Applicant's traffic engineer will testify that the proposed Project will not be detrimental to or endanger the public health, safety or general welfare from a transportation or traffic standpoint.

The Applicant's site engineer will testify that the Project will meet all applicable storm water, soil erosion and sedimentation control and environmental ordinances and regulations. Therefore, the Project will not be detrimental to or endanger the public health, safety or general welfare from a storm water, erosion or environmental standpoint. The Applicant's site engineer will also discuss the overall design of the Project.

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

The Applicant will provide testimony at the public hearing that the proposed use and the Applicant's site plan and building elevations comply with the applicable provisions of the KDO.

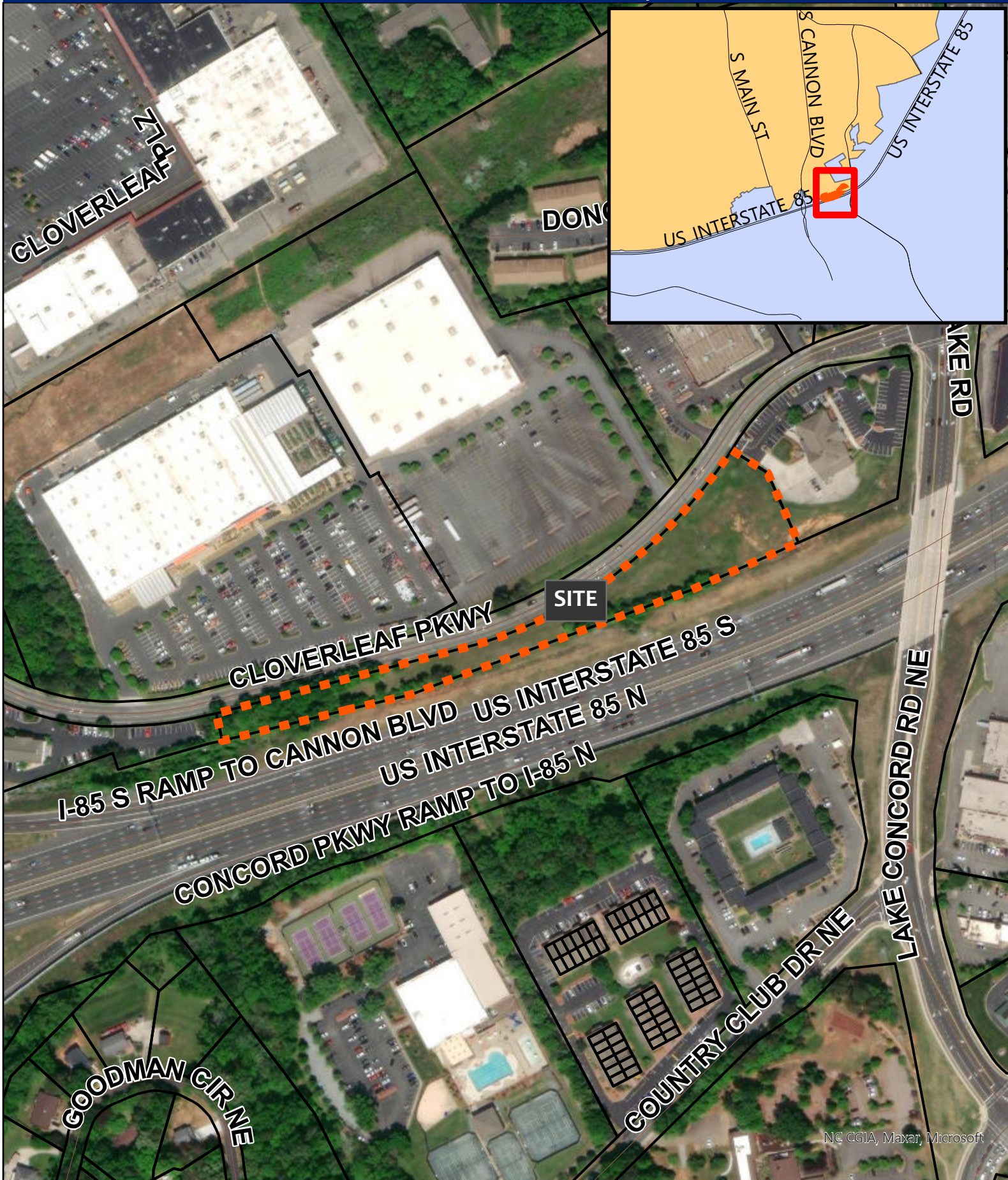


Vicinity Map

Case Number: BOA-2024-02

Applicant: Evergreen Investment Company LLC

3392 Cloverleaf Pkwy



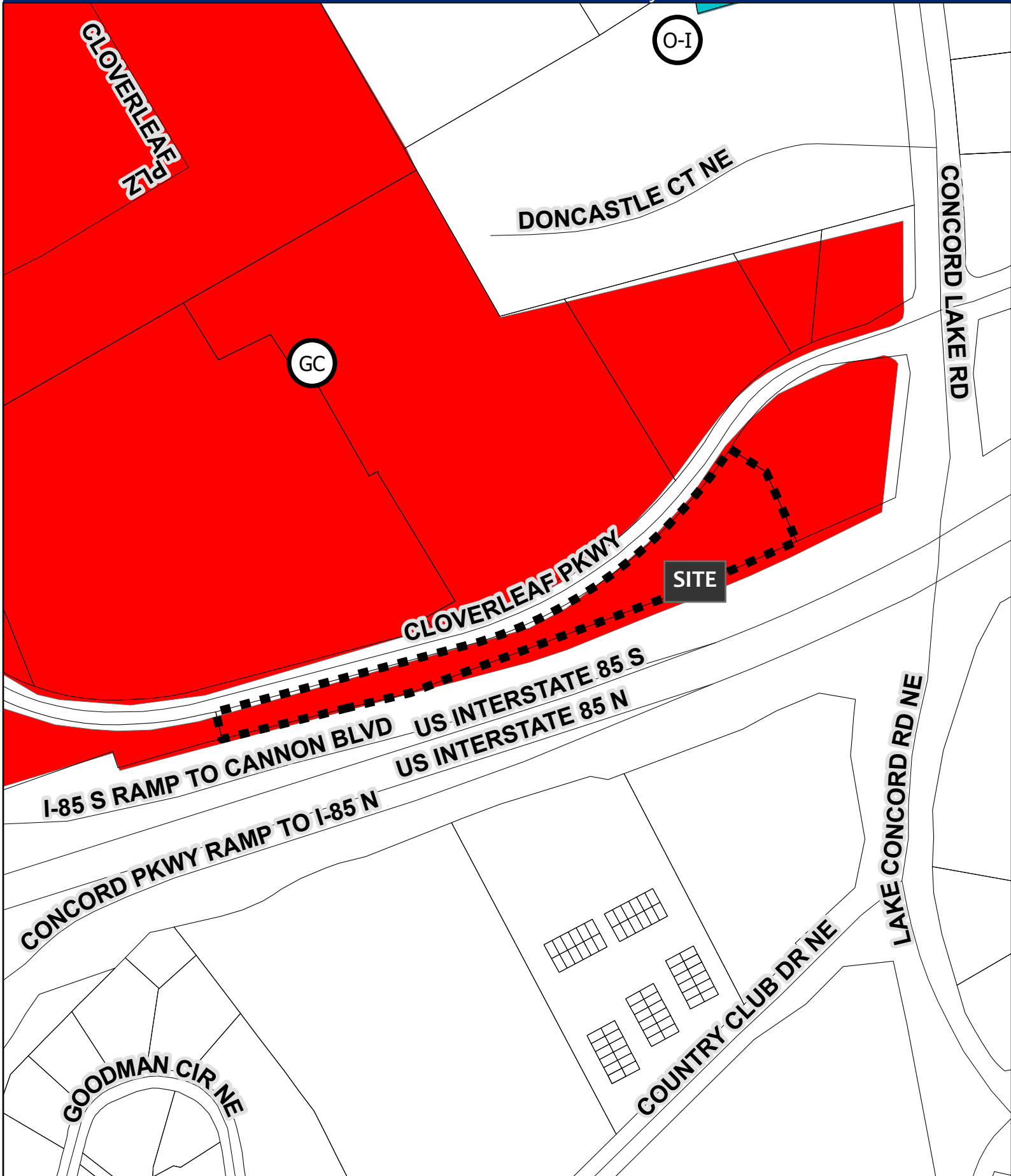


Kannapolis Current Zoning

Case Number: BOA-2024-02

Applicant: Evergreen Investment Company LLC

3392 Cloverleaf Pkwy

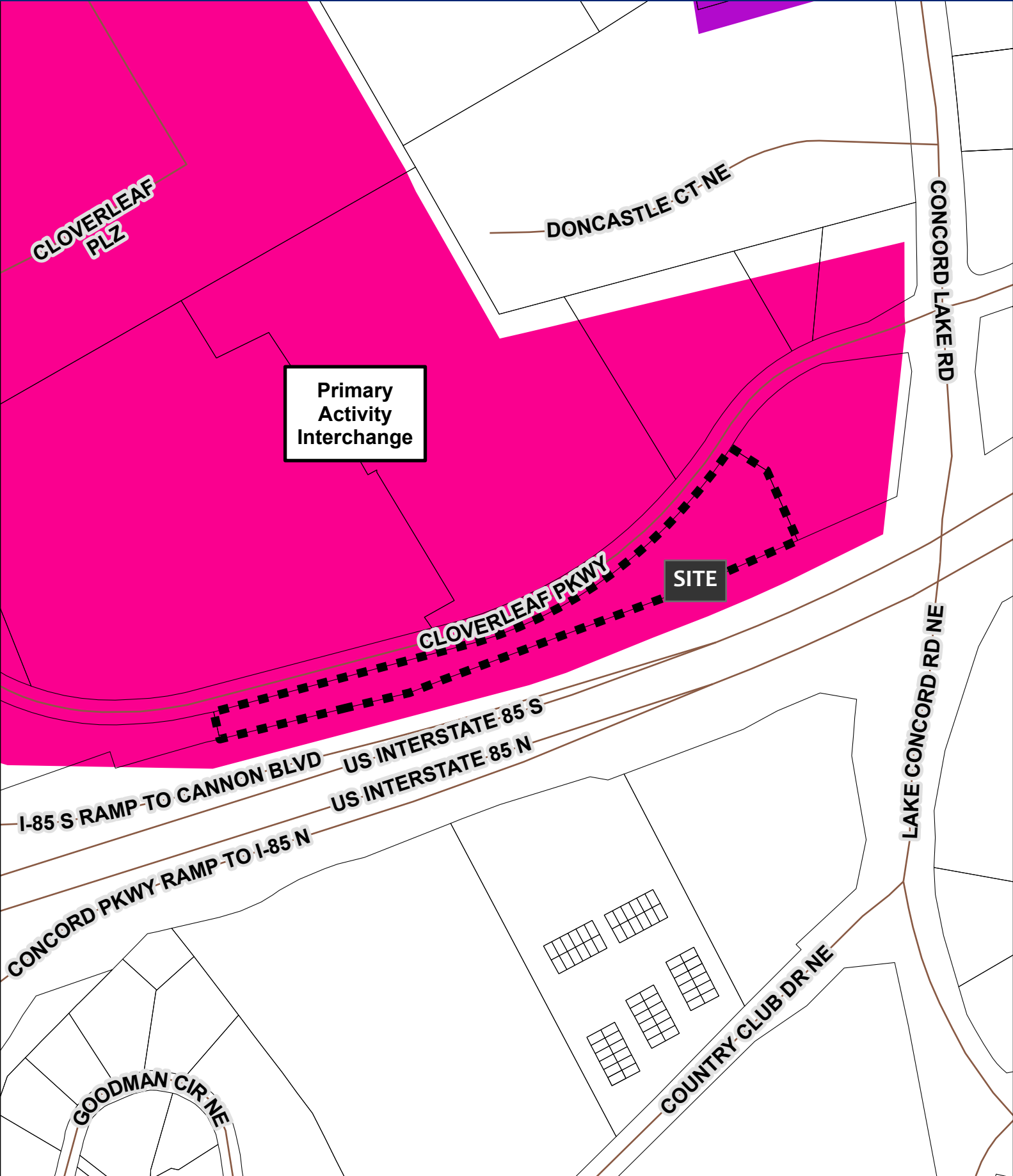


