



**KANNAPOLIS CITY COUNCIL
REVISED MEETING AGENDA
Kannapolis City Hall
401 Laureate Way, Kannapolis NC
October 22, 2018
6:00 PM**

Please turn off cell phones or place on silent mode.

CALL TO ORDER AND WELCOME

MOMENT OF SILENT PRAYER AND PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA - Motion to Adopt Agenda or make revisions

APPROVAL/CORRECTION OF MINUTES

1. September 24, 2018 Meeting Minutes
2. October 08, 2018 Regular Meeting Minutes
3. Closed Session Minutes September 24, 2018
4. Closed Session Minutes October 08, 2018

CONSENT AGENDA - Motion to Adopt Consent Agenda or make revisions

1. Personnel Policy 400.25 Fire Fighter Lateral Advancement Program (Tina Cline, Human Resource Director and Ernie Hiers, Fire Chief)

BUSINESS AGENDA

- A. Public Hearing CZ 2018-01 (267 N. Cannon Boulevard) - Rezone property located at 267 N. Cannon Boulevard from C-2 (General Commercial) and RM-1 (Residential Medium Density) to C-2-CZ, (General Commercial - Conditional Zoning (Zachary D. Gordon, AICP, Planning Director)
- B. Public Hearing TA-2018-05 - Text amendments to Table 4.6-1 and Article 11.1 of the Unified Development Ordinance (UDO) to allow Equipment Rental and Leasing (with outdoor storage) in the CD Zoning District, subject to Outdoor Storage standards in Article 11.1 of the UDO (Zachary D. Gordon, AICP, Planning Director) (Second Reading)
- C. Public Hearing TA-2018-07 - Text amendments to Article 4.14, Appendix A and Appendix B.9 of the Unified Development Ordinance (UDO) to update the Flood Protection Overlay District pursuant to North Carolina's Flood Damage Prevention Ordinance (Zachary D. Gordon, AICP, Planning Director) (Second Reading)
- D. Gem Theatre Master Plan Overview (Irene Sacks, Director of Economic & Community Development)
- E. Clarion Associates Contract to update the City of Kannapolis Unified Development Ordinance (UDO) (Zachary D. Gordon, AICP Planning Director)

F. Voting Delegates to the National League of Cities (NLC) Annual Business Meeting (Mike Legg, City Manager)

G. Update on Fishertown Annexation (Mike Legg, City Manager)

CITY MANAGER REPORT

CITY COUNCIL COMMENTS

SPEAKERS FROM THE FLOOR

In order to speak to Council, please fill out a white card and return to the City Clerk. Cards are located on the table as you enter the meeting room. Please limit comments to 3 minutes

CLOSED SESSION

GS. 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney client privilege and G.S. 143.318.11 (a) (4) for discussing matters relating to the location or expansion of industries or businesses in the area (Mayor Pro tem Berry)

Motion to Adjourn Meeting

UPCOMING SCHEDULE

November 12, 2018

November 26, 2018

December 10, 2018 (Only one meeting in December)

In accordance with ADA regulations, anyone in need of an accommodation to participate in the meeting should notify the ADA coordinator at tcline@kannapolisnc.gov or 704-920-4302 at least forty-eight (48) hours prior to the meeting.

**CITY OF KANNAPOLIS
COUNCIL MEETING MINUTES
September 24, 2018**

A regular meeting of the City Council of the City of Kannapolis, North Carolina was held on Monday, September 24, 2018 at 6:00 p.m., at the Kannapolis City Hall located at 401 Laureate Way, Kannapolis, NC.

CITY COUNCIL MEMBERS PRESENT:

Mayor: Milton D. Hinnant

Mayor Pro tem: Dianne Berry

Council Members: Ryan Dayvault
Van Rowell
Doug Wilson
Roger D. Haas
Tom Kincaid

Council Members Absent: None

City Manager: Mike Legg

Deputy City Manager: Eddie Smith

City Clerk: Bridgette Bell

City Attorney: Walter M. Safrit, II

Staff Present: Ernie Hiers Sherry Gordon
Wilmer Melton Tony Eury
David Jordan Annette Privette-Keller
Eric Davis Zac Gordon
Irene Sacks Trent Marlow
Gretchen Copikin Terry Spry
Trent Marlow

Visitors Present: John Mills Bobbie Hague
Sophia Wilkerson Adael Shinn
Patrick Gabby Tyler Green
Ron Haithcock Jo Stephens
Mary Rigby Andrew Bakr
Thomas Barnhardt Connie Forbes
Barbie Jones Kim Row
Robyn Richardson Robert Richardson

1 Diana Shipe Amy Sherrill
2 Carrie Brown Brian Radle
3 Nathan Payne Steve Morris
4 Chris Gordon Gerry Depken
5 Shelby Whitney Michael Whitney
6 Phillip Gaddy, II Ashely Forrest
7 Dale Fink Michael Wolf
8 Wilfred Bailey
9

10 **CALL TO ORDER AND WELCOME:**

11 Mayor Hinnant called the meeting to order and welcomed those in attendance. A moment of silent
12 prayer and the Pledge of Allegiance was led by Council Member Kincaid.
13

14 **ADOPTION OF AGENDA:**

15 Mayor Hinnant noted a revised Agenda adding Business Agenda I – Budget Ordinance; Business
16 Agenda J – Resolution declaring the intent of the city to reimburse itself and Business Agenda
17 Item L – Change order to the demonstration project garage construction agreement.
18

19 Council Member Wilson made a motion to approve the revised agenda. Motion was seconded by
20 Council Member Dayvault and approved by unanimous vote.
21

