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

**Minutes of Meeting
Tuesday June 4, 2024**

The Board of Adjustment met on Tuesday June 4, 2024, at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina. This meeting was held in accordance with required public notice as well as announced on the City's website.

Board Members Present: Holden Sides, Vice-Chair
Chris Duggins
Mike McClain, ETJ Representative
Ryan French
Wilfred Bailey
Danielle Martini, Alternate Member

Board Members Absent: Emily Joshi, Chair

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

City Attorney: Wally Safrit

Visitors Present: Rad Schneider
Joe Hatley
Marshall Macon

CALL TO ORDER

Vice-Chair Sides called the meeting to order at 6:00 PM.

ROLL CALL AND RECOGNITION OF QUORUM

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

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Vice-Chair Sides asked for approval of the May 7, 2024 minutes, which was made by Mr. Duggins, second by Ms. Martini, and the motion was unanimously approved.

SWORN IN FOR TESTIMONY

Ben Barcroft and Marshall Macon

1 PUBLIC HEARING

2 **BOA-2024-08 – Request for a Special Use Permit (SUP) submitted by Morningstar**
3 **Properties, LLC for property located at 2422 & 2438 Coldwater Ridge Drive to allow for**
4 **Self-service Storage.**

5 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit
6 (SUP) and provided the application details for BOA-2024-08, attached to, and made part of these
7 minutes as Exhibit 1. Mr. Barcroft identified the applicant, Morningstar Properties, LLC, the
8 property location as 2422 and 2438 Coldwater Ridge Drive, and the size of the property as 2.95
9 +/- combined acres. He added that the request is for a SUP to allow a Self-service Storage use in
10 the General Commercial (GC) zoning district as required per the ordinance [Kannapolis
11 Development Ordinance “KDO”].

12
13 Mr. Barcroft directed the Board’s attention to the Zoning and Future Land Use maps to illustrate
14 zoning on the subject and surrounding properties, as well as the Character Area as designated in
15 the Move Kannapolis Forward: 2030 Comprehensive Plan (“2030 Plan”) and stated that the
16 proposed development is consistent with existing land uses. He further directed the Board’s
17 attention to site photographs and the site plan, stating that the applicant is planning to combine the
18 two parcels and proposes to construct fifty (50) “drive-up” units as well as a separate structure
19 containing six hundred (600) interior, climate-controlled units. He further directed the Board’s
20 attention to renderings of previous projects completed by the applicant and concluded his
21 presentation.

22
23 Representative for the applicant, Marshall Macon, Morningstar Properties, LLC(“Morningstar”),
24 gave a presentation (Appendix A) which consisted of a brief background on Morningstar; elevation
25 examples from recent developments; conformity with the KDO and 2030 Plan; traffic impacts;
26 project location; site, architectural and landscaping plans; and design aesthetics. Mr. Macon stated
27 that Morningstar is invested and retains ownership of their properties versus building and selling
28 and talked about the tax dollar investments to the City. Mr. Macon concluded his presentation and
29 made himself available for questions.

30
31 Mr. Bailey asked about the number of floors for the interior structure. Mr. Macon responded that
32 the main structure will be a three-story building but will remain at 35 feet or less and that the drive-
33 up units will be approximately twelve feet in height. Mr. Bailey asked for confirmation that the
34 main structure will be similar in height to the surrounding commercial buildings. Mr. Macon
35 confirmed and used the adjacent Academy Sports building as an example.

36
37 Mr. French expressed concern regarding lighting impacts to adjacent residential uses. Mr. Macon
38 responded that the lights will be directed toward the proposed self-service storage use and
39 controlled by day/night sensors. He added that a film is adhered to the lights to help reduce glare
40 during the night hours to minimize impact to adjacent properties. Mr. French expressed additional
41 concern regarding the adjacent residential properties with both the lighting and the ability for the
42 facility users to have 24-hour access to the site. Mr. Macon reiterated that the lights will be directed
43 downward and will have anti-glare glazing as well as architectural features that not only direct the
44 lights downward, but toward the front of the building as well. He provided an example of a similar
45 project located on Rae Road in Charlotte, stating that the facility is closer to adjacent properties

1 and that they've been pleased with results at that location. He invited the Board to visit that
2 property to alleviate any concerns.

3
4 City Attorney, Wally Safrit, asked if there will be a resident manager and if there will be 24-hour
5 access to the site. Mr. Macon responded that tenants would have keypad access and that there
6 would not be a resident manager.

7
8 Mr. McClain asked how Morningstar addresses neighbor complaints, especially those that occur
9 after hours. Mr. Macon responded that Morningstar owns and operates over one hundred facilities
10 and stated that they never receive complaints. He added that while most large moving trucks visit
11 the site during the day hours, Morningstar would be agreeable to adding rules that large trucks
12 [moving trucks] do not visit the site after 10:00 PM.

13
14 There being no additional questions or comments for staff or the applicant, Vice-Chair Sides
15 opened the Public Hearing which was then closed with no public comment made.

16
17 Vice-Chair Sides asked for a motion to accept the City's exhibits into the record, which was made
18 by Mr. French, second by Mr. Dwiggins, and the motion was unanimously approved.

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

23
24 Vice-Chair Sides asked for a motion to approve, approve with conditions, or deny the issuance of
25 the Special Use Permit. Attorney Safrit noted that there was a proposed condition and directed the
26 Board's attention to the Staff Report. Mr. Barcroft added that the proposed condition concerns
27 access on Doffer Lane. Mr. Safrit asked for clarification. Planning Director, Richard Smith, stated
28 that the condition restricts access to the site and that the only access to and from the site will be
29 from Coldwater Ridge Drive. Ms. Martini made the motion to approve with the condition as
30 proposed by Staff, second by Mr. Dwiggins, and the motion was unanimously approved.

31
32 Vice-Chair Sides asked for a motion to issue the Order of Approval. Mr. Bailey made the motion
33 to approve the Order, second by Ms. Martini, and the motion was unanimously approved.

34
35 **BOA-2024-09 – Request for a Variance submitted by Rad Schneider, Redwood Kannapolis**
36 **Davidson Highway NC P1 LLC, for property located at 5885 Davidson Highway to allow an**
37 **encroachment into the front yard setback.**

38 Mr. Barcroft gave a presentation regarding a request for a Variance and provided the application
39 details for BOA-2024-09, attached to, and made part of these minutes as Exhibit 2. Mr. Barcroft
40 identified the applicant as Rad Schneider, Redwood Kannapolis Davidson Highway NC P1 LLC,
41 the property location as 5885 Davidson Highway, and the size of the property as 19.423 +/- acres.
42 He added that the request is for a Variance to allow an encroachment into the front yard setback.

43
44 Mr. Barcroft directed the Board's attention to the Zoning Map and stated that the property is zoned
45 Residential 18-Conditional Zoning (R18-CZ). He added that a conditional rezoning for the subject
46 property was approved under the old ordinance (Unified Development Ordinance "UDO") and

1 that the approved front setback at that time was twenty feet. Mr. Barcroft stated that if the project
2 were approved under the current ordinance [KDO], the front setback would be ten feet and would
3 not require a variance. He directed attention to site photographs as well as the site plan and
4 identified two buildings near the entrance of the site that are the subject of the requested Variance.
5 Mr. Barcroft explained that concrete patios are allowed to encroach into the setback without
6 approval, but due to the topography of the property, the concrete patios were not a safe option for
7 future tenants. He added that the applicant is proposing to install wood decks with a railing for
8 safety and that unlike the concrete patios, the decks are not permitted to encroach into the setback
9 which is the reason for the requested Variance. Mr. Barcroft directed attention to photographs
10 further illustrating the topography and renderings of the proposed decks.

11
12 Mr. Barcroft stated that the Findings of Fact for a Variance are different than those for a SUP and
13 read the Findings into the record:

- 14
15 **1. Unnecessary hardship would result from the strict application of the ordinance. It**
16 **shall not be necessary to demonstrate that, in the absence of the variance, no**
17 **reasonable use can be made of the property.**

18 As proposed eight (8) concrete patios would extend five feet into the required twenty foot (20')
19 front yard setback. Under the terms of the both the KDO and UDO, a patio is "not" considered
20 a structure and does not need to meet setback requirements. Building the patios would result
21 in concerns for resident safety. Residents would be too close to a 3:1 slope of the swale.

- 22
23 **2. The hardship results from conditions that are peculiar to the property, such as**
24 **location, size, or topography. Hardships resulting from personal circumstances, as**
25 **well as hardships resulting from conditions that are common to the neighborhood or**
26 **the general public, may not be the basis for granting a variance. A variance may be**
27 **granted when necessary and appropriate to make a reasonable accommodation under**
28 **the Federal Fair Housing Act for a person with a disability.**

29 The swale is close to the end of the patio footprint. The swale has a 3:1 slope. The applicant
30 has deemed that the topography of the site makes it potentially unsafe for residents to be close
31 to the edge of the swale. Providing decks in place of concrete patios for dwelling units in
32 Buildings G and F would solve the safety concern.

- 33
34 **3. The hardship did not result from actions taken by the applicant or the property**
35 **owner. The act of purchasing property with knowledge that circumstances exist that**
36 **may justify the granting of a variance shall not be regarded as a self-created hardship.**

37 The development has challenging site constraints including topography, floodplain, and
38 land to be set aside for future right-of-way along Davidson Highway. This has led to
39 concrete patios on two (2) buildings not working as intended.

- 40
41 **4. The requested variance is consistent with the spirit, purpose, and intent of the**
42 **ordinance, such that public safety is secured, and substantial justice is achieved.**

43 This request is consistent with the spirit, purpose, and intent of the ordinance. The proposed
44 variance will not impede public safety, ensuring substantial justice is achieved while
45 preserving the ordinance's spirit. Furthermore, this request will allow the construction of
46 decks that will ensure that further public safety is secured.

1 Mr. Barcroft concluded the presentation and made himself available for questions.

2
3 Mr. Bailey expressed concern that the applicant is requesting the variance after buildings have
4 already been built. Mr. Barcroft responded that the buildings have not built and that the site
5 photographs are current conditions of the subject property. Mr. Bailey asked for confirmation that
6 the variance would only apply to two buildings and that the applicant would like to build decks.
7 Mr. Smith responded that instead of constructing patios, the applicant is requesting the variance
8 so that they can construct raised decks with railings for safety. He reiterated that the plan was
9 approved under the UDO which had stricter setback requirements and that if the plan had been
10 approved under the current KDO, the variance would not be required. Mr. Barcroft stated that if
11 approved, the two subject buildings would be located fifteen feet from the front setback line.

12
13 Attorney Safrit stated that he was trying to understand the safety concern and asked for
14 confirmation that the applicant is requesting the variance in order to construct wood patio decks
15 with a railing as opposed to the previously approved concrete patios because they do not have a
16 railing and would not protect residents from a three-foot drop. Both Mr. Barcroft and Mr. Smith
17 confirmed.