Kannapolis 2030 Future Land Use Map

Case Number: BOA-2024-02

Applicant: Evergreen Investment Company LLC

3392 Cloverleaf Pkwy



CLOVERLEAF PLZ

DONCASTLE CT NE

CONCORD LAKE RD

Primary Activity Interchange

CLOVERLEAF PKWY

SITE

LAKE CONCORD RD NE

I-85 S RAMP TO CANNON BLVD

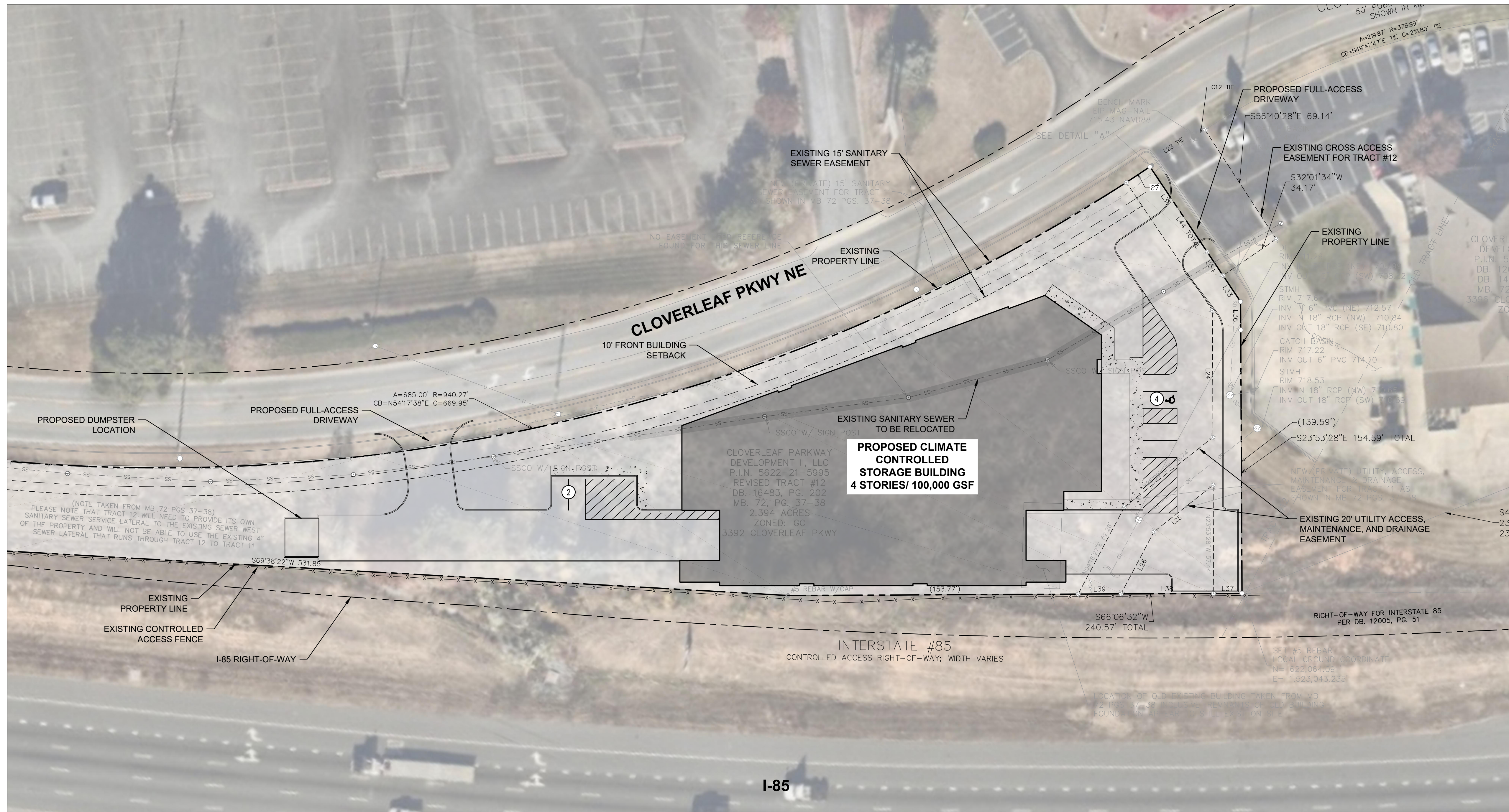
US INTERSTATE 85 S

US INTERSTATE 85 N

CONCORD PKWY RAMP TO I-85 N

COUNTRY CLUB DR NE

GOODMAN CIR NE



SITE DATA TABLE	
DEVELOPMENT DATA:	
TAX PARCEL ID:	56222159950000
LAND USE:	VACANT
TOTAL SITE AREA:	±2.39 ACRES
TOTAL UNITS:	750 'SEE NOTE BELOW
ZONING DATA:	
FEMA FLOOD PANEL:	3710562200K
WATERSHED:	NOT IN CRITICAL WATERSHED
ZONING DISTRICT:	
CURRENT:	GC-C-2
MAX. BUILDING HEIGHT:	48'
MAX. IMPERVIOUS AREA:	80%
SETBACKS	
FRONT:	10'
SIDE:	0'
REAR:	0'
PARKING DATA:	
REQUIRED PARKING:	
1 SPACE PER 200 RENTAL SPACES * 1.75	
750 UNITS / 200 RENTAL SPACES * 1.75	6 SPACES MAX
PROVIDED PARKING:	6 SPACES
*NOTE: A SEPTIC DESIGN WILL BE PROVIDED BY OTHERS TO ACCOMMODATE THE 750 UNITS. IF WASTEWATER WILL BE DISCHARGED TO THE EXISTING SANITARY SEWER SYSTEM, THE MAXIMUM ALLOWABLE UNIT COUNT IS 599 UNITS. THIS WOULD LIMIT THE MAXIMUM ALLOWABLE PARKING TO 5 SPACES	