22 **FIRST READING:**

23 TA-2018-05 - Consider text amendments to Table 4.6-1 and Article 11.1 of the Unified
24 Development Ordinance (UDO) to allow Equipment Rental and Leasing (with outdoor storage) in
25 the CD Zoning District, subject to Outdoor Storage standards in Article 11.1 of the UDO (Zac
26 Gordon, AICP, Planning Director) (Copy included as Exhibit A)
27

28 TA-2018-07 - Consider text amendments to Article 4.14 of the Unified Development Ordinance
29 (UDO) to update the Flood Protection Overlay District pursuant to North Carolina's Flood Damage
30 Prevention Ordinance (Zac Gordon, AICP, Planning Director) (Copy included as Exhibit B)
31

32 **APPROVAL/CORRECTION OF MINUTES:**

33 Mayor Pro Tem Berry made a motion to approve the August 13, 2018 meeting minutes. Motion
34 was seconded by Council Member Dayvault and approved by unanimous vote.
35

36 Council Member Dayvault made a motion to approve the August 27, 2018 meeting minutes.
37 Motion was seconded by Council Member Kincaid and approved by unanimous vote.
38

39 Council Member Kincaid made a motion to approve the September 10, 2018 meeting minutes.
40 Motion was seconded by Council Member Wilson and approved by unanimous vote.
41

42 Mayor Pro tem Berry made a motion to approve the August 13, 2018 Closed Session meeting
43 minutes. Motion was seconded by Council Member Haas and approved by unanimous vote.
44

Council Member Dayvault made a motion to approve the August 27, 2018 Closed Session meeting minutes. Motion was seconded by Council Member Wilson and approved by unanimous vote.

Council Member Kincaid made a motion to approve the September 10, 2018 Closed Session meeting minutes. Motion was seconded by Mayor Pro tem Berry and approved by unanimous vote.

BUSINESS AGENDA:

Public Hearing on the FY 2017-18 Consolidated Annual Performance and Evaluation Report (CAPER) (Sherry Gordon, Community Development Program Administrator) (Copy included as Exhibit C)

Each year, the City must prepare a written summary of the previous year's activities and accomplishments of the CDBG Entitlement program. This report provides details on how the programs funded met HUD's national objectives of serving the needs of low income residents, as well as how the activities helped meet the goals as detailed in the City's Consolidated Plan. Citizen input is required.

The report has been made available for public inspection at the City of Kannapolis Administrative Office and on the website and has been duly advertised. A public hearing before Council is also required prior to submitting the report to HUD. The public hearing has also been duly advertised. During FY 2017-18, the City was awarded \$336,305 in CDBG funds and expended \$219,301. No program income was generated. The unexpended funds will be carried over to FY 2018-19 line items.

Highlights of the year's activities include the following achievements:

- Planned Repayments of Section 108 loans - \$62,280
- The City made two payments this past fiscal year for the Section 108 loan of the Kannapolis Gateway Business Park (Location: Kannapolis Parkway & Hwy 73)
- CDBG Public Services - \$44,000
- The City partnered with 9 local non-profit agencies to provide public services for Kannapolis residents.
- Urgent Repair - \$45,760
- The City in partnership with Habitat Cabarrus made repairs to the homes of 11 low/mod homeowners.
- Program Administration/Fair Housing - \$67,261
- The City provided oversight for the administration of the CDBG funds and activities. \$1,000 used to affirmatively further Fair Housing by increasing awareness of the Fair Housing laws. (workshops and distributed literature)
- The City received \$115,638 in HOME funds. The City of Concord submits the CAPER to HUD on behalf of the Consortium members.
- Highlights of the year's activities include the following achievements:
- New Construction - \$20,000 & Homeowner Rehab - \$33,000

Mayor Hinnant opened the public hearing to those in attendance for an opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

Motion was made by Council Member Haas and seconded by Council Member Wilson to authorize Staff to submit the CAPER to the US Department of Housing and Urban Development by September 28, 2018. The motion was approved by unanimous vote.

Public Hearing to rezone property located at 2120, 2122 and an unaddressed parcel on West C Street from O-I (Office-Institutional) and RM-2 (Residential Medium Density) to C-2 - CZ (General Commercial-Conditional Zoning) (Gretchen Copikin, Planner) (Copy included as Exhibit D)

Ms. Copikin gave the following facts:

- **Applicant:** Phillip Gaddy II, Patrick Gaddy, and Britney Haigler
- **Property Owner:** Phillip Gaddy II and Sharon Gaddy
- **Cabarrus County PIN:** #249C-095, #249C-09501, and #249C-005
- **Zoning:** O-I (Office-Institutional) and RM-2 (Residential Medium Density)
- **Property Size:** Approximately 4.4 +/- acres
- **Public Notice:** Adjacent property owners notice mailed 7/13/2018, sign posted 7/13/2018 and notice published 7/15/2018 and 7/20/2018
- **Request:** Proposed rezoning to C-2-CZ to allow for development of small scale used car sales and detailing
- Properties located in “Complete Neighborhood 1” and “Rural Edge” Character Areas in *Move Kannapolis Forward 2030 Comprehensive Plan (“2030 Plan”)*

Planning and Zoning Commission unanimously denied this rezoning request, at their July 26, 2018 meeting.

- Board and general public concerns included:
 - The proposed project is not consistent with 2030 Comprehensive Plan
 - Appearance and safety of area will change if project is approved
 - Environmental concerns with proposed use (noise, pollution)
 - Conditions of approval are not restrictive enough
- **Referred to City Council for final approval**

Ms. Copikin reviewed the following facts:

1. The size of the tract in question?

- Size of 3 tracts measures approximately 4.4 +/- acres

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?