18
19 There being no additional questions or comments for staff or the applicant, Vice-Chair Sides
20 opened the Public Hearing which was then closed with no public comment made.

21
22 Vice-Chair Sides asked for a motion to accept the City's exhibits into the record, which was made
23 by Mr. French, second by Mr. McClain and the motion was unanimously approved.

24
25 Vice-Chair Sides asked for a motion to approve or revise the Findings of Fact. Mr. French made
26 the motion to approve, second by Ms. Martini, and the motion was unanimously approved.

27
28 Vice-Chair Sides asked for a motion to approve, approve with conditions, or deny the issuance of
29 the Variance. Ms. Martini made the motion to approve, second by Mr. French, and the motion was
30 unanimously approved.

31
32 Vice-Chair Sides asked for a motion to issue the Order of Approval. Mr. French made the motion
33 to approve the Order, second by Ms. Martini, and the motion was unanimously approved.

34
35 **BOA-2024-10 – Request for a Special Use Permit submitted by Tripp Reed for property**
36 **located at 125 Lowrance Avenue to allow for a duplex dwelling.**

37 Mr. Smith asked the Board to defer case number BOA-2024-10 (Exhibit 3) to the July meeting
38 because the North Carolina Department of Transportation (NCDOT) is requesting additional
39 information from the applicant regarding driveway access.

40
41 Motion to defer to the July 9, 2024, Board of Adjustment meeting was made by Mr. French, second
42 by Mr. Bailey, and the motion was unanimously approved.

43
44 **PLANNING DIRECTOR UPDATE**

1 Mr. Smith reminded the Board that the Community meeting for the Cannon Boulevard Corridor
2 Plan will be held on Tuesday, June 11, 2024, at 6:00 PM. He provided the meeting location and
3 also asked the Board to complete the online survey.
4

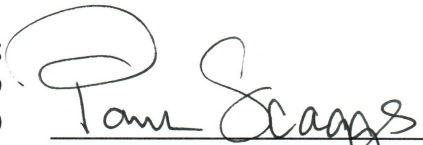
5 **OTHER BUSINESS**

6 Mr. Smith responded to questions from both Mr. Dwiggins and Mr. French regarding the Martin
7 Luther King Jr. Avenue bridge and Self-service Storage uses. He talked about the proposed design
8 elements of the new bridge as well as the proposed text amendment (TA-2024-02) regarding Self-
9 service Storage uses.
10


11 **ADJOURN**

12 There being no further business, Mr. French made the motion to adjourn, second by Ms. Martini,
13 and the motion was unanimously approved.
14

15 The meeting was adjourned at 6:40PM on Tuesday, June 4, 2024.
16
17

18 
19
20

21 Pam Scaggs, Recording Secretary
22 Board of Adjustment
23
24



Holden Sides, Vice-Chair
Board of Adjustment

EXHIBIT 1



Board of Adjustment June 4, 2024 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: **Case# BOA-2024-08: Special Use Permit**
Applicant: Morningstar Properties, LLC

Request for a Special Use Permit to allow for Self-service Storage located at 2422 and 2438 Coldwater Ridge Drive.

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, Morningstar Properties, LLC., is requesting a Special Use Permit (SUP) to allow for self-service storage in the General Commercial (GC) zoning district on approximately 2.95 +/- combined acres of property located at 2422 and 2438 Coldwater Ridge Drive and further identified as Cabarrus County Parcel Identification Numbers 56224877380000 and 56224856520000. The intent is to combine these two (2) parcels and construct fifty (50) drive up and six hundred (600) interior, climate controlled units.

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. This property is adjacent to multi-family residential, which is a recognized secondary use of this particular character area.

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

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

The proposed use of a self-service storage facility is not anticipated to cause any traffic hazards or traffic congestion. Cold Water Ridge Drive and Doffer Lane are not heavily traveled streets within the city.

 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. Further, this use would be compatible with the nearby multi-family residential.

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

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

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

The proposed use shall comply with all sections of the Kannapolis Development Ordinance, 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.

Proposed conditions of approval: The proposed driveway should align with the existing driveway on the south side of Coldwater Ridge Drive. No driveway access will be permitted on Doffer Lane. A turnaround to accommodate fire apparatus shall be provided on site since there is only one driveway.

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, subject to the following conditions:

1. The proposed driveway should align with the existing driveway on the south side of Coldwater Ridge Drive.
2. No driveway access will be permitted on Doffer Lane.
3. A turnaround to accommodate fire apparatus shall be provided on site since there is only one driveway.

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

H. Attachments

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

I. Issue Reviewed By:

Planning Director	X
City Attorney	X
Assistant City Manager	X



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. Please either bring this application to the address above or email to bbarcroft@kannapolisnc.gov. The fees may also be paid online with a link provided by staff.

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: _____

Applicant: _____

SUBMITTAL CHECKLIST

Pre-Application Meeting

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 pre-application meeting, application and site plan submittal, and payment of fees, must be completed 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: _____ Date: _____



SPECIAL USE PERMIT APPLICATION

Approval authority – Board of Adjustment

Applicant Contact Information

Name: _____

Address: _____

Phone: _____

Email: _____

Property Owner Contact Information same as applicant

Name: _____

Address: _____

Phone: _____

Email: _____

Project Information

Project Address: _____ Zoning District _____

Parcel PIN: _____ Size of property (in acres): _____

Current Property Use: _____

Proposed Use: _____

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*): _____

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.**

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

Adequate measures will be taken to provide ingress and egress to minimize traffic hazards & congestion. Proposed ingress and egress locations are still subject to design standards.

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

Our proposed storage facility will not be noxious or offensive by any reason of vibration, noise, odor, dust, smoke or gas.

Self-storage is a low intensity use with limited traffic and noise impact.

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 use as well as caliber of Morningstar projects will not impede the orderly development and improvement of surrounding property for uses 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.

The establishment, maintenance, and operation of the proposed use will not endanger the public health, safety or general welfare.

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

The proposed use and our proposed facility complies with all applicable provisions of the KDO, including the Self-Service Storage reqs outlined in Section 4.2.D, Standards Specific to Principal Uses.

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

We consent to all conditions of approval that will be included in the approved special use permit.

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.

Marshall B. News

5/9/2024

Applicant Signature

Date

Jim W. Turner

5/9/2024

Property Owner Signature *ATA Properties of North Carolina*

Date

For Staff Use Only:

Filing Fee: _____

Receipt #: _____

Case #: _____

Date Received: _____

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.

Our proposed storage facility is located between I-85 and US 29, in close proximity to an I-85 interchange. The area today is a mix of apartments and retail, an environment that is ideal for self-storage. In the Move Kannapolis Forward 2030 Comprehensive Plan, it is located in a Primary Activity Center – Interchange. Retail is a primary use and light manufacturing is a secondary use in Primary Activity Center – Interchange, our proposed storage facility is a complement to both of these uses.

Additionally, the proposed special use is in line with the 2030 Comprehensive Plan's goal of Growing Smart as our project will increase tax revenue that is used to provide city services and maintain public infrastructure while simultaneously being one of the lowest impact uses.