OVERALL SITE AREA
NTS



CLOVERLEAF STORAGE
KANNAPOLIS, NORTH CAROLINA

EXTERIOR RENDERINGS - V3



21 DECEMBER 2023

Project Number - CLOVERLEAF STORAGE

oda.us.com | ODA ARCHITECTURE



CLOVERLEAF STORAGE
KANNAPOLIS, NORTH CAROLINA

EXTERIOR RENDERINGS - V3

21 DECEMBER 2023
Project Number - CLOVERLEAF STORAGE

oda.us.com | ODA ARCHITECTURE



AcctName1	MaiAddr1	MailCity	MailState	MailZipCod
HD DEVELOPMENT OF MARYLAND INC PROPERTY TAX DEPT #3607	PO BOX 105842	ATLANTA	GA	30348
SCG LH KANNAPOLIS LP C/O SOF-IX SLEEP II LP	980 HAMMOND DR STE 1400	ATLANTA	GA	30328
MDC NC3 LP	11995 EL CAMINO REAL	SAN DIEGO	CA	92130
SPORTSCENTER ATHLETIC CLUB	233 COUNTRY CLUB DRIVE NE	CONCORD	NC	28025
MELROSE CONDOS INC	PO BOX 129	CHINA GROVE	NC	28023
CLOVERLEAF PARKWAY DEVELOPMENT II LLC	6804 DUMBARTON DR	CHARLOTTE	NC	28210
DARA PROPERTIES OF KANNAPOLIS LLC	5 ROCKY RIDGE RD STE 20	ASHEVILLE	NC	28806
WOODRIDGE CONDOS C/O JOHN WYATT	247-4 COUNTRY CLUB DR NE	CONCORD	NC	28025
CLOVERLEAF PARKWAY DEVELOPMENT LLC				
C/O KEITH E. GREENSPAN	3028 CAMBRIDGE RD	CHARLOTTE	NC	28209
EVERGREEN INVESTMENT COMPANY, LLC C/O JESSICA MCCLENDON	271 WINSLOW WAY E., UNIT 10727	BAINBRIDGE ISLAND	WA	98110

January 18, 2023

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday February 6, 2024, at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2024-02 – Special Use Permit – 3392 Cloverleaf Parkway

The purpose of this Public Hearing is to consider a request for a Special Use Permit (SUP) to allow for self-service storage on property located at 3392 Cloverleaf Parkway. Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance, a SUP is required for self-service storage uses in the General Commercial (GC) zoning district. The subject property is 2.39 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56222159950000 (**Please see attached vicinity map showing the location of this property.**)

As an abutting property owner, you are being notified of this public hearing in accordance with the requirements of the Kannapolis Development Ordinance. You are welcome to attend the public hearing and present testimony to the Board of Adjustment if you so desire.

If you have any questions about the public hearing or request, please do not hesitate to contact the Planning Department at 704.920.4355 or bbarcroft@kannapolisnc.gov.

Sincerely,



Ben Barcroft
Senior Planner

Enclosure

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

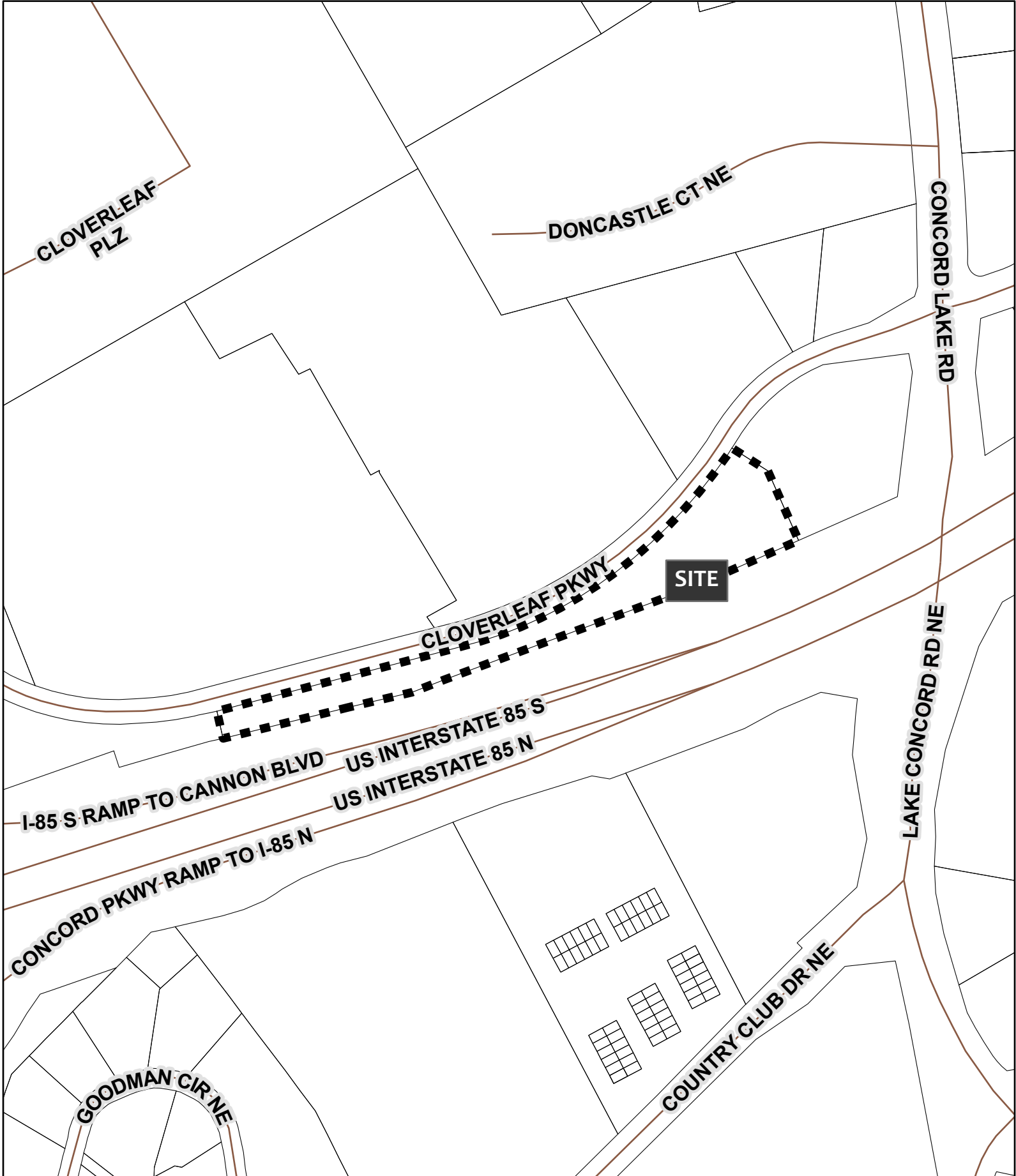


Special Use Permit

Case Number: BOA-2024-02

Applicant: Evergreen Investment Company LLC

3392 Cloverleaf Pkwy



Atrium Health
Levine Children's
Suburban Pediatrics

SCHEDULE
YOUR
WELL CHECK

KANNAPOLIS
BOARD OF
ADJUSTMENT
PUBLIC HEARING
INFORMATION
CALL 704-920-4350
CASE #B0A - 2024-02

KANNAPOLIS
PUBLIC HEARING
INFORMATION

STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

KANNAPOLIS BOARD OF ADJUSTMENT

APPROVED AND FILED

DATE: February 6, 2024

SECRETARY: *[Signature]*

**IN RE: Applicant, Evergreen Investment Company, LLC
Property: 3392 Cloverleaf Pkwy
Kannapolis, NC 28083**

APPLICATION # 2024-02-BOA

**ORDER FOR A SPECIAL
USE PERMIT**

THE BOARD OF ADJUSTMENT for the City of Kannapolis, North Carolina having held a public hearing on February 6, 2024, to consider a request for a Special Use Permit (SUP) to allow for self-service storage on property located at 3392 Cloverleaf Parkway.

The applicant, Evergreen Investment Company, LLC, is requesting a Special Use Permit (SUP) to allow for self-service storage on property located at 3392 Cloverleaf Parkway. Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance, a SUP is required for self-service storage uses in the General Commercial (GC) zoning district. The subject property is 2.39 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56222159950000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for self-service storage uses in the GC zoning district.

The following were accepted into evidence to constitute a part of the record in the matter:

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

The Board considered the approval criteria required by Section 2.5.A(5) of the Kannapolis Development Ordinance.

Having heard all the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT, and draws the following CONCLUSIONS:

1. The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the City’s Land Use Plan.
 - (a) This property is in the “Primary Activity Center Interchange” Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This area calls for primary uses consisting of retail and office. This Character Area is composed primarily of retail uses.
 - (b) Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

2. 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.

(a) The proposed use of a self-service storage facility is not anticipated to cause any traffic hazards or traffic congestion.

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

(a) No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a self-service storage facility is expected as a result of this proposed use.

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

(a) The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts. The proposed self-service storage facility would have a minimal impact on the surrounding properties.

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

(a) 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.

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

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

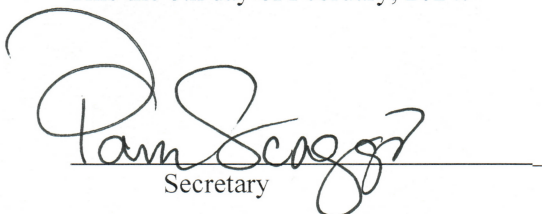
7. The applicant consents in writing to all conditions of approval included to the approved Special Use Permit.

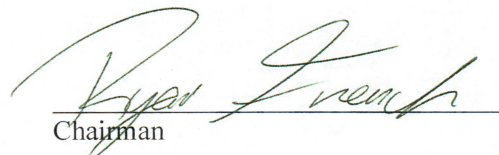
(a) The applicant has been informed they must sign the Conditions of Approval for this special use permit.