- Large portion of subject properties designated as “Complete Neighborhood 1” Character Area of *2030 Plan* Includes stable existing SFR neighborhoods where character should be maintained

- Small neighborhood retail that generates limited traffic.
- Remainder of subject parcels (northern portion of 249C-005) designated as “Rural Edge” Character Area of *2030 Plan* -Land to be developed

3. Is the proposed rezoning compatible with the surrounding area?

- Located along West C St. approximately 600-ft from ETJ
- Mixture of larger-lot SFR with large vacant parcel across West C St.
- Small neighborhood serving commercial node located at West C St. and Rainbow Dr., approximately 700-ft east of subject properties
- Requested zoning to permit small scale automotive sales
- Max 5 vehicles on display
- Auto detailing
- Landscape buffers along east & west property lines with opaque wooden fence adjacent to existing residential to the east
- Staff recommending 10-ft buffer along northern property line

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

- Currently accessed from 2 driveways along West C St. Additional curb cuts require NCDOT approval

5. Will there be parking problems?

- Site plan includes 5 paved spaces for vehicle display & 6 spaces for employee and customers
- Meets requirement the UDO
- On-line vehicle sales

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

- Concept plan provided (full site plan required if approved)
- Subject properties located in Kannapolis Lake Critical Area
 - 12% limited build-upon area per UDO requirements
- Staff recommending lighting condition requiring full cut-off fixtures & directed away from adjacent properties/West C St.
- City staff review to ensure stormwater compliance
- Staff recommending business hours not extend beyond 9pm Sunday through Friday, and 10pm on Saturdays

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?

- General area stable
- CUP granted for self-storage approximately ½ mile east of subject parcels October 2017

1 **8. Is there compliance with the adequate public facilities criteria?**

- 2 • No public facilities in this portion of ETJ
3 • Additional well or septic capacity would require approval from Rowan County Health
4 Department
5

6 **9. What are the zoning districts and existing land uses of the surrounding properties?**

- 7 • North: O-I and RM-2 (predominately large-lot residential)
8 • South, East & West: O-I (a mixture of residential and non residential)
9

10 **10. Is the subject property suitable for the uses to which it has been restricted under the**
11 **existing zoning classification?**

- 12 • Subject properties zoned O-I
13 – Allows for office uses
14 – Would not allow for retail uses such as car sales
15

16 **11. Is the rezoning compatible with the adjacent neighborhood, especially residential**
17 **neighborhood stability and character?**

- 18 • West C St. corridor zoned C-2 east of Rainbow Dr. to Arlene Ave., with O-I from Arlene
19 Ave. west to ETJ line
20 • Subject parcels adjacent to existing O-I zoning across Clawson Ave.
21 • Existing residential and non-residential uses along West C St.
22 • While small scale retail appropriate, more intense commercial uses require mitigation to
23 ensure compatibility
24

25 **12. What length of time has the subject property remained vacant as zoned?** Not vacant
26

27 **13. Is there an adequate supply of land available in the subject area and the surrounding**
28 **community to accommodate the zoning and community needs?**

- 29 • West C St in City of Kannapolis ETJ predominantly commercially zoned corridor of either
30 C-2 or O-I
31 • Mixture of existing SFR and vacant land
32

33 **14. Was the existing zoning in error at the time of adoption?** No
34

35 Staff finds rezoning request **consistent** with *2030 Plan*

- 36 • Calls for “Complete Neighborhood 1” (allowing small scale retail)
37 • Current character of West C St. mixture of SFR and commercial uses
38 • Rezoning is reasonable will not have an adverse effect on the capacity and safety
39 of the surrounding street network, parking and the environment, and is in the public
40 interest with limited commercial uses & appropriate conditions of approval
41 • While area is not served by water and sewer, project subject to county requirements
42 for well and septic
43

44 Staff recommends approval of Zoning Map Amendment Case #Z-2018-09 and associated site plan,
45 subject to the conditions stated in the Staff Report:

1. The uses permitted with this rezoning shall only include auto detailing and limited auto sales with not more than 5 cars displayed for sale on the property.
2. A Final Major Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
3. NCDOT shall review any changes to the driveway access on West C Street, including any improvements and/or widening.
4. Any additional lighting installed on the subject properties shall be full cut-off fixtures with all lighting directed downward and away from adjacent properties and from West C Street.
5. A 10 foot landscape buffer shall be provided adjacent to the northern property line of parcel 249C 09501. The landscape palette shall be same as the buffer provided along the eastern portion of parcel 249C 005.
6. The business hours of operation shall not extend beyond 9pm Sunday through Friday and 10pm on Saturdays.

Council Member Haas asked if the petitioner has agreed to those additional six conditions. Ms. Copikin responded yes. Ms. Copikin further stated that the petitioner had more information to present tonight.

Council Member Dayvault asked if during the Planning & Zoning Commission meeting, were all or none of the six conditions part of the deliberation, or added after fact. Ms. Copikin responded the six conditions were part of the Planning & Zoning Board's discussions.

Council Member Kincaid asked if this parcel would have any pavement or gravel. Ms. Copikin responded the parking area would be paved.

Kim Row of 2200 West C Street told Council they own property two parcels across from the proposed rezoning. About seven years ago, they moved from California and purchased this property as their retirement home. Their concerns are that they are on a well and anytime you have an automotive business, whether it is detailing or painting, selling cars, there is a concern that the ground may be contaminated from the run off from the cars. That was one of the concerns addressed at the Planning and Zoning meeting. Also, they are concerned with property values decreasing. If they wanted to live beside a used car lot, would have bought a lot on Cannon Boulevard and not on West C Street. She has talked to her closest neighbors and they are all in agreement of these concerns. Mr. Gaddy does not live there and have to see the eyesore every day. She asked Council to take into consideration the fact they live in a residential neighborhood. She asked Council, "Who wants a used car lot between two houses?"