Vicinity Map

Case Number: BOA-2024-08

Applicant: Morningstar Properties, LLC

2438 and 2422 Coldwater Ridge Dr

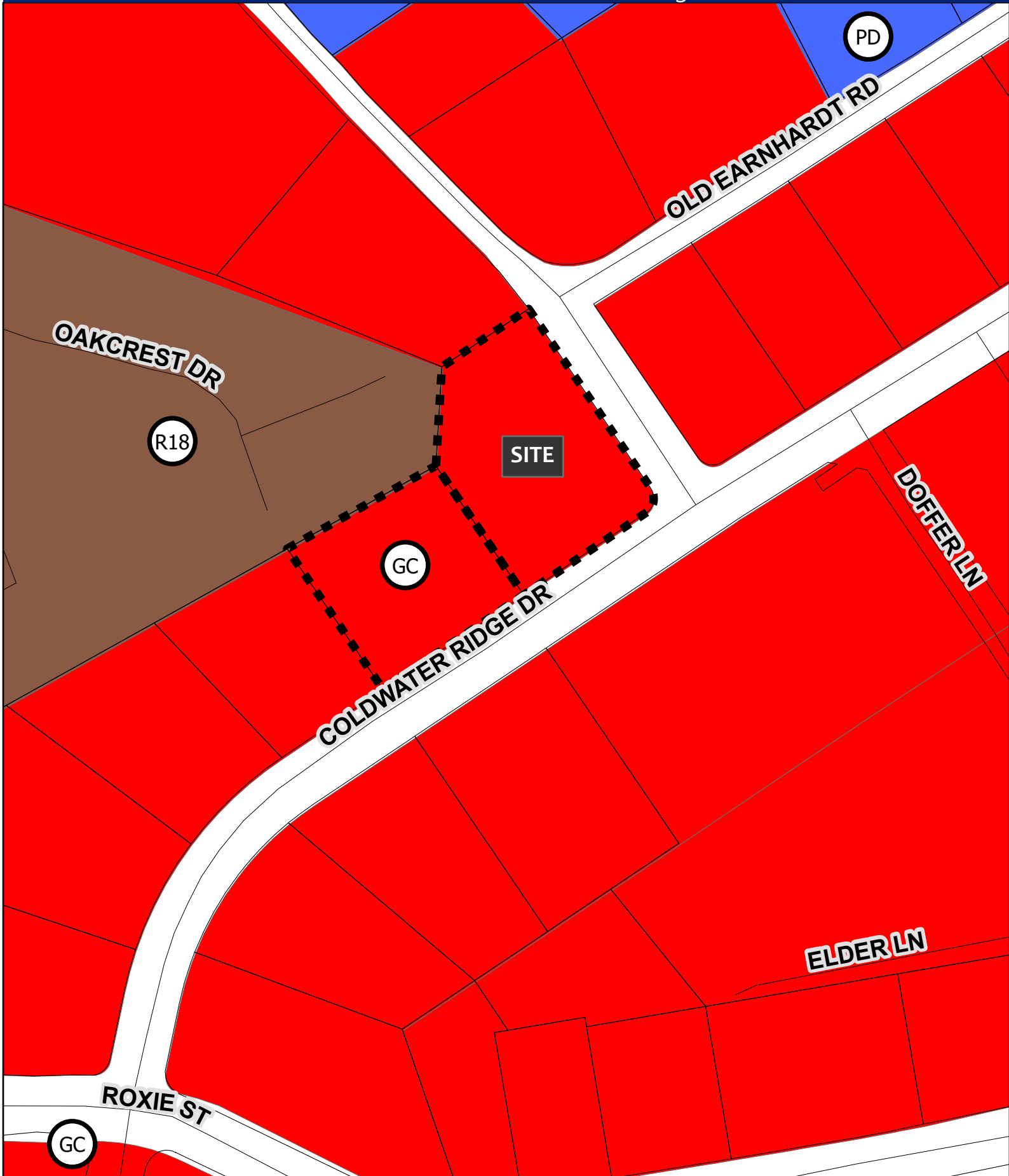




Kannapolis Current Zoning

Case Number: BOA-2024-08

Applicant: Morningstar Properties, LLC
2438 and 2422 Coldwater Ridge Dr

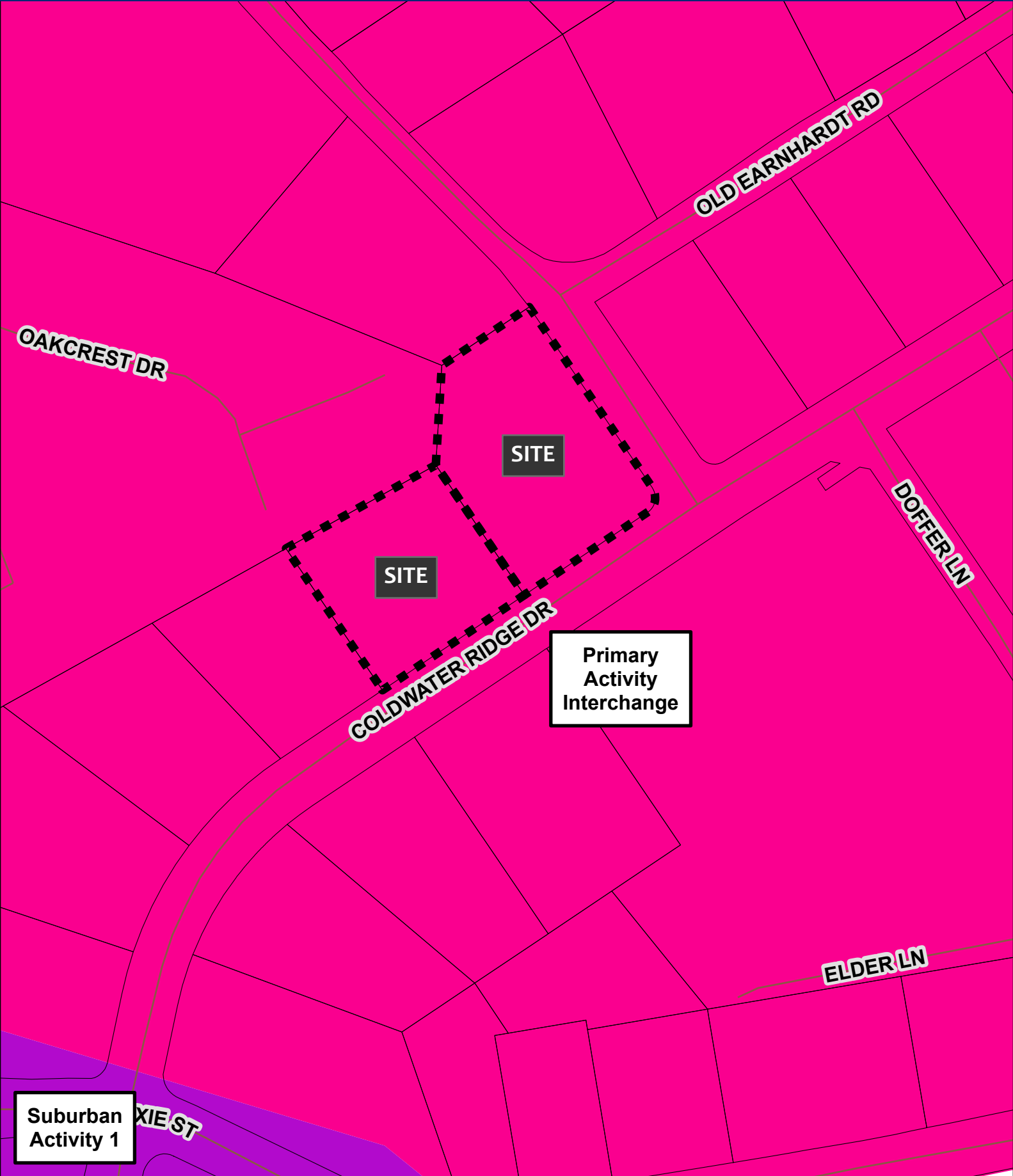


Kannapolis 2030 Future Land Use Map

Case Number: BOA-2024-08

Applicant: Morningstar Properties, LLC

2438 and 2422 Coldwater Ridge Dr



OAKCREST DR

OLD EARNHARDT RD

SITE

SITE

COLDWATER RIDGE DR

Primary Activity Interchange

DOFFER LN

ELDER LN

Suburban Activity 1

XIE ST

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
1787 LLC	4817 HARDISON RD	CHARLOTTE	NC	28226
3 AMIGOS REAL ESTATE GROUP LLC	4030 WAKE FOREST RD STE 349	RALEIGH	NC	27609
ACADEMY ASSOCIATES KANNAPOLIS LLC				
C/O K E ANDREWS & COMPANY	2424 RIDGE RD	ROCKWALL	TX	75087
ARBOR LANE INVESTMENTS INC	900 WILHELM PL NE	CONCORD	NC	28025
ATA PROPERTIES OF CHARLOTTE LLC	127 S JULIANA ST	BEDFORD	PA	15522
COLDWATER RIDGE APARTMENTS II LLC	PO BOX 2888	GREENSBORO	NC	27402
COTTONWOOD INVESTMENTS INC	900 WILHELM PL NE	CONCORD	NC	28025
	101 N TRYON ST			
CP KANNAPOLIS INVESTMENTS LLC	STE 112	CHARLOTTE	NC	28246
JEFFREY & CHARLENE POWER	1780 OLD EARNHARDT RD	KANNAPOLIS	NC	28083
SREIT OAK CREST L P				
C/O RYAN	200 E BROWARD BLVD STE 1410	FT LAUDERDALE	FL	33301
MORNINGSTAR PROPERTIES, LLC				
ATTN: MARSHALL MACON	725 PARK CENTER DR	MATTHEWS	NC	28105

May 17, 2024

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday June 4, 2024 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2024-08 – Special Use Permit – 2422 & 2438 Coldwater Ridge Drive

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 2422 and 2438 Coldwater Ridge Drive. 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 2.95 +/- combined acres and is more specifically identified as Cabarrus County Parcel Identification Numbers 56224877380000 and 56224856520000 (**Please see attached vicinity map showing the location of this property.**)

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

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

Sincerely,



Ben Barcroft
Senior Planner

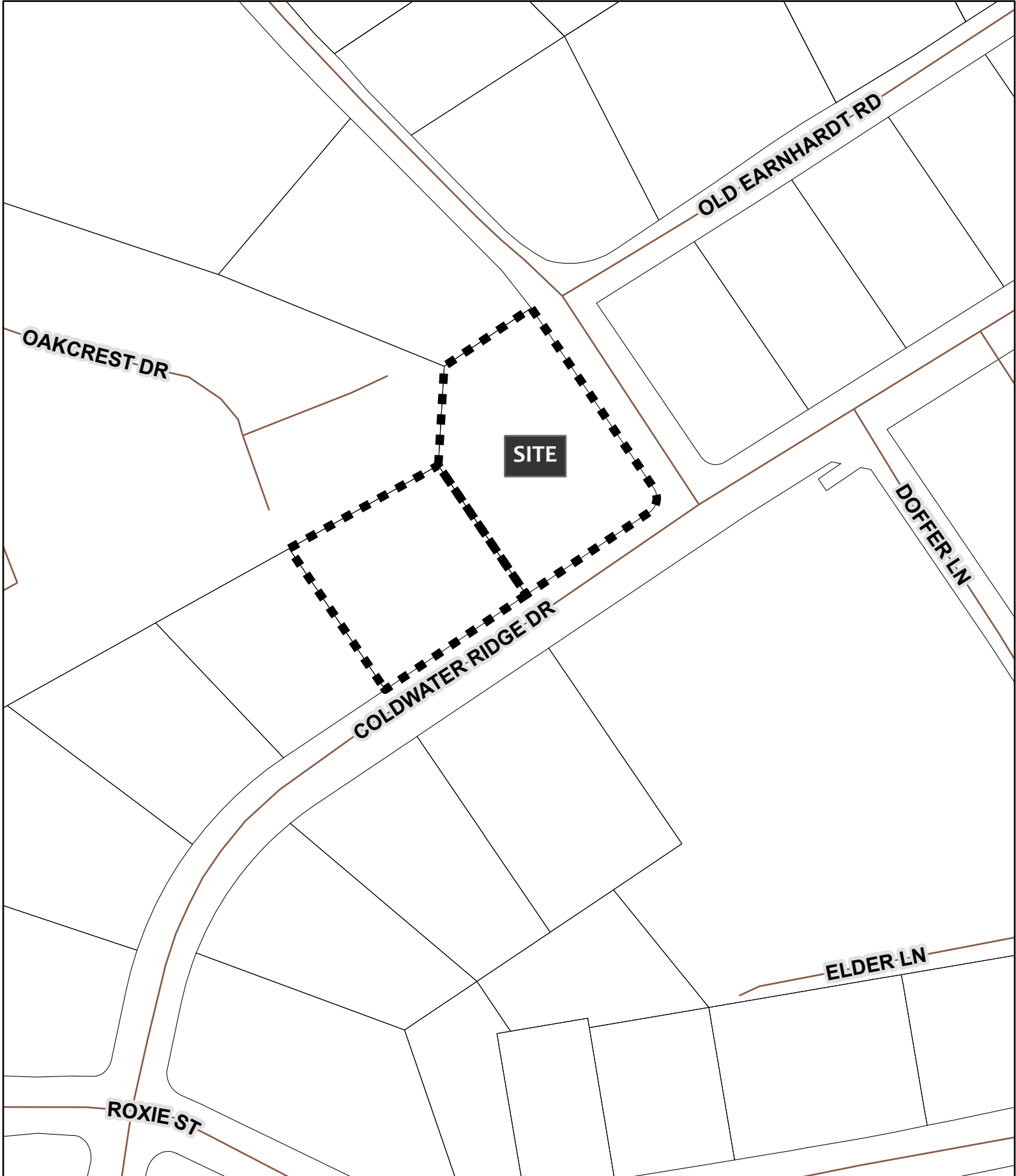
Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Heather James, Human Resource Director, by phone at 704-920-4322 or by email at hjames@kannapolisnc.gov as soon as possible but no later than 48 hours before the scheduled event.