Based on the above FINDINGS OF FACT the Board CONCLUDES that the Special Use Permit requirements of the KDO have been met and, subject to the condition stated below, is hereby GRANTED:

1. The maximum number of individual units will be limited to 750 units if a private septic system is utilized or 599 units if utilizing the City's existing sewer system.

This the 6th day of February, 2024.


Secretary


Chairman

Special Use Permit Application No.

BOA-2024-02

Evergreen Investment Company, LLC, Applicant

Applicant's Exhibits

ROBINSON
BRADSHAW

Charlotte : Research Triangle : Rock Hill
robinsonbradshaw.com

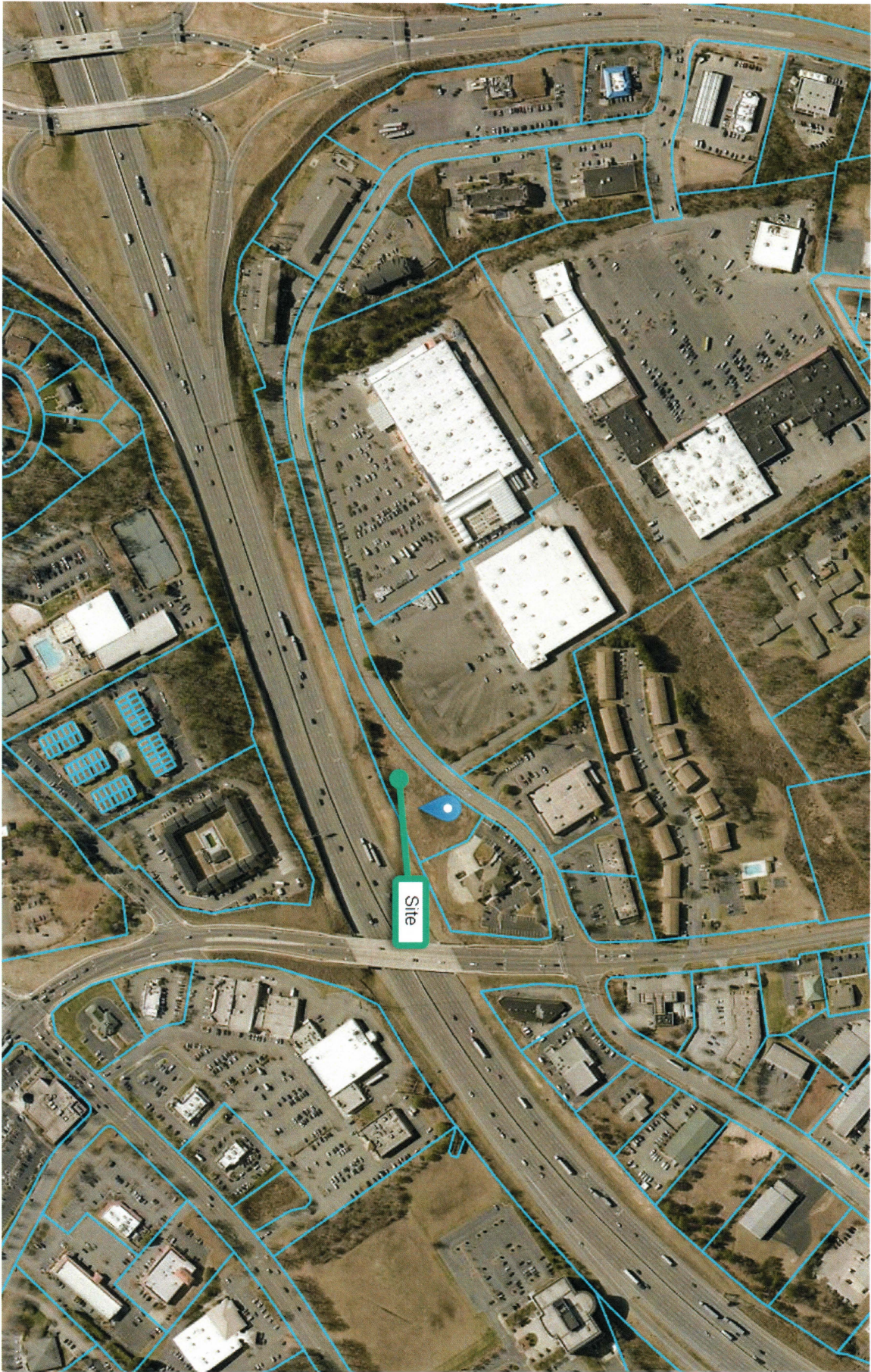


Exhibit A - Site

Exhibit B – Zoning Map



Kannapolis Current Zoning

Case Number: BOA-2024-02

Applicant: Evergreen Investment Company LLC

3392 Cloverleaf Pkwy

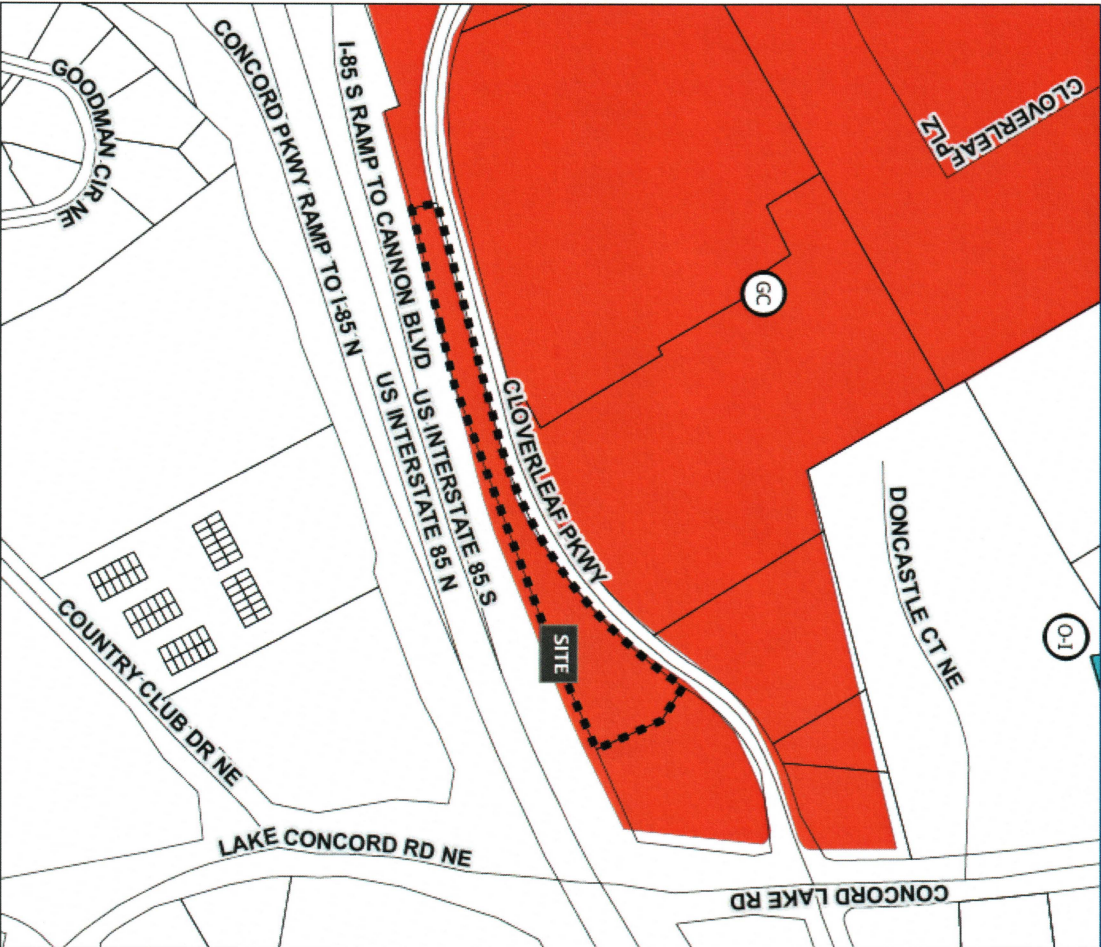


Exhibit C – Surrounding Uses

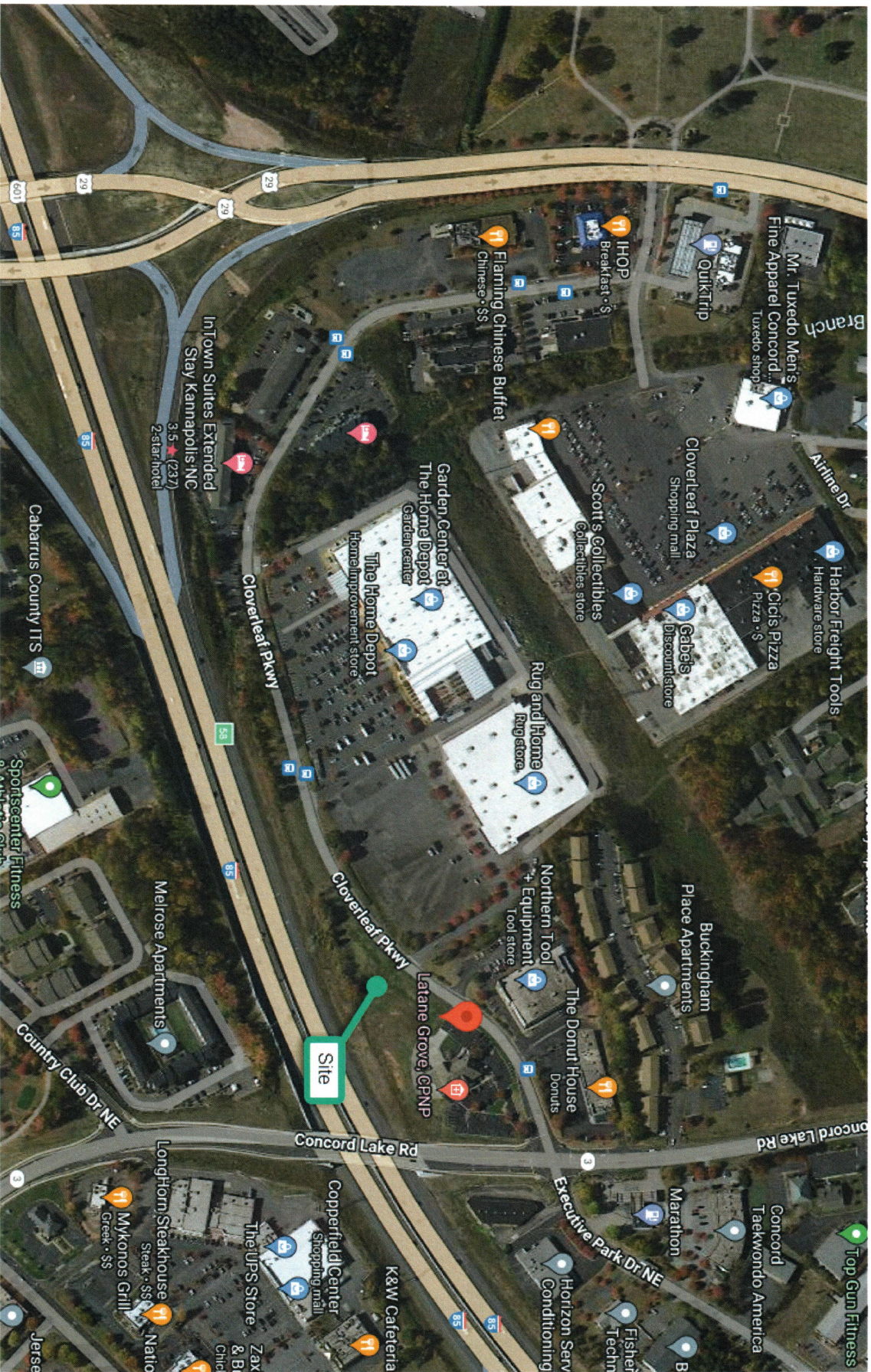




Exhibit D – Site Plan

Exhibit E – Trip Generation Table

Table 1 - Trip Generation										
ITE LUC	Land Use	Intensity	Daily	AM Peak Hour			PM Peak Hour			Peak Hour Type/Data Source
				Total	In	Out	Total	In	Out	
151	Mini-Warehouse	100,000 SF	145	9	5	4	15	7	8	Adj Street/ITE Rate



Exhibit F - Lease

Handout




Exhibit G – Building Design






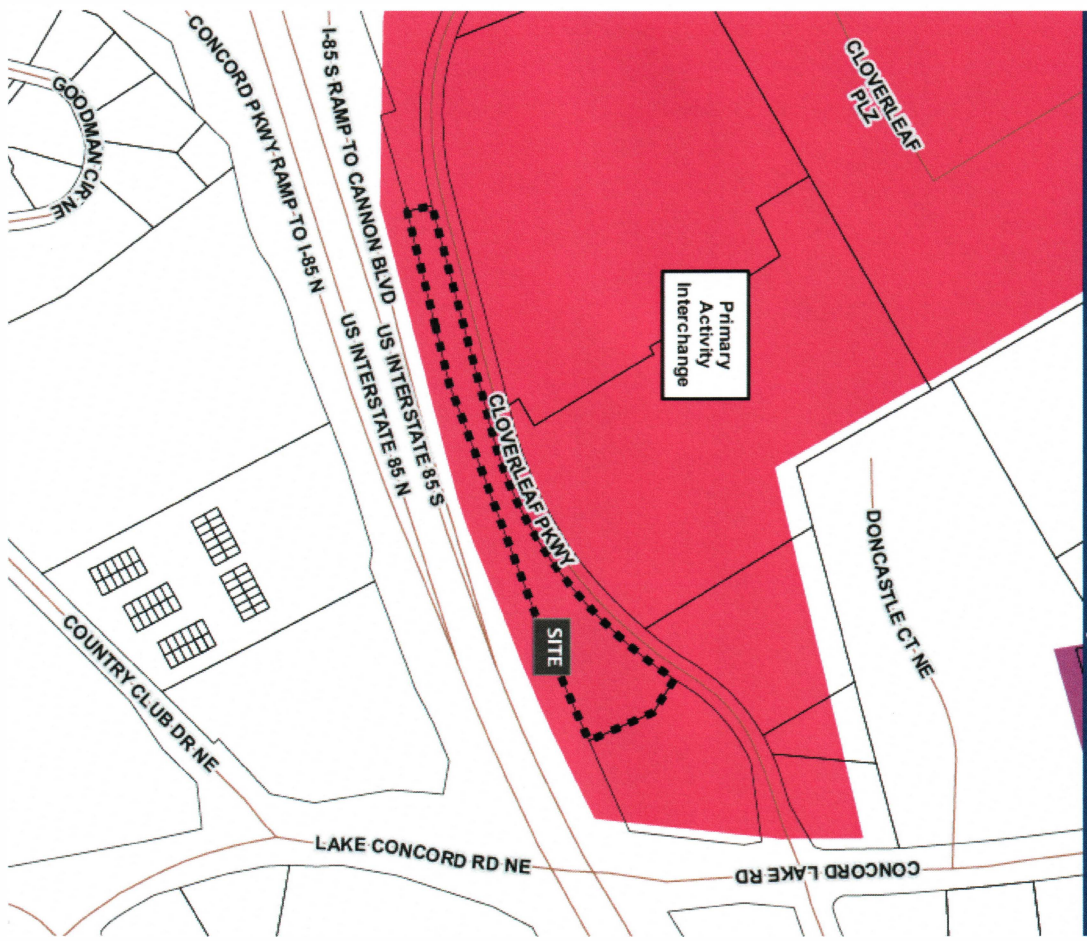
Exhibit H – Comprehensive Plan

 **KANNAPOLIS**

Kannapolis 2030 Future Land Use Map

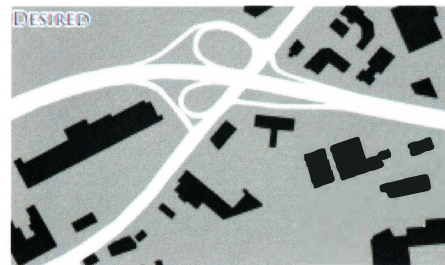