Robert Richardson of 2828 Eva Drive, Concord. His daughter lives adjacent to the proposed rezoning property. He first talked about the Planning & Zoning Board and their professionalism during this process. With the first hearing, the applicant was not prepared and was allowed to withdraw without any financial burden. With the second hearing, the Board listened intensely and asked questions of all the speakers. After everyone spoke, they voiced their concerns and allowed the applicant to address those concerns before voting. After an 8-0 vote, they clearly explained their decision. To apply this decision was based on lies and emotions was ridiculous. Mr.

1 Richardson said the applicant has some very nice personal recommendations. After the applicant
2 was informed he was not in compliance, he ran an unlicensed business on this property for months.
3 Mr. Richardson has witnessed detailing, mechanic work and painting at this location. When the
4 Board questioned Mr. Gaddy about this, he used the standard excuse that it was all personal
5 vehicles, when in fact, neighbors had seen a parade of cars coming in and out, some even from out
6 of state. After the applicant starting working in the building what was to be used as the business,
7 renovations were done to the building without permits. To date there is no correct site plan and the
8 residents on the corner lot admitted to give the parents the business on the corner not which is not.
9 Rezoning three lots does not make all three lots corner lots. In his opinion, these facts demonstrate
10 the applicant has no problem skirting around the code.

11
12 Mr. Richardson then addressed the do-it-yourself noise pollution test. No one has any problem
13 with their neighbor warming their truck before they leave to work, cutting the grass or using the
14 leaf blower. But it is immoral to expect a person who has lived quietly in a house for 20 years to
15 have to listen to that every day.

16
17 Neighborhood Retail – For the City of Kannapolis Unified Development Ordinance Appendix A,
18 the definition of retail is the sale of any tangible personal property in any quality or quantities used
19 for the purchaser, not for resale. A detail shop is not retail. This application is based on
20 neighborhood retail on a corner lot and it is neither.

21
22 Robyn Richardson of 108 Clawson Street provided pictures to Council to be included with official
23 minutes. (Exhibit E). Mrs. Richardson purchased her home in 1999 and renovated back to the
24 original 1920's. She loves and works out of her home. She works for a check company and her
25 contract requires her to work in a quiet, secured location. During time that Mr. Gaddy was running
26 his business without the proper zoning, the noise caused her to lose 30% of her income. Her job
27 requires her to be able to speak to her Manager any time of the day and she cannot do this with the
28 constant noise. There are many noises they hear on a daily basis and if you have to listen to those
29 same noises eight to twelve hours a day, six to seven days a week, it becomes a nuisance.

30
31 Mr. Gaddy stated in his letter to the Council that he would be using spray paint, but he did not
32 include how he would protect our air quality. After a car was painted on his property on July 6, it
33 took her three days to be able and get the fumes out of her home. Another major concern is her
34 property value. She wants this to be her forever home. She respects the growth of our community,
35 but not consideration to the negative effects that will be on her neighbors and her friends. If this
36 business is allowed to remain, she will lose her job and be forced out of her home in order to keep
37 her job. With the decreased property value, she could never replace her home, no one wants to buy
38 a house surrounded by a car business. Mr. Gaddy has stated that his waste water could be filtered
39 through a collection process, but gave no details with the design or process he will be using. A
40 Type 2 buffer with an eight foot fence will not block out the site, noise, air, water and light
41 pollution from his car business. We do not know the plans he has for the unmarked parcel and the
42 parcel at 2120 West C Street because it is not included on the site plan. She is requesting that City
43 Council deny this case. This business is an environmental nuisance and does not fit into the
44 Kannapolis 2030 moving forward plan and will not serve our community.

1 Connie Forbes of 2208 West C Street and is the mother of Andrew Forbes who owns the house.
2 This is the first home he purchased ten years ago. She has lived with her son about eight years.
3 They are concerned about property value, and traffic. Because this area is a cut through from
4 Enochville to West C Street, there are a lot of wrecks. There are times when you have to wait for
5 cars in order to get out of your driveway. This car lot will cause additional problems. Her son did
6 not move there because it was a business area, he moved there because it was going to be his home.
7 She agrees with what others have said. This is supposed to be a residential area, some have lived
8 there all their life and raised their kids. It is very important to keep it that way.
9

10 Mayor Hinnant called the petitioner, Mr. Phillip Gaddy.
11

12 Phillip Gaddy of 8420 Mooresville Road, Concord. Mr. Gaddy thanked Council for their
13 consideration and time in helping him to make his dream become a reality. He does not have
14 anything to add; everything has been presented. He wanted to make himself available as well as
15 his Engineer, Dale Fink, should Council have any questions regarding site plans or business plans.
16

17 There being no further speakers, Mayor Hinnant closed the public hearing.
18

19 Council Member Kincaid asked Mr. Gordon if the EPA does not require if you paint a car for it to
20 be in a paint booth with certain ventilation. Mr. Kincaid noted in the pictures that Mrs. Richardson
21 provided, shows a tent being used for painting. He asked Mr. Gordon to explain.
22

23 Mr. Gordon responded that he is not all that familiar with EPA regulations, but suspect that there
24 are regulations. He suggested that Mr. Gaddy respond to questions pertaining to the operation of
25 the business. Obviously, there are environmental regulations that regular any kind of equipment
26 used for spray or accelerant of any kind. Mr. Kincaid asked what is being done to protect the
27 environment from the run-off from detergents and chemicals used to clean cars and wheels. Ms.
28 Copikin responded that would be addressed by the county since they are on well and septic.
29

30 Ms. Copikin said in response to Mr. Kincaid's previous question regarding the pictures, they did
31 get complaints there was some work being done prior to the request to rezone. After Code
32 Enforcement visited the premises, work ceased. Mr. Kincaid said was it not mentioned they would
33 be doing some painting in the future. It was his understanding that painting would be a part of their
34 business.
35