Special Use Permit

Case Number: BOA-2024-08
Applicant: Morningstar Properties, LLC
2438 and 2422 Coldwater Ridge Dr



**NO PARKING
ANY
TIME**

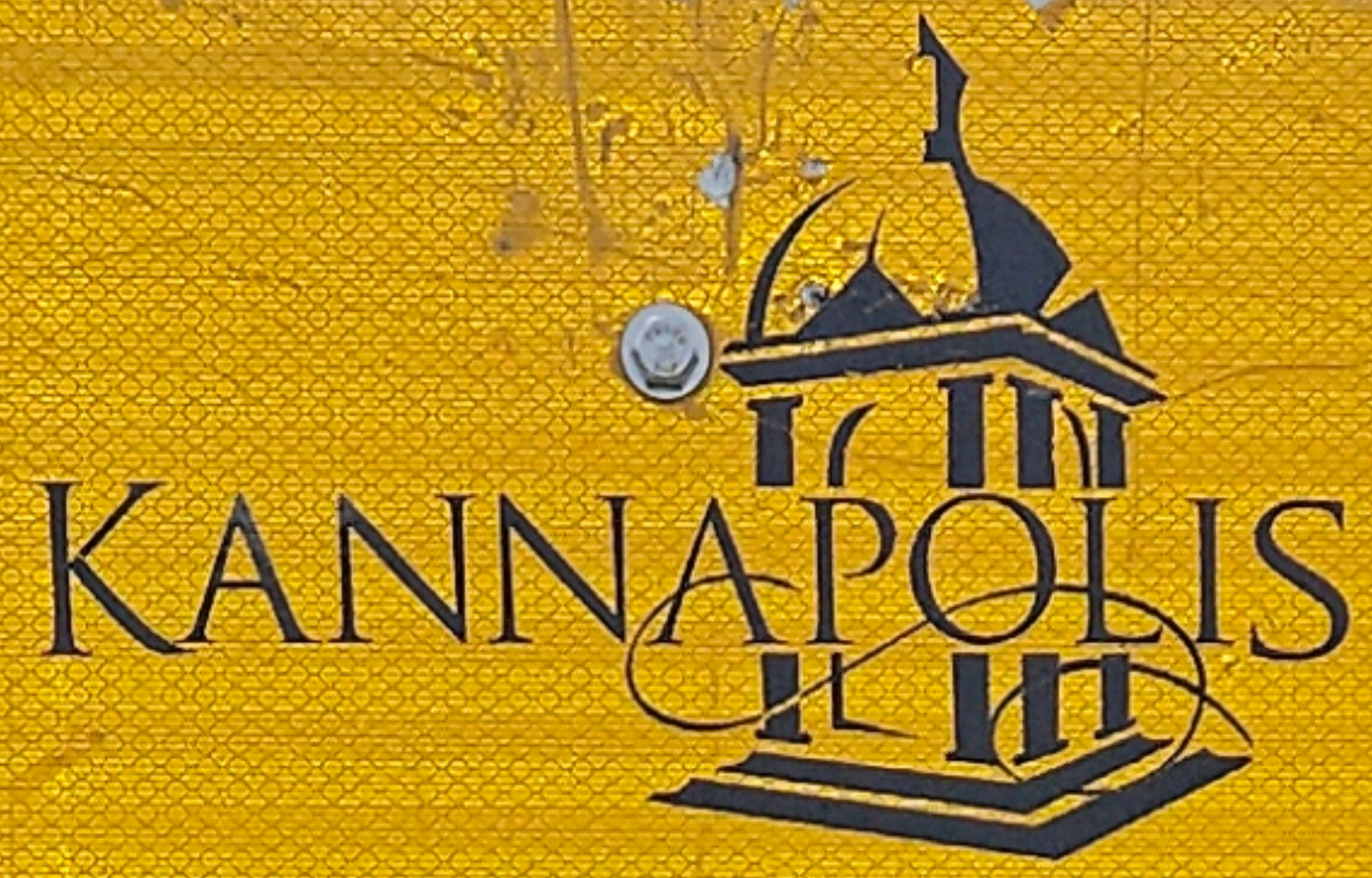


BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION
CALL 704-920-4350
CASE #BOA - 2024 -08**





BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION**

CALL 704-920-4350

CASE # BOA - 2024 -08



KANNAPOLIS BOARD OF ADJUSTMENT
APPROVED AND FILED
DATE: June 4, 2024
SECRETARY: Tam Sogge

STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

IN RE: Morningstar Properties, LLC :
2422 and 2438 Coldwater Ridge Drive :
: :
: :
: :
APPLICATION # 2024-08-BOA :

**ORDER FOR A SPECIAL
USE PERMIT**

THE BOARD OF ADJUSTMENT for the City of Kannapolis, North Carolina having held a public hearing on June 4, 2024, to consider a request for a Special Use Permit (SUP) to allow for self-service storage in the General Commercial (GC) zoning district on approximately 2.95 +/- combined acres of property located at 2422 and 2438 Coldwater Ridge Drive and further identified as Cabarrus County Parcel Identification Numbers 56224877380000 and 56224856520000. The intent is to combine these two (2) parcels and construct fifty (50) drive up and six hundred (600) interior, climate-controlled units.

The applicant, Morningstar, LLC., is requesting a Special Use Permit (SUP) to allow for Self-service Storage located at 2422 and 2438 Coldwater Ridge Drive.

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. List of Notified Properties
7. Notice to Adjacent Property Owners
8. 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, the Board makes the following FINDINGS OF FACT:

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. This property is adjacent to a multi-family residential, which is a recognized secondary use of this particular character area.

- (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. Cold Water Ridge Drive and Doffer Lane are not heavily traveled streets within the city.
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. Further, this use would be compatible with the nearby multi-family residential.
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 in the approved special use permit.
 - (a) The applicant has been informed they must sign the Conditions of Approval for this special use permit.
 - (b) Proposed conditions of approval: The proposed driveway should align with the existing driveway on the south side of Coldwater Ridge Drive. No driveway access will be permitted on Doffer Lane. A turnaround to


accommodate fire apparatus shall be provided on site since there is only one driveway.

Based on the above findings, the Board recommends **approval** of the Special Use Permit based on the Findings of Fact, the conceptual site plan, and compliance with all Local, State, and Federal requirements, subject to the following conditions:

1. The proposed driveway should align with the existing driveway on the south side of Coldwater Ridge Drive.
2. No driveway access will be permitted on Doffer Lane.
3. A turnaround to accommodate fire apparatus shall be provided on site since there is only one driveway.

Based on the above FINDINGS OF FACT and CONCLUSIONS OF LAW, the Board finds that the requirements of the KDO have been met and the application is hereby APPROVED.

This the 4th day of June, 2024.


Secretary


Chairman

EXHIBIT 2



Board of Adjustment June 4, 2024 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2024-09: Variance – 5885 Davidson Highway
Applicant: Rad Schneider, Redwood Kannapolis Davidson Highway NC P1 LLC

Request for a variance pursuant to Section 2.5.D(1) of the Kannapolis Development Ordinance. The applicant is requesting an encroachment into the front yard setback on property located at 5885 Davidson Highway.

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 Variance.
3. Motion to approve (deny) the issuance of the Variance.
4. Motion to Issue Order of Approval.

B. Required Votes to Pass Requested Action

A supermajority (4/5) vote is required to grant the requested variance.

C. Background

The applicant, Rad Schneider, Redwood Kannapolis Davidson Highway NC P1 LLC, is requesting a front setback variance. This case was approved under the Unified Development Ordinance (UDO) and required a front yard setback of 20 feet. The previous zoning was Residential Compact-Conditional Zoning (RC-CZ) under the UDO.

This property is zoned Residential 18-Conditional Zoning (R18-CZ) under the KDO and is approximately 19.423 +/- acres. The property is more specifically identified as Cabarrus County Parcel Identification Number 56010745940000.

Although the new zoning permits a front yard setback of 10 feet, this project was submitted and approved under the 20 feet front yard setback of the UDO, so a variance is warranted for the requested five-foot encroachment into the setback.

As proposed eight (8) concrete patios would extend five feet into the required twenty foot (20') front yard setback. Under the terms of the both the KDO and UDO, a patio is "not" considered a structure and does not need to meet setback requirements. Building patios, however, would result in concerns for resident safety. Residents would be too close to a 3:1 slope of the swale. As a result, the applicant is proposing building decks in place of concrete patios for dwelling units in Buildings G and F. It is believed that the decks would solve the safety concern, however, decks are subject to the setback requirements.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5.D(1)d.1(a) of the KDO requires that the Board of Adjustment shall only grant a variance on finding the applicant demonstrates all of the following:

Staff Findings of Fact - Based on application review:

Yes No

Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

As proposed eight (8) concrete patios would extend five feet into the required twenty foot (20') front yard setback. Under the terms of the both the KDO and UDO, a patio is "not" considered a structure and does not need to meet setback requirements. Building the patios would result in concerns for resident safety. Residents would be too close to a 3:1 slope of the swale.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

The swale is close to the end of the patio footprint. The swale has a 3:1 slope. The applicant has deemed that the topography of the site makes it potentially unsafe for residents to be close to the edge of the swale. Providing decks in place of concrete patios for dwelling units in Buildings G and F would solve the safety concern.

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The development has challenging site constraints including topography, floodplain, and land to be set aside for future right-of-way along Davidson Highway. This has led to concrete patios on two (2) buildings not working as intended.

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

This request is consistent with the spirit, purpose, and intent of the ordinance. The proposed variance will not impede public safety, ensuring substantial justice is achieved while preserving the ordinance's spirit. Furthermore, this request will allow the construction of decks that will ensure that further public safety is secured.

F. Legal Issues

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

In order to determine whether a variance is warranted, the Board must decide that each of the four criteria outlined below have been met. If the Board concurs completely with the finds 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 four criteria below. Should a variance be approved, the Board may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes **No**

Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

G. Recommendation

Based on the above findings, staff is supportive of the requested variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

H. Attachments

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Conceptual Site Plan
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
City Attorney	X
Assistant City Manager	X

KANNAPOLIS

Variance 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. Please either bring this application to the address above or email to bbarcroft@kannapolisnc.gov. The fees may also be paid online with a link provided by staff.

VARIANCE PERMIT REQUEST

Variance – Request for Variance as required by Section 2.5.D of the Kannapolis Development Ordinance (KDO).

Approval authority – Board of Adjustment.

Property Address: 5885 Davidson Highway

Applicant: Rad Schneider - VP of Acquisitions

SUBMITTAL CHECKLIST

- Pre-Application Meeting
- Variance Checklist and Application – Complete with all required signatures
- Plot/Site Plan showing the variance
- Fee: \$325.00 (\$300 Application Fee + notification fee [see Fee Schedule])

PROCESS INFORMATION

Public Notification: This is a quasi-judicial process that requires a public hearing and public notification including first-class mailed notice to adjacent property owners and a sign posted prominently on the property (Section 2.4.F 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 first Tuesday at 6:00pm in City Hall Laureate Center. **The pre-application meeting, submittal of the application and site plan, and payment of fees, must be completed 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: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with conditions.