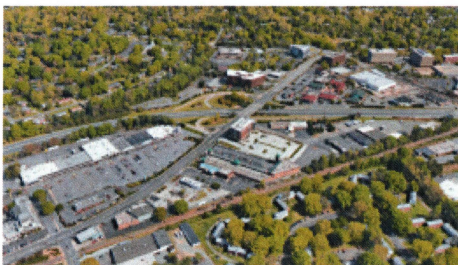
Case Number: BOA-2024-02
Applicant: Evergreen Investment Company LLC
3392 Cloverleaf Pkwy







Primary Activity Center - Interchange



Character Intent

The Primary Activity Center - Interchange Character Areas are located adjacent to I-85 interchanges. Lighting, landscaping, and fully connected sidewalks and roads should line blocks and provide safe vehicular and pedestrian access within and between developments. In some locations buildings placed close to the street create a comfortable pedestrian environment while shared parking strategies reduce overall impervious surface area.

Development Opportunities

- Building upgrades
- Sidewalk and greenway connections
- Infill development
- Low impact development retrofits
- Pedestrian connections
- Landscaping
- Crosswalks and pedestrian amenities
- Renewable energy generation

Primary Uses

- Retail
- Office

Secondary Uses

- Light manufacturing
- Multifamily residential
- Single family attached residential

Characteristics of Urban Form

	Existing	Desired
Building Heights	1 - 3 Stories	1 - 4 Stories
Setbacks	0 - 30 ft.	5 - 30 ft.
Block Length	400 - 800 ft.	600 - 800 ft.
Street Character	Gridded	Enhanced Network
Parking	Front, Rear, Side, On-street	Behind buildings, On-street, Mid-block structured parking
Residential Density	n/a	6 - 20 units/acre

ExtraSpaceStorage.

 LifeStorage STORAGE EXPRESS

all affiliates of Extra Space Storage Inc.