36 Ms. Copikin responded that is correct with their understanding that it would be taken place indoors.
37 Mr. Kincaid wanted to be sure the paint booth met EPA requirements. Ms. Copikin responded that
38 would be a building permit requirement and is issued by the County, not the City.
39

40 Council Member Haas had a question on the retail versus the detail and understood from the Staff
41 Report that a large portion of Mr. Gaddy's business would be detailing work, but added a retail
42 component. He was curious why the retail was added and are these cars he will purchase and repair
43 on sell on site. In other words, is this a detail business or a car lot? Ms. Copikin understands that
44 the detailing will be done on the cars being sold. So he would purchase cars, repair or whatever is
45 needed and display for sale. Mr. Haas asked if customers would bring in cars, just for retail. It is

1 her understanding that is not Mr. Gaddy's intent, he is not looking to generate business from
2 customers not looking to purchase cars.

3
4 Council Member Dayvault stated there were conditions presented, one being that business hours
5 of operations would not go past 9:00 PM, Monday through Friday and 10:00 PM on Saturdays.
6 Mr. Dayvault recalled previously serving on the Board of Adjustment and dealt with these types
7 of cases. Businesses that did not necessarily fit within a residential area, restrictions were added.
8 In this particular case, this business can operate until 9:00 PM or 10:00 PM and when you are right
9 up against a residential neighborhood, it presents a problem.

10
11 Mayor Hinnant asked Mr. Gaddy to come back to the podium and respond to questions posed by
12 City Council.

13
14 What are you doing for painting, are you abiding by all the EPA regulations and will you have a
15 paint spray booth. Mr. Gaddy did not want to confuse the two issues of paint and body and body
16 shop work, which is not going to happen there. What was mentioned in his business plan, basically
17 spray paint out of a can? So to address the issue brought up with the pictures. NC and the NC
18 Clean Air Act allow for outside spraying of vehicles with a certification. With that certification
19 the equipment and paint is inspected. There are only two counties that are exclude; Mecklenburg
20 County and Wake County. The person in charge of paint spraying has been approved to spray with
21 the equipment he has. He also operates on multiple car dealer lots within Kannapolis. Mr. Gaddy
22 stated that his business plan does not include body work, spraying of panels of vehicles in complete
23 order, which is not his business plan and nothing in the future.

24
25 Mayor Hinnant asked about the run-off of cleaning chemicals, where does that run-off go to, how
26 are you handling and what are you doing to make sure it does not jeopardize the environment. Mr.
27 Gaddy responded just as Ms. Copikin stated before, with the site plan as it moves forward from
28 this point from the initial site plan, pavement will be installed and will include a drain system that
29 would collect any run-off. The worse and most harsh thing he uses is degreaser that you would use
30 at home. He has been detailing for over 25 years. It is not about how strong or how harsh you use,
31 it is about how you use it. He is not an investor to this property, this is his property along with his
32 brother and sister. He grew up on this property and this was his bus stop while in school. He has a
33 vested interest in caring for and preserving this property.

34
35 Mayor Hinnant asked Mr. Gaddy if he will only be bringing in cars and detailing them in order to
36 sell on the lot. Or if he drives over to his place, would he detail his car. Mr. Gaddy stated
37 "Absolutely" it is his intent to offer detailing simultaneously it was never added. The business he
38 ran for two years before this as a General Manager was is the exact business plan as the business
39 he operates in China Grove right now. He sold and reconditioned cars as well as detailing. That is
40 the public service part that goes along with it. With his detailing process, you can do one maybe
41 two cars a day at the most. You aren't talking about a large quantities and also at the point of
42 growing smarter, as the business grew, he would exit the sales side of the business away from the
43 property and pick up a second location. It would not get to a point that the business would become
44 overgrown and hedge on getting away in abiding with the conditions. Mayor Hinnant stated his

1 business plan clearly states that you will not have but five cars or less on the lot for sale at any
2 time. Mr. Gaddy said “exactly”.

3
4 Council Member Kincaid asked Mr. Gaddy if he has five cars for sale and detailing for other
5 people, how many other cars you anticipate being on the property at any given time. Mr. Gaddy
6 stated if you consider an employee, himself, those vehicles being excluded, would never have one
7 to two vehicles in addition to the vehicles being sold.

8
9 City Attorney Safrit asked Mr. Gaddy if he was familiar with the six conditions that Staff proposed.
10 Mr. Gaddy said he has met and agreed in person to those six conditions.

11
12 Council Member Kincaid said he would like to know what the Business Plan is, how these issues
13 will be addressed before rezoning. It is his understanding that the site plan has to go before the
14 NCDOT, Concord and other elements that has to be tied in before Council votes.

15
16 Ms. Copikin explained that under the Unified Development Ordinance, the process for rezoning
17 consists of the submittal of a site plan and all of the reviews are done after the zoning is approved.
18 Part of the reason why is that it does cost upfront money to get all of the approvals done before the
19 rezoning is approved.

20
21 Regarding Condition #5 as it relates to the ten foot of landscape buffer on the northern property
22 line, Mr. Dayvault asked Ms. Copikin to point out that area. Mr. Dayvault asked how the applicant
23 would feel if the business hours were changed. If he were to make a recommendation based on the
24 conditions, it would to not extend the time pass beyond 5:00 PM Sunday through Friday and 6:00
25 PM on Saturdays.

26
27 Mayor Pro tem Berry asked for clarification. Is the only water source a well and why does the
28 applicant think that will sustain in having enough water. She stated they have a well and sometimes
29 in the summer, can’t water their garden. Is that enough water, do we need to be practical. It is Ms.
30 Copikin’s understanding that Mr. Gaddy’s equipment uses low water.