Scope of Approval: A concurring vote of four-fifths of the members of the Board shall be necessary to grant a variance. A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with the hardship criteria established in NCGS §160D-705(d). (See Variance application for hardship criteria.)

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

Applicant's Signature: _____

Date: 5/10/2024

KANNAPOLIS

Planning Department
401 Laureate Way
Kannapolis, NC 28081
704.920.4350

Applicant Contact Information

Name: Rad Schneider
Address: 7007 E. Pleasant Valley RD
Independence OH 44131
Phone: 216-209-0713
Email: rschneider@byredwood.com

Property Owner Contact Information same as applicant

Name: Redwood Kannapolis Davidson Highway NC P1 LLC
Address: 7007 E. Pleasant Valley RD
Independence OH 44131
Phone: 216-209-0713
Email: rschneider@byredwood.com

Project Information

Project Address: 5885 Davidson Highway Zoning District R18
Parcel PIN: 56010745940000 Size of property (in acres): 19.43

I, Rad Schneider, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the plot plan attached.

Ordinance provision(s) from which a variance is requested: Section 3.3 of the KDO regarding setbacks

This is what I want to do (attach separate sheet if necessary): Due to construction constraints and resident safety concerns, we would like to install decks as opposed to patios.

This is for buildings G and F only.

APPROVAL CRITERIA

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. The Board is required to reach four conclusions before it may issue a Variance. In the spaces provided below, indicate the **facts** that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions:

1. Unnecessary hardship would result from the strict application of the ordinance.

It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property. [It is *not* sufficient that failure to grant the Variance simply makes the property less valuable.] (State **facts** and arguments in support of this conclusion)

Building patios would result in concerns of resident safety.

Residents would be too close to a 3:1 slope of the swale.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. (State *facts* and arguments to show that the Variance requested represents the least possible deviate from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the Variance is granted, will not substantially detract from the character of the neighborhood.)

The swale is too close to the end of the patio footprint. Swale has a 3:1 slope.

The topography of the site makes it dangerous for residents being to close to edge.

Providing decks on buildings G and F will solve the safety concern.

3. The hardship did not result from actions taken by the applicant or the property owner.

The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (State *facts* and arguments in support of this conclusion.)

The site has challenging topography, presence of floodplain, and land that needed to be set aside for future ROW development making the site rather "tight" to work within.

This "tightness" has led to our patios on two buildings not working as intended.

4. The requested Variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(State *facts* and arguments to show that, on balance, if the Variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)


If denied, public safety on these two buildings would be compromised.

Redwood does not feel comfortable with patios on these two buildings.

Redwood is wanting to spend more money on decks compared to patios to ensure public safety.

I certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief.