Rental Agreement Date: _____
 Rental Start Date: _____
 Account ID: _____
 Space Number: _____
 Approximate Size: _____
 Monthly Rental Charge: _____
 Monthly Due Date: _____
 Paid Through Date: _____
 Monthly Billing Election: _____

CUSTOMER

Name _____
 Address _____
 City, State ZIP _____
 Cell Phone _____
 Alternate Phone _____
 Identification _____
 Date of Birth _____
 E-mail _____

ALTERNATE CONTACT

Name _____
 Address _____
 City, State ZIP _____
 Cell Phone _____
 Alternate Phone _____
 Authorized for Access? _____
 If alternate information is refused,
 Customer must sign here. X _____

Others Authorized for Access (other than Customer): _____
 * Operator, in its sole discretion, may provide any individual(s) authorized for access in this Agreement with gate code, unit no., account information, and assist with lock cutting

Addendums	Is there a lien on any of the items to be stored? If yes, Lien Addendum is required.	Is a vehicle that requires state registration being stored? If yes, Vehicle Addendum is required.	Is Customer or Customer's spouse a service member in the military? If yes, Military Addendum is required.	Is Customer a business? If yes, Business Addendum is required.
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General Description of Property Stored: _____
Declared Value of Property Stored: _____

Customer acknowledges that the information provided above is accurate and current. X _____

THIS RENTAL AGREEMENT ("Agreement") is executed on the date stated above by and between EXTRA SPACE MANAGEMENT, INC. ("Operator") as agent for the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, as applicable, and the individual or business listed above ("Customer") for the purpose of renting the space listed above (the "Space") which is part of a larger facility (the "Facility"). **CUSTOMER HAS EXAMINED THE SPACE AND FACILITY AND ACCEPTS THEM "AS IS."** Customer acknowledges and agrees the measurements noted for the Facility and the spaces located thereon are an approximation only, do not refer to usable space and that the size of the Facility and any referenced sizes are approximate, given for illustration only and may vary materially. Spaces may be smaller or larger than advertised. Spaces are not rented on a square foot basis and rent is not based on square foot measurements. Operator does not represent or guarantee the safety of the Facility or the personal property stored by Customer. **THE RULES AND REGULATIONS POSTED AT THE FACILITY, IF ANY, ARE BY REFERENCE MADE PART OF THIS AGREEMENT,** which rules and regulations may be modified by Operator to assist with the operation, safety, and cleanliness of the Facility. The Facility is operated in accordance with state and local laws governing self-storage facilities in the state where the Facility is located, which are herein incorporated by reference.

TERM, MONTHLY RENTAL AMOUNTS AND OTHER CHARGES

- 1) The term of this Agreement begins on the Rental Start Date listed above and shall continue on a **MONTH-TO-MONTH** basis until terminated.
- 2) The first Monthly Rental Charge and a one-time, non-refundable, administration fee shall be paid on the Rental Agreement Date listed above. Thereafter, the Monthly Rental Charge shall be due on the same day every month (the "**Monthly Due Date**"). The period between consecutive Monthly Due Dates is referred to as the "**Rental Month**." The last day of the Rental Month for which all Monthly Rental Charges have been paid is the "**Paid Through Date**." Customer shall pay Operator the Monthly Rental Charge, taxes and insurance in advance, without prior notice or billing from Operator. **NO MONTHLY BILLS OR STATEMENTS WILL BE SENT TO CUSTOMER UNLESS ELECTED ABOVE.** If Customer elects to receive monthly billing, a monthly service charge of \$1.00 shall be added to Customer's account.



- 3) **If Customer does not pay the Monthly Rental Charge by the 5th day following Customer's Paid Through Date, Customer shall pay a late fee of \$15.00 or 15% of the Monthly Rental Charge, whichever is greater. Operator may charge a late fee for each month Customer fails to pay the Monthly Rental Charge by the 5th day following the Paid Through Date. Late Fees will be assessed on or after the 6th day following Customer's current Paid Through Date. Any late fees incurred by Customer are a service charge and not a penalty. Partial payments will not be accepted, however, if a partial payment is accepted it will be at the sole discretion of Operator and if accepted will first be applied to fees and service charges, then to Monthly Rental Charges, taxes and insurance. If at the close of business on the 30th day following the Customer's current Paid Through Date, the Monthly Rental Charge or other charges still remain past due, a pre-foreclosure fee of \$120.00 will be assessed and Customer must pay such amount by cash, credit card, or by certified funds. No personal/company checks will be accepted for past-due payments. It is agreed to and understood that partial payments made to cure a default for nonpayment of rent will not delay or stop foreclosure and sale of Customer's property. The tender of partial payments, if accepted, shall not serve to waive or avoid the legal effect of prior notices given to Customer. Only full payment on Customer's account prior to the published auction date will stop a scheduled sale of the property.**
- 4) **Customer's Rental Terms May Change with 30 Days' Notice.** Customer acknowledges this Lease is month to month and that Operator may change or increase Customer's Monthly Rental Charge, fees and charges, due to changes in market conditions or for any other reason at any time upon 30 days' notice to Customer. Operator may send notice to Customer's email address or by any other method of notice described in Section 32 below. By continuing to use the Space after a rate change, Customer agrees to the Rental Agreement as changed and that all of its other terms remain in effect.
- 5) **IF CREDIT CARD OR OTHER PAYMENT INFORMATION IS PROVIDED BY CUSTOMER TO OPERATOR, CUSTOMER AUTHORIZES OPERATOR TO AUTOMATICALLY PROCESS THE PAYMENT VIA THE METHOD PROVIDED ON OR NEAR THE MONTHLY DUE DATE FOR MONTHLY RENTAL CHARGES, TAXES, INSURANCE, AND OTHER FEES AS APPLICABLE UNLESS OTHERWISE DIRECTED BY CUSTOMER. IT SHALL BE CUSTOMER'S SOLE RESPONSIBILITY TO PROVIDE OPERATOR WITH ACCURATE, CURRENT AND WORKING PAYMENT INFORMATION. THE FAILURE TO PROVIDE SUCH MAY RESULT IN NON-PAYMENT OF MONTHLY RENTAL CHARGES AND OTHER ACCRUED CHARGES, ALLOWING OPERATOR TO SELL CUSTOMER'S PERSONAL PROPERTY PURSUANT TO SECTION 22 BELOW. IT SHALL BE CUSTOMER'S SOLE RESPONSIBILITY TO VERIFY THAT PAYMENTS ARE MADE AND BY WHAT METHOD PAYMENTS ARE MADE. CUSTOMER MAY CANCEL AUTOMATIC PAYMENTS AT WWW.EXTRASPACE.COM USING THE ACCOUNT MANAGEMENT TOOL BY LOGGING IN AND CLICKING "CANCEL AUTOPAY" OR IN PERSON AT THE FACILITY'S OFFICE.**
Customer Initials _____
- 6) Any checks returned for insufficient funds will result in a \$25.00 service charge to Customer, and the returned check amount and service charge must be re-paid by cash, credit card, or money order. Customer shall not be permitted to pay with a check after two checks have been returned for insufficient funds. Operator may also, at its discretion, refuse to accept credit card payments if Customer's credit card charges have been disputed.

ARBITRATION

- 7) **Agreement to Arbitrate:** By initialing below, Customer agrees that, either Customer or Operator may elect to resolve any dispute by neutral, binding arbitration, on an individual basis only, and not by a court action, subject to the exceptions and terms set forth below. Customer acknowledges that he/she had the option of entering into an Agreement without an Arbitration provision, but voluntarily chose to enter into an Agreement with an Arbitration provision.
Except as provided below, Operator and Customer agree to arbitrate all Claims and Disputes between Operator and Customer.
"Claims" are any claims or controversies, at law or in equity, against each other related in any way to or arising out of in any way to this Rental Agreement, the Customer's use or occupancy of the Space and this Property or any claim of bodily injury or property damage, or the enforcement of any remedy under any law, ordinance, statute or regulation, even if it arises after the Agreement has terminated. "Claims" include, but are not limited to, claims related in any way to or arising out of in any way to any aspect of the relationship between Operator and Customer, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory. "Claims" also include such claims that Customer brings against Operator's employees, agents, parents, subsidiaries, affiliates, or other representatives or that Operator brings against Customer.
"Disputes" include without limitation disputes arising out of relating to interpretation or application of this Arbitration Provision, including the enforceability, revocability or validity of the Arbitration Provision or any portion of the Arbitration Provision. All such matters shall be decided by an Arbitrator and not by a court or judge.

Unless Customer and Operator each agree otherwise, the Arbitration will be conducted by a single, neutral third party arbitrator. OPERATOR AND CUSTOMER WAIVE THEIR RIGHT TO TRIAL BY JURY OR IN A COURT. The party initiating the arbitration shall select the arbitration organization, subject to the other party's agreement to use such arbitration organization, which shall not unreasonably be withheld. Unless otherwise agreed, the arbitration shall take place within the County where the defendant/respondent resides. The applicable rules of the arbitration organization will govern the arbitration.

For Claims that do not exceed the jurisdictional limit of small claims court, Operator and Customer agree to bring such Claims in small claims court instead of arbitration, and the rules of the small claims court shall apply. If the Claim does not qualify to be brought in small claims court, Operator will pay for the arbitration administrative or filing fees, including the arbitrator fees, up to an aggregate total of \$2,500.

OPERATOR AND CUSTOMER AGREE THAT THEY WILL ONLY PURSUE ARBITRATION ON AN INDIVIDUAL BASIS AND WILL NOT PURSUE ARBITRATION OR ANY OTHER CLAIM ON A CLASS-WIDE, REPRESENTATIVE, OR CONSOLIDATED BASIS. OPERATOR AND CUSTOMER ALSO AGREE THAT THEY WILL NOT PARTICIPATE AS A MEMBER OF A CLASS, AS A CLASS REPRESENTATIVE, OR IN A CONSOLIDATED ACTION.