31
32 Mr. Gaddy explained the well is a commercial well, he is grandfathered and established this well
33 years ago and it is one half the length of this room. The equipment he has uses water at 1.5 gallons
34 per minute. For a typical vehicle detain, he is using between 20-30 gallons of water at the most.

35
36 Regarding Mr. Dayvault’s question on limiting the hours of operation, he has no problem with the
37 6:00 PM closing; however 5:00 PM closing makes it difficult if someone is wanting to pick up
38 their vehicle or look at cars for sale.

39
40 Council Member Rowell asked how long this business has been operating. Ms. Copikin responded
41 they were informed around 2 weeks out before the case went before the Planning and Zoning
42 Commission. They immediately had Code Enforcement to out and have the business to cease
43 immediately. They haven’t had any subsequent issues with it since then.

1 Mayor Hinnant asked for a motion to adopt a Statement of Consistency. It failed due to lack of a
2 motion. Mr. Gordon stated that it is necessary that Council adopt a Statement of Consistency of
3 denial.

4
5 Council Member Kincaid made a motion to adopt a Statement of Consistency. Motion was
6 seconded by Council Member Wilson. The motion was approved by a 5-2 vote with Mayor Pro
7 tem Berry and Council Member Rowell voting no.

8
9 Council Member Dayvault wanted to include two conditions: The requested rezoning would
10 permit for small scale of automotive sales use with a minimum of five vehicles on display at the
11 site. The use would also permit for detailing in conjunction with the vehicles for sale. Also, the
12 business hours do not extend beyond 6:00 PM on any day.

13
14 Mayor Hinnant asked Mr. Gaddy if he would be willing to accept these additional conditions. Mr.
15 Gaddy responded yes.

16
17 Council Member Kincaid made a motion to approve the Resolution to Rezone with the conditions
18 as stated by Staff in addition to Mr. Dayvault's conditions. Council Member Wilson seconded the
19 motion. The motion was approved by a 5-2 vote with Mayor Pro tem Berry and Council Member
20 Rowell voting no.

21
22 **Public Hearing and Order to withdraw from dedication a portion of Right-of-Way known**
23 **as Eastover Drive located off Crescent Street (Wilmer Melton, III, Director of Public Works)**
24 **(Copy included as Exhibit F)**

25 Mr. Melton reported that the City has received a request to withdraw from dedication the unopened
26 portion of Eastover Drive R-O-W located off Crescent Drive. Provided there is no evidence given
27 at the Public Hearing that withdrawing from dedication the unopened portion of Eastover Drive
28 R-O-W located off of Crescent Street is not contrary to the public interest, it is recommended that
29 City Council approve the Order closing the unopened portion of Eastover Drive R-O-W located
30 off of Crescent Street. The property owner has requested the closure of a portion of R-O-W known
31 as Eastover Drive located off of Crescent Street. All necessary documents have been received.
32 Staff has reviewed all documents and finds no reason to deny the request for closure. In accordance
33 with North Carolina General Statutes, notice has been given and a public hearing set for tonight.

34
35 There being no questions, Mayor Hinnant opened the public hearing to those in attendance for an
36 opportunity to speak.

37
38 Michael Davis of 2107 S. Main Street stated there is a lot of debris and wondered if debris would
39 be used to fill the 'gully'. Mayor Hinnant responded that building code requirements would
40 regulate the fill.

41
42 There being no further speakers, Mayor Hinnant closed the public hearing.

43
44 Council Member Haas made a motion to approve the Order to close to withdraw from dedication
45 a portion of Right-of-Way known as Eastover Drive located off Crescent Street. Motion was

1 seconded by Council Member Dayvault seconded the motion and it was approved by unanimous
2 vote.

3
4 **Sports and Entertainment Venue Guaranteed Maximum Price Contract (Eddie Smith,**
5 **Deputy City Manager and Walter M. Safrit, City Attorney) (Copy included as Exhibit G)**

6 City Manager Legg introduced Andy Sandler, Chairman of Temerity Baseball, and LLC. “As a
7 lifelong baseball player and fan, I look forward to partnering with the City of Kannapolis in
8 bringing a great baseball and entertainment experience to the City. Our Temerity team is all in on
9 Kannapolis,” said Andy Sandler, Chairman of Temerity Baseball.

10
11 Deputy City Manager Eddie Smith introduced Jason Ford of Populous Architect and Haley Hassler
12 of Barton Malow, Construction at Risk Manager.

13
14 The original contract with Barton Malow Company for Construction Manager at Risk Services
15 included the scope of both the downtown infrastructure and streetscape project as well as the
16 construction of the Sports and Entertainment Venue (the Ballpark). This amendment establishes
17 the guaranteed maximum price of \$40,112,697 for construction of the Sports and Entertainment
18 Venue. The Barton Malow scope generally includes the structure, all stadium systems, and the
19 playing field.

20
21 Council Member Dayvault offered the following stipulation. That the City Manager be authorized
22 to sign the agreement immediately following the signing of the lease agreement by the Team.

23
24 Following general discussion, Council Member Dayvault made a motion to approve the Sports
25 and Entertainment Venue Guaranteed Maximum Price Agreement and authorize the City Manager
26 to execute and make minor and necessary changes consistent with the intent and scope of the
27 agreement at any time following execution of the Non-Relocation Agreement, the Baseball Lease
28 Agreement and the Baseball Development Agreement. Motion was seconded by Council Member
29 Wilson and approved by unanimous vote.