Applicant Signature  Date 5/10/2024

Property Owner Signature  Date 5/13/2024



Vicinity Map

Case Number: BOA-2024-09
Applicant: Rad Schneider
5885 Davidson Hwy



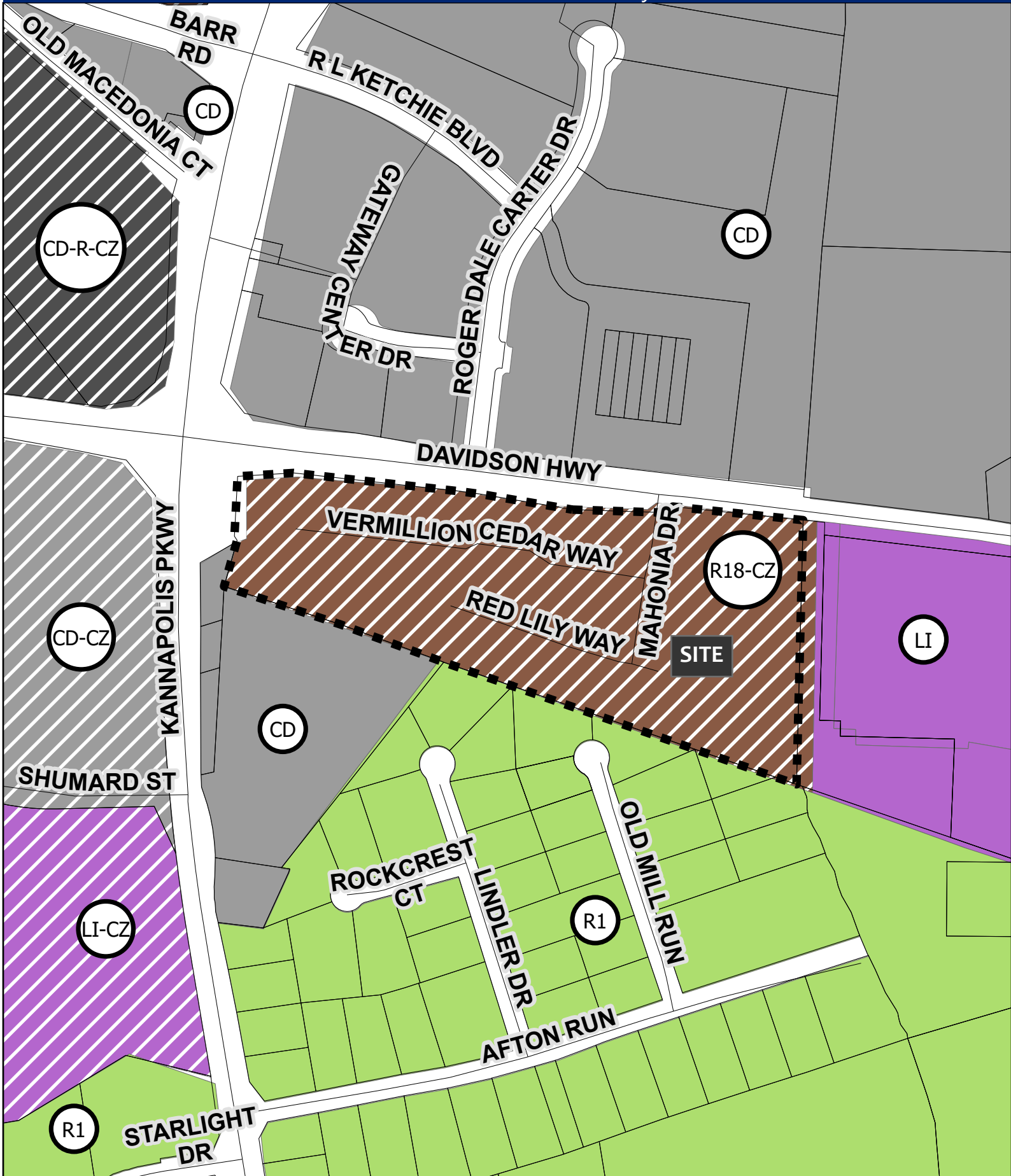


Kannapolis Current Zoning

Case Number: BOA-2024-09

Applicant: Rad Schneider

5885 Davidson Hwy

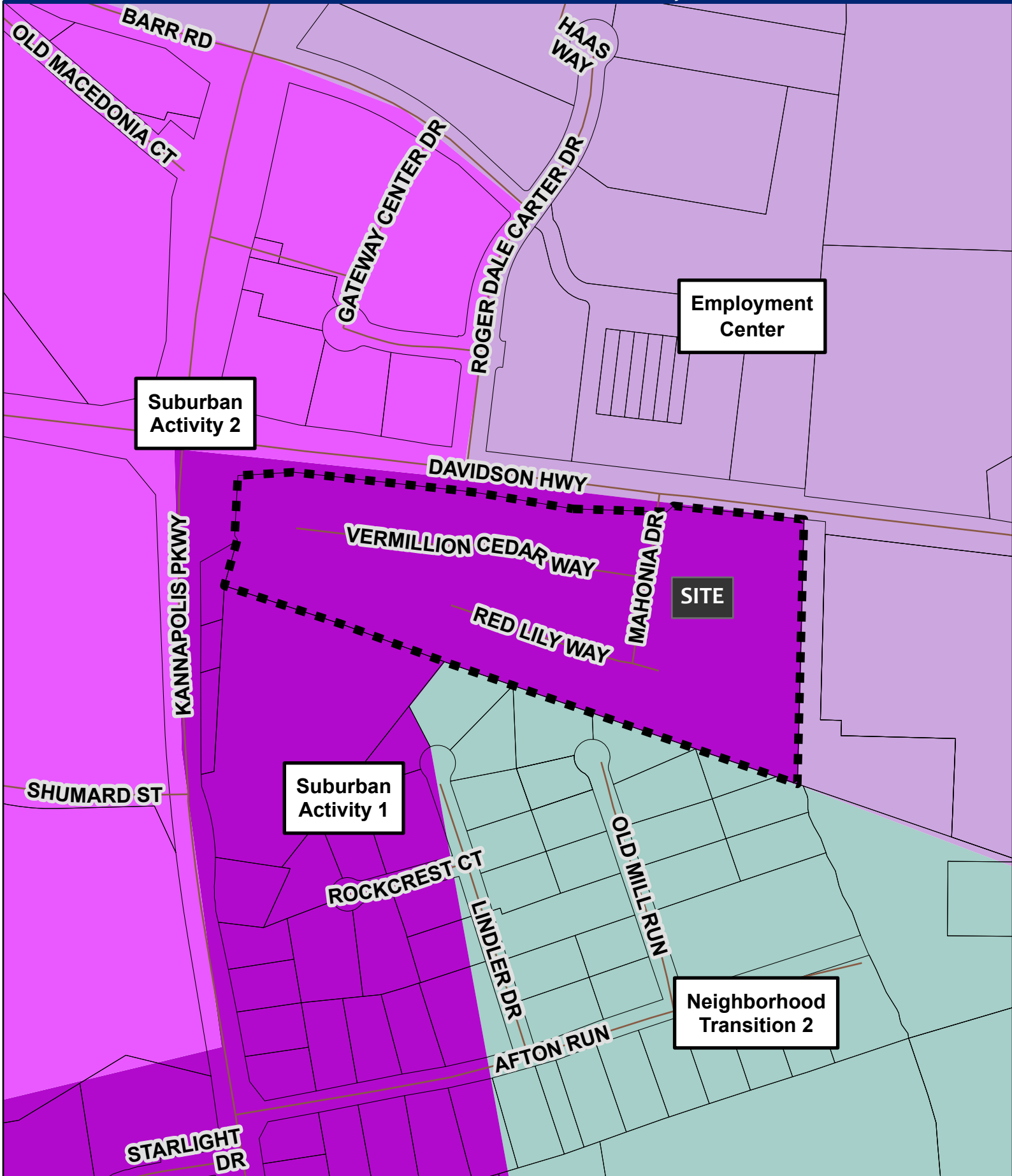


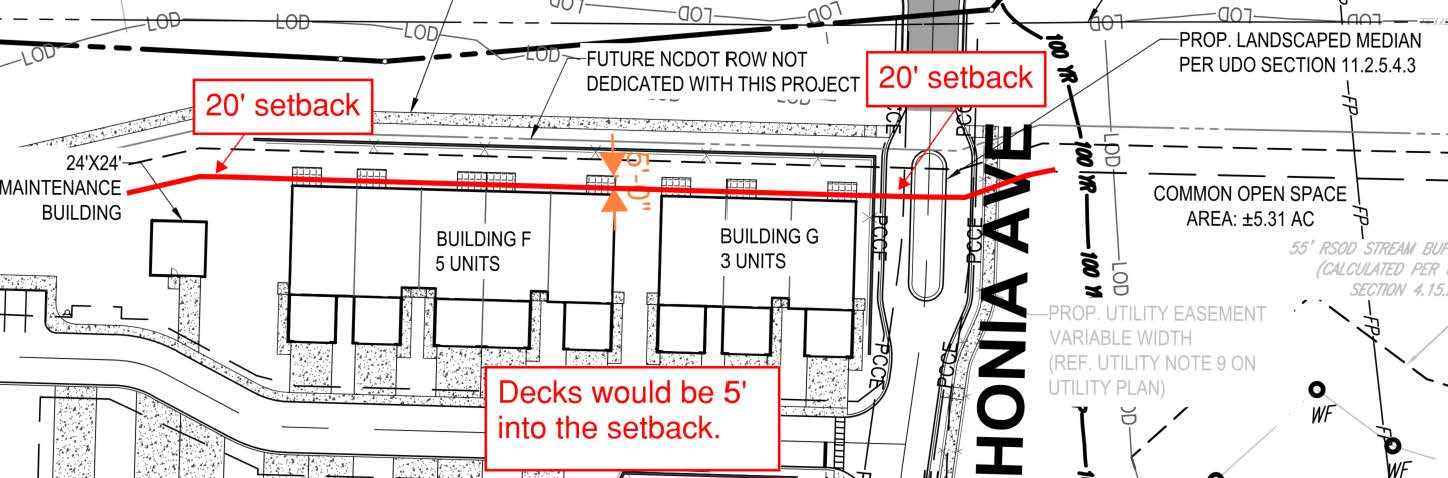
Kannapolis 2030 Future Land Use Map

Case Number: BOA-2024-09

Applicant: Rad Schneider

5885 Davidson Hwy





20' setback

20' setback

Decks would be 5' into the setback.

FUTURE NCDOT ROW NOT DEDICATED WITH THIS PROJECT

PROP. LANDSCAPED MEDIAN PER UDO SECTION 11.2.5.4.3

COMMON OPEN SPACE AREA: ±5.31 AC

55' RSOD STREAM BUFFER (CALCULATED PER SECTION 4.15)

PROP. UTILITY EASEMENT VARIABLE WIDTH (REF. UTILITY NOTE 9 ON UTILITY PLAN)

HONIA AVE

24'x24' MAINTENANCE BUILDING

BUILDING F 5 UNITS

BUILDING G 3 UNITS

LOD

LOD

LOD

LOD

LOD

LOD

LOD

LOD

LOD

100 YR

100 YR

100 YR

LOD

LOD

LD

FP

FP

WF

WF

1"

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
1548 PROPERTIES LLC	1548 ROGER DALE CARTER DR			
1548A ROGER DALE LLC	STE E	KANNAPOLIS	NC	28081
5775 DAVIDSON HWY LLC	2090 DUANE AVE	SANTA CLARA	CA	95054
6001 GATEWAY LLC	559 S CEMETERY ST	NORCROSS	GA	30071
ADALINDA RIVAS DIAZ	PO BOX 936	HARRISBURG	NC	28075
THEODORE A HARAKAS	9209 PINACEAL CT	CHARLOTTE	NC	28215
JAMES F HEGLAR JR	139 MATTHEWS TOWNSHP PKWY	MATTHEWS	NC	28105
MAMIE HEGLAR HENSLEY	36225 FINGER RD	MT PLEASANT	NC	28124
MARY A ISENHOUR	4375 CAUBLE RD	MT PLEASANT	NC	28124
JZN PROPERTIES LLC	6012 BAYFIELD PKWY PMB 372	CONCORD	NC	28027
K D 8 LLC	7432 LAMPLIGHTER CLOSE DR	MATTHEWS	NC	28105
KANNAPOLIS II CONDOMINIUM ASSOC INC.				
C/O TAL	103 LAKESIDE DR	KATONAH	NY	10536
KANNAPOLIS INDUSTRIAL OWNER LLC				
C/O BARINGS LLC	300 S TRYON ST STE 2500	CHARLOTTE	NC	28202
KATALYST HOLDINGS LLC	9943 LINKSLAND DR	HUNTERSVILLE	NC	28078
LINDER INDUSTRIAL MACHINERY COMPANY	1601 S FRONTAGE RD	PLANT CITY	FL	33563
PEGGY MILLER				
FLOYD M ERVIN	2909 WALTER DR NW	CONCORD	NC	28027
MPP KANNAPOLIS III LLC	605 LEXINGTON AVE STE 100	CHARLOTTE	NC	28203
R&R 2 LLC	PO BOX 862	GRANITE QRY	NC	28072
REDWOOD KANNAPOLIS DAVIDSON HIGHWAY NC P1 LLC				
ATTN: RAD SCHNEIDER	7007 E PLEASANT VLY	INDEPENDENCE	OH	44131
GARY & FRANCES SOSSAMON	1034 LINDLER DR	CONCORD	NC	28027
WHITE PARK LLC A NC LTD CO	167 CHURCH ST NE	CONCORD	NC	28025
JORDAN L WHITLEY				
JOHN A HONBARGER	1040 LINDLER DR	CONCORD	NC	28027

May 17, 2024

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday June 4, 2024 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2024-09 – Variance – 5885 Davidson Highway

The purpose of this Public Hearing is to consider a request for a variance pursuant to Section 2.5.D(1) of the Kannapolis Development Ordinance. The applicant is requesting an encroachment into the rear yard setback on property located at 5885 Davidson Highway. This property is zoned Residential 18-Conditional Zoning (R18-CZ) zoning district, is approximately 19.423 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56010745940000 (Please see attached vicinity map showing the location of this property.)

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

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

Sincerely,



Ben Barcroft
Senior Planner

Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Heather James, Human Resource Director, by phone at 704-920-4322 or by email at hjames@kannapolisnc.gov as soon as possible but no later than 48 hours before the scheduled event.

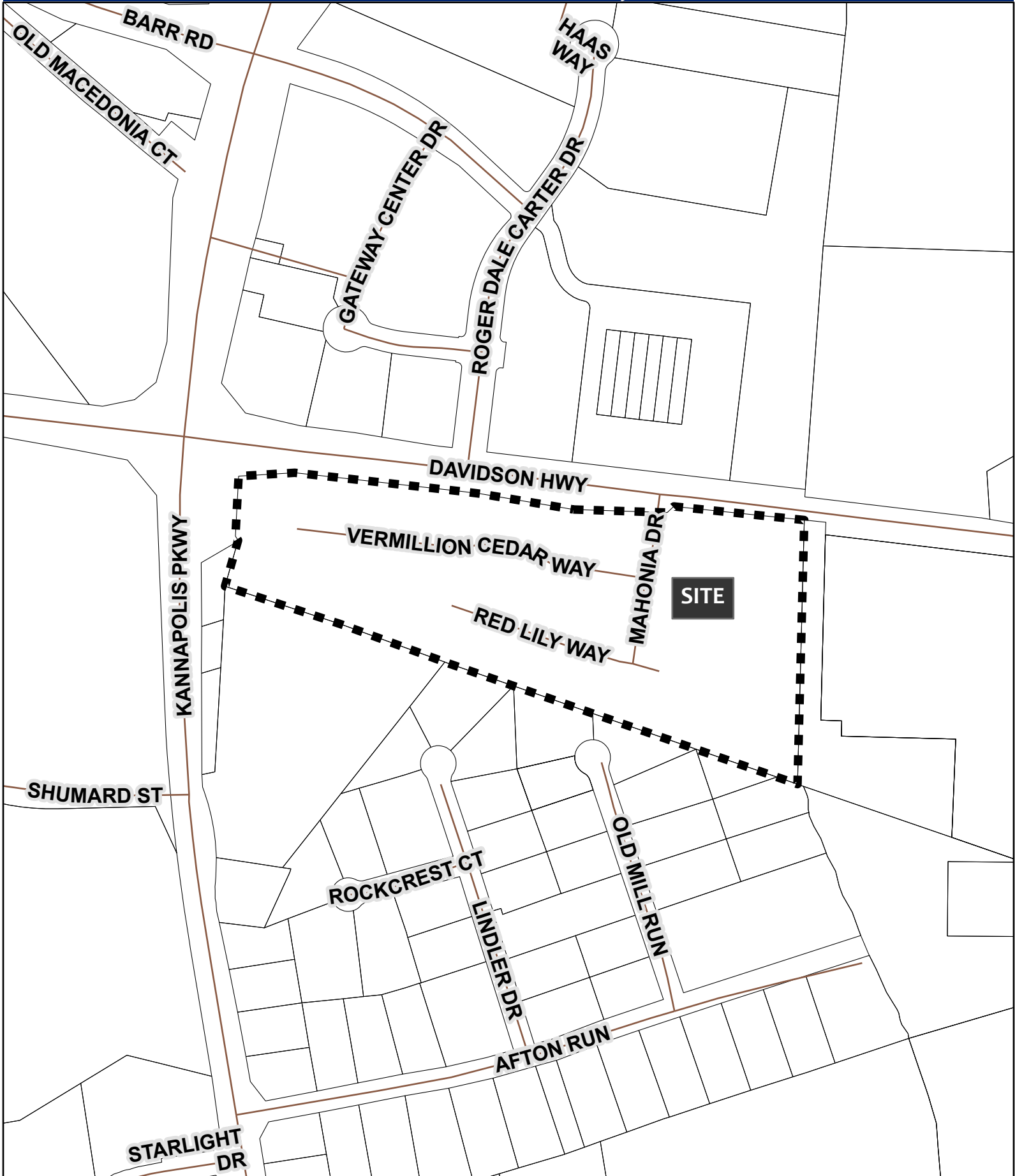


Special Use Permit

Case Number: BOA-2024-09

Applicant: Rad Schneider

5885 Davidson Hwy





BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION**

CALL 704-920-4350

CASE #BOA - 2024 -09



BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION**

CALL 704-920-4350

CASE # BOA - 2024 - 09

STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

IN RE: **RAD SCHNEIDER** :
(REDWOOD KANNAPOLIS DAVIDSON :
HIGHWAY NC P1 LLC) : **ORDER GRANTING**
APPLICATION # 2024-09-BOA : **VARIANCE FROM CITY**
: **ZONING ORDINANCE**

THE BOARD OF ADJUSTMENT for the City of Kannapolis, North Carolina having held a public hearing on Tuesday, June 4, 2024, to consider Application Number 2024-09 BOA submitted by Rad Schneider, Redwood Kannapolis Davidson Highway NC P1 LLC, is requesting a front setback variance for a property located at 5885 Davidson Highway, Kannapolis, North Carolina.