The right to arbitration under this Arbitration Provision is protected by, and any arbitration shall be governed by, the Federal Arbitration Act (9 U.S.C. § 1 et seq.). The Operator and Customer agree that the Operator's business and the relationship here involve interstate commerce.

Claims Not Subject to Arbitration. In the event applicable law prohibits the arbitration of certain specified Claims, such Claims shall not be subject to this Section. Operator retains the right to pursue any eviction, action to enforce a lien and/or unlawful detainer remedies in any court. Operator retains the right to conduct a lien sale.

_____ Customer agrees to the Arbitration Provision

Customer Initials _____

_____ Customer refuses the Arbitration Provision

ACCESS

- 8) Customer shall have access to the Space and the Facility only during such hours and days as are regularly posted at the Facility, which are subject to change by Operator. Any access to the Facility outside of access hours is considered trespassing. If Monthly Rental Charges or other charges remain unpaid for five (5) days following the Monthly Due Date, unless otherwise prohibited by law, Operator may restrict or deny Customer's access to the Space and/or Facility. If Customer is renting more than one Space at any given time, default on one rented Space shall constitute default on all rented Spaces, entitling Operator to deny access to Customer on all rented Spaces.
- 9) Customer shall provide the lock for the rental Space sufficient to secure Customer's personal property unless a permanent lock is already installed on the unit. Operator does not represent the adequacy of any particular lock, Customer shall not provide Operator, Operator's agents, authorized representatives and employees (collectively "Operator's Agents") with a key or any kind of access code to Customer's Space.
- 10) Customer grants Operator and Operator's Agents or any governmental authority access to the Space: a) upon three (3) days prior written notice, b) upon default of the Agreement by Customer for thirty (30) days, c) in emergency circumstances (defined as imminent injury to persons or property), or d) as required by law. If Customer fails to grant access, Operator, Operator's Agents or the agents of any governmental authority shall have the right to remove Customer's lock and enter the Space to examine the contents, to make repairs or alterations, to take reasonable steps to preserve the Space, to comply with the law, or to enforce Operator's rights; including the right to relocate Customer's belongings if necessary. In the event that Operator must replace the lock, Operator may charge Customer for the lock.
- 11) Customer shall safeguard any property stored at the Facility. It is Customer's sole responsibility as to those persons who are given access to Customer's Space and Operator shall not be liable for anyone other than Customer entering the Space unless by Operator's gross negligence.

LIMITATIONS ON USE OF THE SPACE AND FACILITY

- 12) Customer shall not make or allow any alterations to the Space. Customer agrees that the Space and Facility shall be used solely for the storage of personal property. Customer shall not loiter about the Facility, spend excessive or unnecessary time in or around the Space or interfere with the use of the Facility by other customers of Operator. Customer shall not use the Space for any unlawful purpose and expressly agrees not to use the Space for human or animal habitation. Customer shall not store in the Space or at the Facility anything to which any other person or business has right, title, or interest. Customer represents and warrants that there are NO LIENS OTHER THAN OPERATOR'S LIEN UPON THE PROPERTY STORED. A Lienholders Addendum to this Agreement must be completed if there are any lienholders on any stored property and for each stored vehicle, absent which such vehicle will be deemed unauthorized and be subject to removal from the Space and Facility. The storage of food and any perishable goods is strictly prohibited. The use of electricity in the Space is strictly prohibited unless agreed upon in writing by Operator. IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT CUSTOMER SHALL NOT STORE OR USE IN THE SPACE OR AT THE FACILITY ANY HAZARDOUS OR TOXIC MATERIALS OR ANY INHERENTLY DANGEROUS OR FLAMMABLE SUBSTANCE. In the event that any food, hazardous substances, or toxic materials are found in the Space, Operator has the right to dispose of such items without any notice to Customer.
- 13) Customer agrees that the Space is not appropriate for the storage of jewels, furs, heirlooms, art works, collectibles or other irreplaceable items having special sentimental or emotional value to Customer and Customer agrees not to store said items. Customer hereby waives any claim for sentimental or emotional value for Customer's property that is stored in the Space or at the Facility.
- 14) If the Space is so equipped, Customer is prohibited from storing any items within 18" of the clearance to the fire sprinkler head diffuser for life safety reasons. Customer acknowledges that any items stored within 18" of the clearance of the fire sprinkler head diffuser may be removed by Operator and placed in a separate space without notice to Customer, all at Customer's expense.

LIMITATION OF OPERATOR'S LIABILITY AND INDEMNITY

- 15) **OPERATOR IS NOT A WAREHOUSEMAN ENGAGED IN THE BUSINESS OF STORING GOODS FOR HIRE, AND NO BAILMENT IS CREATED BY THIS AGREEMENT. OPERATOR EXERCISES NEITHER CARE, CUSTODY, NOR CONTROL OVER CUSTOMER'S STORED PROPERTY AND ALL PROPERTY STORED WITHIN THE SPACE OR AT THE FACILITY BY CUSTOMER SHALL BE STORED AT CUSTOMER'S SOLE RISK.**
- 16) Operator, Operator's Agents, Operator's affiliates and the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, shall not be liable to Customer for any damage or loss to any person or property at the Facility and to any property stored in the Space, arising from any cause whatsoever, including, but not limited to, theft, fire, mysterious disappearance, mold, mildew, water, rain, rodents, insects, acts of God, partial or sole negligence or failure to act of Operator or Operator's Agents, except for damage or loss resulting from Operator's fraud, gross negligence or willful violation of law. Customer shall indemnify and hold Operator, Operator's Agents, Operator's affiliates and the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, harmless from any and all damage, loss, or expense arising out of or in connection with any damage to any person or property, occurring in the Space or at the Facility arising in any way out of Customer's use of the Facility, even if such damage or loss is caused entirely or in part by the negligence of Operator, Operator's Agents, Operator's affiliates or the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different. Operator, Operator's agents, Operator's affiliates and the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, shall not be liable whatsoever to any extent to Customer

or Customer's invitees, family, employees, agents or servants for any personal injury or death arising from Customer's use of the Space or Facility from any cause whatsoever including, but not limited to, the active or passive acts, omissions or negligence of Operator or Operator's Agents. Customer shall be responsible to pay or reimburse Operator for any damage caused to the Space or Facility by Customer or Customer's invitees, regardless of fault.

- 17) Climate controlled spaces are heated and cooled depending on outside temperature. These spaces do not provide constant internal temperature or humidity control. Operator does not warrant or guarantee temperature or humidity ranges in the Space due to changes in outside temperature and humidity, or due to other considerations, and Customer understands and assumes the risk of climate controlled spaces not meeting certain temperature and humidity requirements.
- 18) **Customer agrees that the total value of the property stored shall not exceed \$5,000 unless Operator has agreed in writing for Customer to store property exceeding \$5,000; provided that Customer agrees that Operator's maximum liability to Customer for any claim or suit by Customer, including but not limited to any suit alleging wrongful foreclosure or sale of Customer's property is \$5,000. This section shall not create any liability on the part of Operator to Customer for any loss or damage to Customer's property, regardless of cause.**
- 19) No promises or representations of safety or security have been made to Customer by Operator or Operator's Agents. Operator makes no representation that video surveillance is present at any location or in any portion of a Facility and video surveillance equipment may be changed or removed at any time by Operator. There shall be no liability to Operator, Operator's Agents, Operator's affiliates or the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, in the event alarm, video system or sprinkler system, or any components thereof, shall fail or malfunction. **Video recording devices are not monitored.**
- 20) Operator's Agents are not authorized or permitted to make any warranties about the Space or the Facility. Operator's Agents' ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES and shall not be relied upon by Customer. The entire agreement and understanding of the parties hereto are embodied in this writing and NO OTHER WARRANTIES are given.

INSURANCE

- 21) **Customer shall maintain comprehensive insurance coverage of at least 100% of the actual cash value of all personal property stored in the Space against damage by water, fire, extended coverage perils, vandalism and burglary. To the extent Customer does not maintain insurance for the full value of the personal property stored, or fails to maintain insurance at all, Customer bears all risk of loss or damage.** Customer hereby releases Operator, Operator's Agents, Operator's affiliates and the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, from any and all claims for damage or loss to personal property that are caused by or result from perils that are, or would be, covered under the required insurance policy and hereby waives any and all rights of recovery against Operator, Operator's Agents, Operator's affiliates and the Facility's owner or any other entity with whom Operator has entered into a management agreement for the Facility, if different, in connection with any damage which is or would be covered by any such insurance policy. **CUSTOMER'S PERSONAL PROPERTY STORED IN THE SPACE OR AT THE FACILITY IS NOT INSURED BY OPERATOR AGAINST LOSS OR DAMAGE.**