30
31 **Public Hearing and adoption of a Resolution approving Ballpark Development Agreement**
32 **(Sports & Entertainment Venue) (Mike Legg, City Manager and Walter M. Safrit, City**
33 **Attorney) (Copy included as Exhibit H)**

34 City Manager Mike Legg summarized the Ballpark Development Agreement as outlined in the
35 Staff Report.

36
37 Following general discussion, Mayor Hinnant opened the public hearing to those in attendance for
38 an opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

39
40 Motion was made by Council Member Haas and seconded by Council Member Wilson to adopt a
41 Resolution approving the Ballpark Development Agreement (Sports and Entertainment Venue).
42 Motion was seconded by Council Member Kincaid and approved by unanimous vote.

Public Hearing and adoption of a Resolution approving a Ballpark Lease Agreement with Temerity Baseball, LLC (Mike Legg, City Manager and Walter M. Safrit, City Attorney) (Copy included as Exhibit I)

City Manager Mike Legg summarized the Ballpark Lease Agreement as outlined in the Staff Report.

Following general discussion, Mayor Hinnant opened the public hearing to those in attendance for an opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

Motion was made by Council Member Dayvault and seconded by Council Member Kincaid to adopt a Resolution approving a Ballpark Lease Agreement with Temerity Baseball, LLC. The motion was approved by unanimous vote.

Resolution approving a Non-Relocation Agreement with Temerity Baseball, LLC (Mike Legg, City Manager and Walter M. Safrit, City Attorney) (Copy included as Exhibit J)

Mr. Legg summarized the Non-Relocation Agreement as outlined in the Staff Report.

Following general discussion, Council Member Kincaid made a motion to adopt a Resolution to approve a Non-Relocation Agreement with Temerity Baseball, LLC and authorizing the City Manager to execute and make minor and necessary changes consistent with the intent and scope of the Resolution. Mayor Pro tem Berry seconded the motion and it was approved by unanimous vote.

Resolution approving Amendments to an Installment Financing Contract and a Deed of Trust (Eric Davis, Finance Director) (Copy included as Exhibit K)

Mr. Davis explained this Resolution is the final action required by City Council in order to issue Limited Obligation Bonds in an amount not to exceed \$52 million for the construction of the Sports and Entertainment Venue (SEV). The City expects to receive Local Government Commission (LGC) approval on October 2, 2018. A tentative bond sale date has been scheduled for October 24, 2018. At that point in time, the City will have funds in hand to complete the construction of the SEV.

This Resolution is very similar to the Resolution that was adopted in August. The City of Kannapolis has met all of the legal requirements for the debt issuance process. Most importantly in this process was a public hearing on the matter. At the public hearing in August, no one spoke either in favor or against the issuance of debt for the construction of the SEV.

Approval of this Resolution will direct staff to complete the debt issuance process in an amount not to exceed \$52 million for the Sports and Entertainment Venue (SEV).

Motion was made by Mayor Pro tem Berry and seconded by Council Member Kincaid to adopt a Resolution approving amendments to an Installment Financing Contract and the Deed of Trust. Motion was approved by unanimous vote.

Resolution Declaring the Intent of the City to Reimburse Itself for Capital Expenditures incurred in connection with the Proceeds of Certain Tax-Exempt Obligations to be issued (Eric Davis, Finance Director) (Copy included as Exhibit L)

Council Member Dayvault made a motion to approve a Resolution Declaring the Intent of the City to Reimburse Itself for Capital Expenditures incurred in connection with the Proceeds of Certain Tax-Exempt Obligations to be issued. Council Member Wilson seconded the motion and it was approved by unanimous vote.

Budget Ordinance Amendment (Eric Davis, Finance Director) (Copy included as Exhibit M)

Mr. Davis explained this budget ordinance amendment is in regards to Sports & Entertainment Complex Capital Project Ordinance.

Council Member Haas made a motion to approve an Ordinance amending the Capital Project Ordinance for the Sports & Entertainment Complex. Motion was seconded by Council Member Kincaid and approved by unanimous vote.

Public Hearing and adoption of a Resolution approving the Third Amendment to the Master Development Agreement with Kannapolis Master Venture, LLC (Mike Legg, City Manager, Walter M. Safrit, City Attorney) (Copy included as Exhibit N)

Mr. Legg summarized the Resolution approving the Third Amendment to the Master Development Agreement as outlined in the Staff Report.

Following general discussion, Mayor Hinnant opened the public hearing to those in attendance for an opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

Council Member Haas made a motion to adopt a Resolution to approving the Third Amendment to the Master Development Agreement with Kannapolis Master Venture, LLC. Motion was seconded by Council Member Kincaid and approved by unanimous vote.

Change Order to the Demonstration Project Parking Garage Construction Agreement to facilitate additional pre-development scope of services including mobilization, existing building demolition, and site fencing. (Mike Legg, City Manager) (Copy included as Exhibit O)

City Manager Legg explained the funding authorized by this action will support the acceleration of initial work on the Demonstration Project, specifically related to construction of the parking garage and demolition of existing buildings. It will be paid back to the City upon completion then rolled into the long term financing of the parking garage.

KMV will commence with mobilization and demolition of existing buildings using pre-development agreement funding (City funds – same as the current MDA) as soon as the pre-development budget change order is approved. In doing so, demolition is planned to begin within the next few weeks with a substantial completion date of December 14, 2018. The change order will include \$334,960 for abatement and demolition. The remainder of the funds will be for contractor mobilization, general conditions (overhead), developer and contractor fees, and insurance. Some of these costs are actually the start-up funds for construction of the parking

garage. Some of the funds are a pro rata share for the demolition phase as compared to the larger parking garage construction project. The total amount of the change order is \$489,222.41.

Council Member Dayvault made a motion to authorize the City Manager to execute a change order to the Demonstration Project Parking Garage Construction Agreement to facilitate additional pre-development scope of services including mobilization, existing building demolition, and site fencing. Motion was seconded by Mayor Pro tem Berry and approved by unanimous vote.