This case was approved under the Unified Development Ordinance (UDO) and required a front yard setback of 20 feet. The previous zoning was Residential Compact-Conditional Zoning (RC-CZ) under the UDO.

This property is zoned Residential 18-Conditional Zoning (R18-CZ) under the KDO and is approximately 19.423 +/- acres. The property is more specifically identified as Cabarrus County Parcel Identification Number 56010745940000.

Although the new zoning permits a front yard setback of 10 feet, this project was submitted and approved under the 20 feet front yard setback of the UDO, so a variance is warranted for the requested five-foot encroachment into the setback.

As proposed eight (8) concrete patios would extend five feet into the required twenty-foot (20') front yard setback. Under the terms of the KDO and UDO, a patio is "not" considered a structure and does not need to meet setback requirements. Building patios, however, would result in concerns for resident safety. Residents would be too close to a 3:1 slope of the swale. As a result, the applicant is proposing building decks in place of concrete patios for dwelling units in Buildings G and F. It is believed that the decks would solve the safety concern, however, decks are subject to the setback requirements.

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

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Conceptual Site Plan
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

The Board considered the approval criteria required by Section 2.5.D(1)d.1(a) of the Kannapolis Development Ordinance.

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

A. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- (a) As proposed eight (8) concrete patios would extend five feet into the required twenty foot (20') front yard setback. Under the terms of the KDO and UDO, a patio is "not" considered a structure and does not need to meet setback requirements. Building the patios would result in concerns for resident safety. Residents would be too close to a 3:1 slope of the swale.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

- (a) The swale is close to the end of the patio footprint. The swale has a 3:1 slope. The applicant has deemed that the topography of the site makes it potentially unsafe for residents to be close to the edge of the swale. Providing decks in place of concrete patios for dwelling units in Buildings G and F would solve the safety concern.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

- (a) The development has challenging site constraints including topography, floodplain, and land to be set aside for future right-of-way along Davidson Highway. This has led to concrete patios on two (2) buildings not working as intended.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

- (a) This request is consistent with the spirit, purpose, and intent of the ordinance. The proposed variance will not impede public safety,

ensuring substantial justice is achieved while preserving the ordinance's spirit. Furthermore, this request will allow the construction of decks that will ensure that further public safety is secured.

THEREFORE, on the basis of all the foregoing FINDINGS OF FACT the Board CONCLUDES the applicant meets the ordinance criteria and the Petitioner should be granted a Variance. Therefore, IT IS ORDERED that the application for VARIANCE is granted.

Ordered this 4 day of June, 2024.



Chairman


Secretary

EXHIBIT 3



Board of Adjustment June 4, 2024 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2024-10: Special Use Permit – 125 Lowrance Ave.
Applicant: Tripp Reed

Request for a Special Use Permit to allow for a duplex dwelling on property located at 125 Lowrance Ave.

A. Actions Requested by Board of Adjustment

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Special Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Special Use Permit
4. Motion to Issue Order of Approval.

B. Required Votes to Pass Requested Action

A majority vote is required to approve, approve with conditions, or deny the requested actions.

C. Background

The applicant, Tripp Reed, is requesting a Special Use Permit (SUP) to allow for a duplex dwelling in the Mixed-Use Neighborhood (MU-N) zoning district on approximately 0.46 +/- acres of property located at 125 Lowrance Ave. and further identified as Cabarrus County Parcel Identification Number 56135294710000. This property was recently rezoned from Residential 4 (R4) to MU-N on April 16, 2024. (Case #Z-2024-03).

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for a duplex dwelling in the MU-N zoning district.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5.A(5) of the KDO requires that the Board of Adjustment shall only approve a special use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

Staff Findings of Fact - Based on application review:

Yes No

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

Uses on the surrounding properties consist of single-family residential and vacant commercial. The *Move Kannapolis Forward 2030 Comprehensive Plan* designates the subject property as the "Urban Residential" Character Area and "Secondary Activity Center" Character Area.

Multifamily residential is listed as a secondary use in the "Urban Residential" Character Area and as a primary use in the "Secondary Activity Center." Staff has determined that the use is consistent and in harmony with existing and surrounding uses. Further, the KDO permits duplex dwellings in the MU-N district with the issuance of a SUP.

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

This project is not anticipated to cause any traffic hazards or traffic congestion. This portion of Lowrance Avenue is anticipated to be an access point for the new portion of Rogers Lake Road and the new "flyover" bridge.

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

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

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

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

 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 detrimental impact to the overall public safety, health and welfare resulting from the proposed use. The proposed use is subject to all the requirements of the Kannapolis Development Ordinance.

- The proposed use complies with all applicable provisions of the KDO.**
The proposed use shall comply with all sections of the Kannapolis Development Ordinance (KDO), conditions of approval, and any other applicable local, state and Federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all KDO requirements must be met.
- The applicant consents in writing to all conditions of approval included in the approved special use permit.**
N/A unless the Board of Adjustment determines to add conditions.

F. Legal Issues

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

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

- | Yes | No | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 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.
_____ |
| <input type="checkbox"/> | <input type="checkbox"/> | 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.
_____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
_____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
_____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
_____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed use complies with all applicable provisions of the KDO.
_____ |

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

G. Recommendation

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

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

H. Attachments

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

I. Issue Reviewed By:

Planning Director	X
City Attorney	X
Assistant City Manager	X



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. Please either bring this application to the address above or email to bbarcroft@kannapolisnc.gov. The fees may also be paid online with a link provided by staff.

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: 125 Lowrance Ave

Applicant: Tripp Reed

SUBMITTAL CHECKLIST

- Pre-Application Meeting
- 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 pre-application meeting, application and site plan submittal, and payment of fees, must be completed 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: _____

Date: _____

5/14/24



SPECIAL USE PERMIT APPLICATION

Approval authority – Board of Adjustment

Applicant Contact Information

Name: Tripp Beel
Address: 4230 Lower Stone Church Rd
Rockwell NC 28138
Phone: 704-793-8346
Email: tripp@c3builders.net

Property Owner Contact Information same as applicant

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

Project Information

Project Address: 125 Lowrance Ave Zoning District Select
Parcel PIN: 56135294710000 Size of property (in acres): .46

Current Property Use: VACANT Lot

Proposed Use: Duplex

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):

Build a new construction Duplex

REVIEW STANDARDS

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

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

Yes

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

Yes

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

NO

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

NO

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

NO

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

Yes

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

Yes

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

Date

Property Owner Signature

Date

For Staff Use Only:

Filing Fee: _____

Receipt #: _____

Case #: _____

Date Received: _____



Vicinity Map

Case Number: BOA-2024-10

Applicant: Tripp Reed

125 Lowrance Ave



LEE AVE

LOW

SITE

DALE EARNHARDT BLVD

S CANNON BLVD

S MAIN ST

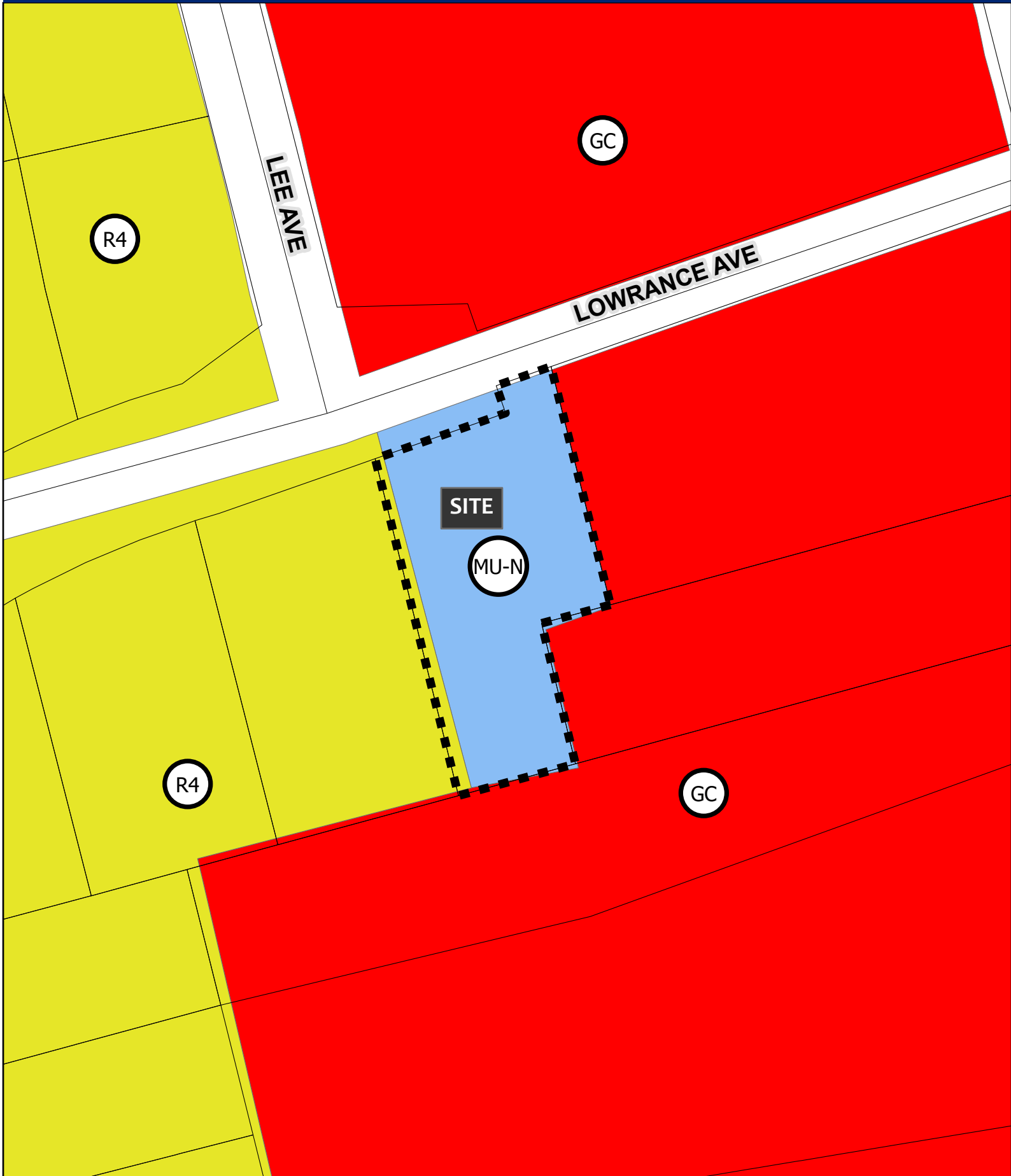


Kannapolis Current Zoning

Case Number: BOA-2024-10

Applicant: Tripp Reed

125 Lowrance Ave





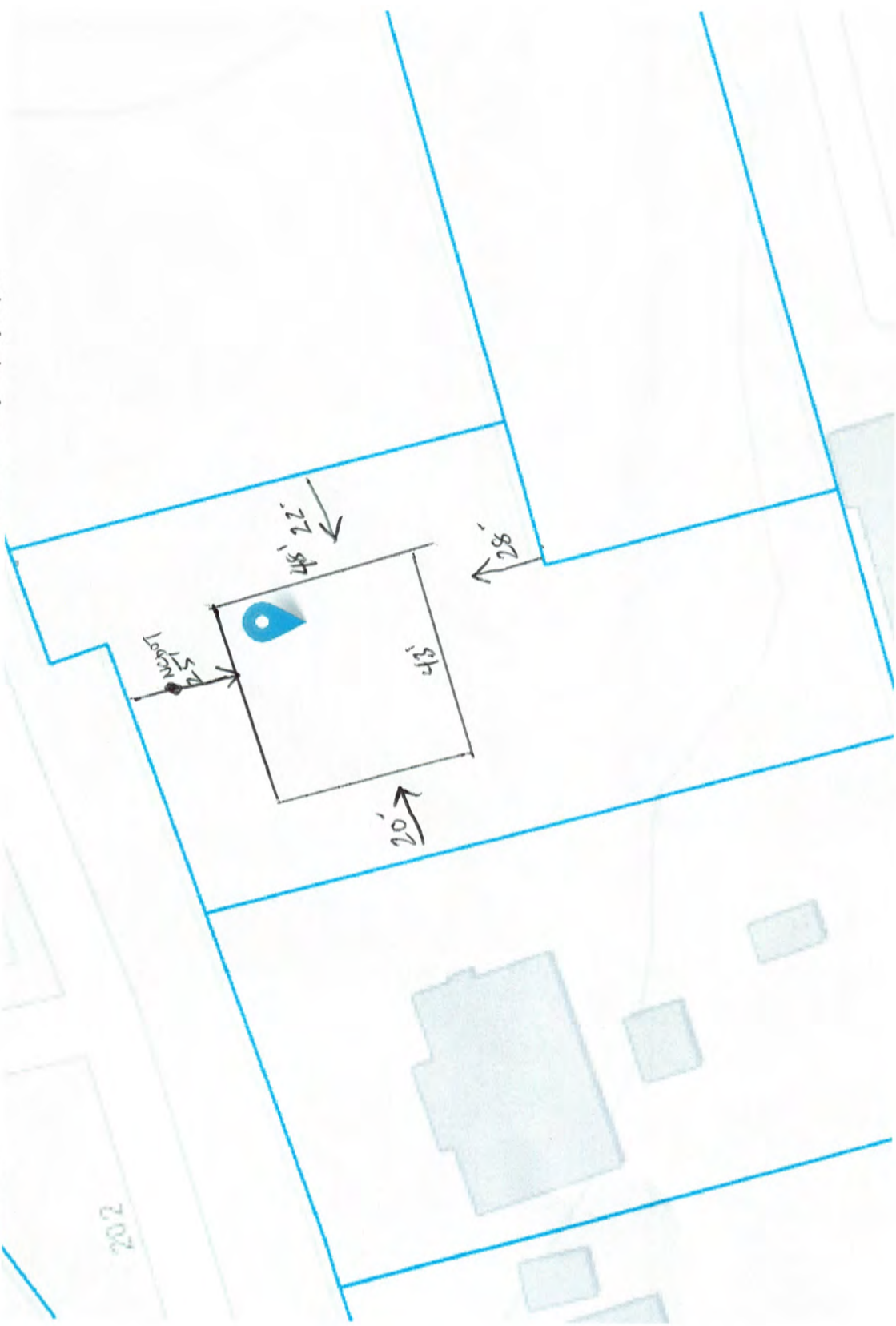
Kannapolis 2030 Future Land Use Map

Case Number: BOA-2024-10

Applicant: Tripp Reed

125 Lowrance Ave





Cabarrus County shall not be held liable for any errors in the data represented on this record. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. The data cannot be construed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.

Physical Address:	125 LOWRANCE AVE KANNAPOLIS NC 28081	PIN14:	56135294710000
Account Name 1:	REED CHARLES RAY III	Account Name 2:	
Mailing Address:	4230 LOWER STONE CHURCH RD	Mailing City:	ROCKWELL

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
RICHARD & JANET ABSHER	1226 LEE AVE	KANNAPOLIS	NC	28081
JUAN LUIS FIERRO APAC				
ELENA ROMERO	203 LOWRANCE AVE	KANNAPOLIS	NC	28081
BNM REALTY INC	1314 S MAIN ST	KANNAPOLIS	NC	28081
DILLON & SCOTT BOSTIC-STAFFORD	208 ROGERS LAKE RD	KANNAPOLIS	NC	28081
GFS PROPERTIES LLC				
C/O JAMES H SLAUGHTER	PO BOX 41027	GREENSBORO	NC	27404
DEAN & NINA GRAVES	173 ADAMS ST	MILTON	MA	02186
MACY A MEJIA	201 LOWRANCE AVE	KANNAPOLIS	NC	28081
NC DEPT OF TRANSPORTATION	1546 MAIL SERVICE CENTER	RALEIGH	NC	27699
FRANCES J NICHOLSON ESTATE				
C/O STEVEN & LEIGH ANN DAVIS	2956 DONEGAL DR	KANNAPOLIS	NC	28081
CHARLES R REED III	4230 LOWER STONE CHURCH RD	ROCKWELL	NC	28138
ROBERT E JR & KATHY STAMEY	425 ORBISON RD	MOORESVILLE	NC	28115
ARTHUR G WOODS JR				
DAWN M LEATHEM	204 ROGERS LAKE RD	KANNAPOLIS	NC	28081



May 17, 2024

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing on Tuesday June 4, 2024 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

BOA-2024-10 – Special Use Permit – 125 Lowrance Ave.

The purpose of this Public Hearing is to consider a request for a Special Use Permit (SUP) to allow for one (1) duplex residential structure on property located at 125 Lowrance Ave. Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance, a SUP is required for duplex residential uses in the Mixed-use Neighborhood (MU-N) zoning district. The subject property is 0.404 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 56135294710000 (Please see attached vicinity map showing the location of this property.)

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

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

Sincerely,

Ben Barcroft
Senior Planner

Enclosure

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Kannapolis, should contact the office of Heather James, Human Resource Director, by phone at 704-920-4322 or by email at hjames@kannapolisnc.gov as soon as possible but no later than 48 hours before the scheduled event.

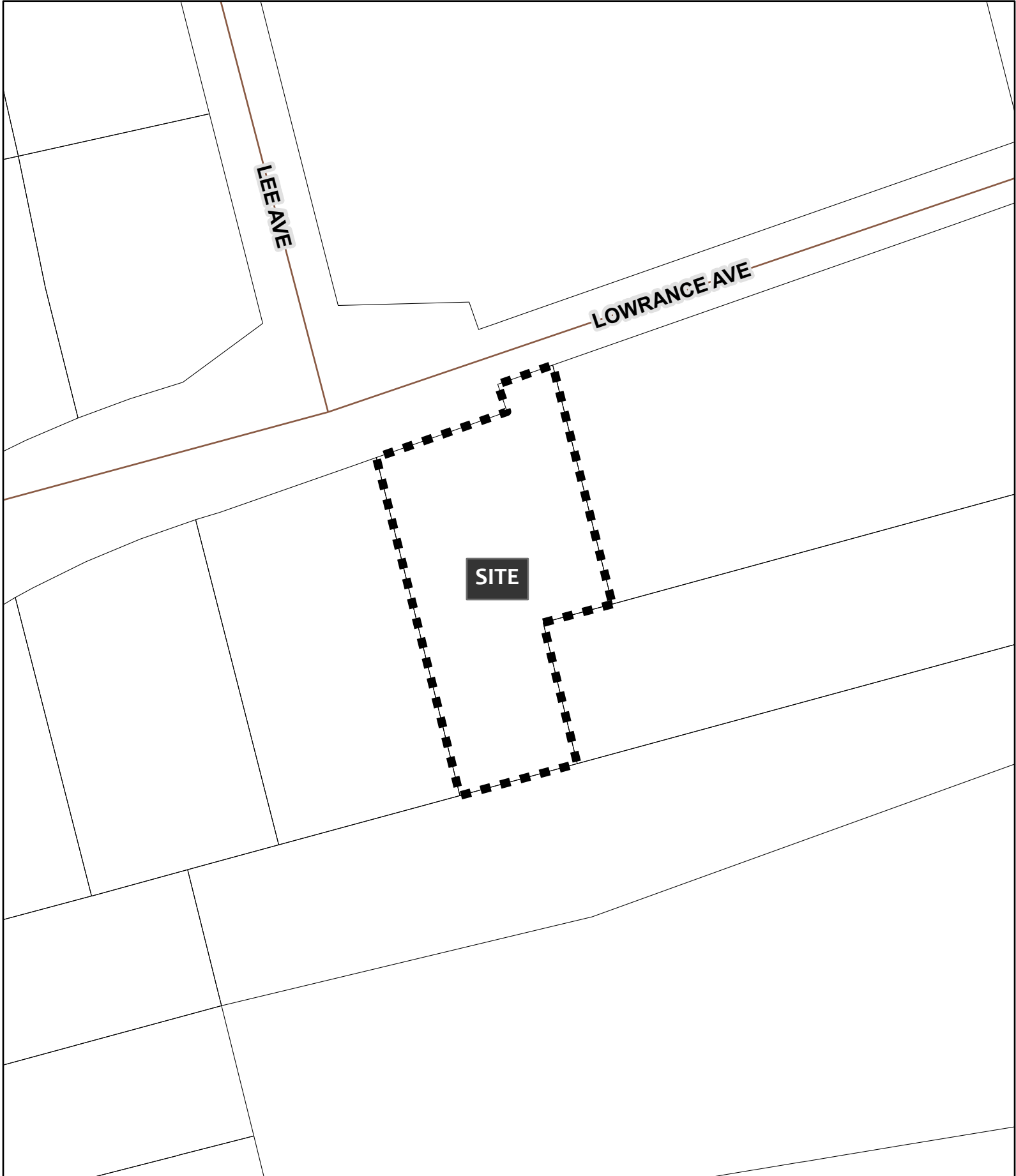


Special Use Permit

Case Number: BOA-2024-10

Applicant: Tripp Reed

125 Lowrance Ave





BOARD OF

ADJUSTMENT

**PUBLIC HEARING
INFORMATION**

**CALL 704-920-4350
CASE # BOA-2024-10**