OPERATOR'S LIEN AND RIGHT TO ENFORCE UPON NONPAYMENT

- 22) **CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER'S PERSONAL PROPERTY STORED AT THE FACILITY WILL BE SUBJECT TO A CLAIM OF LIEN IN FAVOR OF OPERATOR FROM THE DATE THE MONTHLY RENTAL CHARGE AND OTHER CHARGES ARE DUE AND UNPAID, AND FOR EXPENSES REASONABLY INCURRED IN THE SALE OR DISPOSITION OF CUSTOMER'S STORED PERSONAL PROPERTY. OPERATOR MAY SELL CUSTOMER'S PERSONAL PROPERTY IN A COMMERCIALY REASONABLE MANNER AFTER GIVING CUSTOMER REASONABLE NOTICE, IN ORDER TO SATISFY SUCH LIEN. CUSTOMER AGREES THAT ANY SPACE ADVERTISED AND SOLD USING AN ONLINE AUCTION PROVIDER IS DEEMED TO BE SOLD IN A COMMERCIALY REASONABLE MANNER.** Operator may enforce Operator's Lien by selling Customer's stored personal property at public sale, in accordance with the provisions of applicable law, and apply the net proceeds from such sale to the payment of all sums due to Operator. This remedy is cumulative with and in addition to every other remedy given hereunder or hereafter existing at law or in equity. It is further understood that the date of sale of Customer's property pursuant to this section, if applicable, shall constitute the date of termination of this Agreement. In the event of a foreclosure of Customer's interest in the Space, it is understood and agreed that the liability of Customer for the rents, charges, costs and expenses provided for in this Agreement shall not be relinquished, diminished or extinguished prior to payment in full. Operator may use a collection agency to secure any remaining balance owed by Customer after the application of sale proceeds, if any. If any property remains unsold after foreclosure and sale, Operator may dispose of said property in any manner considered appropriate by Operator in its sole discretion.
- 23) Any time prior to lien sale, any person claiming a right to Customer's lien property may stop the sale by **paying in full in the form of CASH ONLY** all amounts owed. Upon release of such property to the payor, Operator shall have no further liability to any person for the lien property.
- 24) Operator shall post information relating to any public sale resulting from Operator's enforcement of its lien at the following website: <http://auctions.extraspace.com>.
- 25) If Customer is at least 60 days delinquent and Customer's stored property is a vehicle, watercraft or trailer, in lieu of sale pursuant to Section 22 above, Operator may tow or cause to be towed from the Facility, such vehicle, watercraft or trailer. Operator is not responsible for damage or loss once tow takes possession.

EVENT OF DEFAULT

- 26) If Customer shall fail or refuse to perform any of the covenants, conditions or terms of this Agreement, or in the event Customer files a voluntary petition in Bankruptcy or suffers a petition in involuntary bankruptcy to be filed against him/her, Customer shall be deemed in default in the performance of this Agreement, except as limited by law. Nothing contained in this Agreement shall be construed as limiting Operator's rights and remedies as provided under the laws of the state where the Facility is located. In the event of a default, and without prejudice to any other remedies, Operator may (a) terminate this Agreement, or (b) seize and sell the personal property pursuant to Section 22 above.

TERMINATION OF THE AGREEMENT AND VACATING THE SPACE

- 27) Customer must provide Operator notice prior to vacating the Space and terminating this Agreement. Operator shall not be required under any circumstance to refund Customer's first month's rent or other charges paid at the time of execution of this Agreement. In addition, Operator shall not be required to prorate Monthly Rental Charges if Customer gives notice of termination to Operator and the termination date occurs during a Rental Month for which Customer already paid the Monthly Rental Charge. However, if Customer's notice of termination includes a date of termination that is to occur during a future Rental Month, Operator shall prorate the Monthly Rental Charge for the Rental Month wherein termination occurs. Furthermore, Customer shall be entitled to a refund of any prepaid Rental Month Charges so long as Customer has not occupied the Space for any portion of the prepaid Rental Month at the time of termination. Customer agrees to the refund policy outlined above. Customer Initials _____

- 28) If Customer is in default under this Agreement, or for any other reason in Operator's sole discretion, Operator may terminate this Agreement by giving Customer fifteen (15) days written notice.
- 29) If Customer or Operator terminates this Agreement as provided above, Customer agrees to move out and completely vacate the Space on or prior to the anticipated termination date. Customer shall leave the Space in the same condition as delivered to Customer. Any property left behind will be considered abandoned property and Operator may dispose of such in a manner that Operator sees fit. If Operator is forced to dispose of any abandoned property or forced to clean the Space, Operator may charge Customer a reasonable cleaning fee, which shall be an amount no less than \$50.00. Upon Customer's notice of termination, Operator may consider this Agreement terminated and may relet the Space any time after the notification date provided. Customer shall be deemed to have conclusively abandoned all property which remains in the Space or on the Facility after the termination of this Agreement, upon default of this Agreement for thirty (30) days, or when Operator concludes based upon other reasonable considerations, including, but not limited to an unlocked Space, that Customer has abandoned Customer's property and the Space.

AMENDING THE AGREEMENT

- 30) All terms in this Agreement are **SUBJECT TO CHANGE** upon thirty (30) days written notice to Customer, including but not limited to, and without limitation, Monthly Rental Charges, late fees and other charges. Upon receiving notice of Operator's pending change(s) to this Agreement, Customer may terminate this Agreement on or before the effective date of such change by giving Operator written notice within ten (10) days of the change taking effect. If Customer does not give such notice of termination, the change shall become effective on the date stated in Operator's notice and shall thereafter apply to the occupancy hereunder, whether or not Customer has agreed to the change in writing.

NOTICE

- 31) Customer shall notify Operator of any change in Customer's address or phone number within ten (10) days of the change. Such notifications shall be (a) by certified mail, return receipt requested, postage prepaid, (b) delivered in person at the Facility's rental office (c) sent from customer via e-mail so long as the change of address request originates from the e-mail address Operator has on file for Customer, including the e-mail address provided in this Agreement if applicable, or (d) made at www.extraspace.com via online account management. Failure by Customer to notify Operator shall constitute a waiver by Customer of any defense based on failure to receive any notice.
- 32) Customer recognizes it is entering into a business relationship with Operator and to the fullest extent permitted by law, expressly consents to Operator contacting Customer via phone, e-mail or text messaging (including automated calls/messages) for purposes relevant to Customer's account or services related to Operator's business. Customer should review Customer's phone/text plan with its servicer to see if text message fees or data service rates apply and Customer agrees to accept such charges if applicable. Except as otherwise required by law, or as otherwise provided for in this Agreement, written notices or demands may be personally served by e-mail to the e-mail address provided by Customer in this Agreement (or updated e-mail address per separate notification as applicable) or by pre-paid first class U.S. Mail to the last known address of the party to be served, as contained in this Agreement. Such notice or demand shall be complete at on the date sent to Customer's e-mail address listed on this Agreement (or updated e-mail address per separate notification as applicable), if personally delivered (including e-mail), or on the date of pre-paid, properly addressed deposit with the U.S. Postal Service.

MISCELLANEOUS

- 33) Customer shall not assign, sublease or jointly occupy the Space or any portion thereof without in each instance obtaining the prior written consent of Operator.
- 34) All of the provisions of this Agreement shall be binding upon the heirs, executors, administrators, representatives, successors and assignees of the parties hereto.
- 35) Operator and Customer hereby waive their respective rights to trial by jury of any cause of action, claim, counterclaim, or cross complaint, at law or in equity brought by either Operator against Customer or Customer against Operator arising out of or in any way connected with this Agreement, Customer's use or occupancy of the Space and the Facility or any claim of bodily injury or property damage, or the enforcement of any remedy under any law, ordinance, statute or regulation. Operator and Customer agree that no arbitration, small claims court proceeding or any other action or proceeding shall be brought against Operator or Customer more than one (1) year after the accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other legal theory.
- 36) If Customer is not an individual, the undersigned warrants that he or she is an authorized agent of Customer.
- 37) If Customer or Customer's spouse is in the military service, Customer must fill out the Addendum to this Agreement regarding military. If Customer's military status (or Customer's spouse's military status) changes during the term of this Agreement, Customer must provide written notice to Operator. Operator will rely on this information to determine the applicability of the Servicemembers Civil Relief Act.
- 38) Customer represents and warrants to Operator that Customer is not a party with whom Operator is prohibited from doing business pursuant to the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, including those parties named on OFAC's Specially Designated Nationals and Blocked Persons List. Customer is currently in compliance with, and shall at all times during the Agreement term remain in compliance with, the regulations of OFAC and any other governmental requirement relating thereto. In the event of any violation of this section, Operator shall be entitled to immediately terminate this Agreement and take such other actions as are permitted or required to be taken under law or in equity. CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS OPERATOR FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, RISKS, LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COSTS) INCURRED BY OPERATOR ARISING FROM OR RELATED TO ANY BREACH OF THE FOREGOING CERTIFICATIONS. These indemnity obligations shall survive the expiration or earlier termination of this Agreement.
- 39) This Agreement contains the entire agreement of the parties and no representation or agreements, oral, or otherwise, between Operator and Customer not embodied herein shall be of any force or effect (except for written addenda agreed to between the parties).
- 40) By signing this Agreement, Customer acknowledges, accepts and consents to the collection and use of its data in accordance with the Extra Space Storage Privacy Policy located at www.extraspace.com/help/privacy.
- 41) Operator hereby notifies Customer that it operates pursuant to adopted environmental, social and governance (ESG) initiatives reported annually at <https://ir.extraspace.com/sustainability>.
- 42) As part of your agreement to rent, you may have received an initial rental discount. Your monthly rental charge is _____ as compared to the suggested rental rate of _____ for your storage unit.

Operator and Customer hereby execute this Agreement to be effective on the Rental Agreement Date listed above.

OPERATOR

CUSTOMER