CITY MANAGER REPORT: None

CITY COUNCIL COMMENTS: None

SPEAKERS FROM THE FLOOR:

Amy Sherrill of 508 East 20th Street spoke on the City's water quality. Public Works Director, Mr. Melton has gone above and beyond in trying to help her. She has 16 aquariums of fresh water Angel fish and salt water tanks. She also works at Greendale Tropical Fish. The problem began earlier in the month when the water was changed, fish began to die. Mr. Melton sent out his crew and found nothing in the water. She used three different test kits and her readings matched Mr. Melton's. The problem is that she received a call from a customer stating they had changed the water on the same day as she did and their fish died as well. She also got a call from Centerview Hardware saying twice he had ordered minnows and both times after placing them in the water, they died. She also presented a notarized letter from Ricky Goodman stating he did a 50% water change on his aquarium and in less than one hour, his fish died. (Copy included as Exhibit P). Mrs. Sherrill said this probably sounds trivial compared to the great things that are coming to the City. She is very concerned about the water quality and has never had an issue before. She has lost over 100 fish at a cost of \$1000 (her cost). She asked if any further testing could be done. She said the fish had begun to bleed from the gills and that is chemical poisoning. She also talked with Petco and they had had reports of fish dying.

Mayor Hinnant said he came to this community by working in water treatment and the kinds of test that Mr. Melton and she has done, will assure this community that the water is safe and meets all public health code requirements. Mayor Hinnant does not know why her fish died, but will make a few calls to NC State for assistance.

Mark Spitzer 2115 Golf Crest thanked City Council and Staff for making Kannapolis more attractive.

CLOSED SESSION:

Mayor Pro tem Berry made a motion to go into closed session pursuant to G.S.143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney client privilege and G.S. 143.318.11 (a) (4) for discussing matters relating to the location or expansion of industries or businesses in the area. Motion was seconded by Council Member Wilson and was approved by unanimous vote.

Council went into closed session at 8:49 PM.

1 Council Member Dayvault made a motion to come out of closed session. Motion was seconded by
2 Council Member Wilson and approved by unanimous vote.

3
4 Council resumed regular session at 9:15 PM.

5
6 There being no further business, Council Member Wilson made a motion to adjourn. Motion was
7 seconded by Council Member Dayvault and approved by unanimous vote.

8
9 The meeting adjourned at 9:15 PM on Monday, September 24, 2018.

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14 _____
15 Milton D. Hinnant, Mayor

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17 _____
18 Bridgette Bell, MMC, NCCMC
19 City Clerk
20

**CITY OF KANNAPOLIS
COUNCIL MEETING MINUTES
October 08, 2018**

A regular meeting of the City Council of the City of Kannapolis, North Carolina was held on Monday, October 8, 2018 at 6:00 p.m., at the Kannapolis City Hall located at 401 Laureate Way, Kannapolis, NC.

CITY COUNCIL MEMBERS PRESENT:

Mayor: Milton D. Hinnant

Council Members: Ryan Dayvault
Roger Haas
Van Rowell
Diane Berry
Doug Wilson
Tom Kincaid

Council Members Absent: None

City Manager: Mike Legg

Deputy City Manager: Eddie Smith

City Clerk: Bridgette Bell

City Attorney: Walter M. Safrit

Staff Present: David Jordon Ernie Hiers
Irene Sacks Terry Clanton
Donie Parker Jason May
Tony Eury Annette Privette Keller
Eric Davis Zac Gordon

Visitors Present: Jack Kirkland Diane Shipe
Ron Haithcock Natalie Upright
Jake Upright

CALL TO ORDER AND WELCOME:

Mayor Hinnant called the meeting to order and welcomed those in attendance. A moment of silent prayer and the Pledge of Allegiance was led by Council Member Rowell.

ADOPTION OF AGENDA:

Council Member Wilson made a motion to approve the agenda. Motion was seconded by Council Member Dayvault and approved by unanimous vote.

1 **CONSENT AGENDA - Motion to Adopt Consent Agenda or make revision:**

2 Council Member Kincaid made a motion to approve the Consent Agenda. Motion was seconded
3 by Council Member Wilson and approved by unanimous vote.

4
5 Ordinance to amend the Budget #19-8; College Station improvements (Eric Davis. Finance
6 Director) (Copy included as Exhibit A)

7 **BUSINESS AGENDA**

8 **Fishertown Annexation - Part II Report to City Council (Mike Legg, City Manager and**
9 **Jason May, Budget and Management Analyst) (Copy included as Exhibit B)**

10 At the August 27th City Council meeting, staff provided City Council with Part I of the Fishertown
11 Annexation Report pertaining to procedures and cost to annexed residents. The Part II Report is
12 focused on the cost of City services and the criteria for annexation should the annexation ultimately
13 proceed.

14
15 The report provides that the annexation area appears to meet the statutory requirements for
16 annexation subject to the adequate number of property owner OR resident signatures being
17 secured. The report shows that the total net loss in ongoing years of approximately \$1 million.
18 New home building and increases in property values could offset these losses somewhat. The
19 largest ongoing expense is debt service on approximately \$11 million in water and sewer
20 extensions. Apart from this major expenditure, the annexation overall appears to break even,
21 possibly even resulting in slightly more revenues than expenditures.

22
23 There was general discussion on the annexation process. No action was required.

24
25 **City of Kannapolis appointment to the Rowan County Housing Authority (Mike Legg, City**
26 **Manager)**

27 The Rowan County Housing Authority serves the City of Kannapolis as its official Housing
28 Authority. The agency administers the Section 8 program in the City and manages public housing
29 communities in the City and throughout Rowan County. The City of Kannapolis has the
30 responsibility to appoint one seat to the Housing Authority Board. For a number of years Olin
31 Miles represented the City on this Board. This seat has been vacant for some time and for some
32 reason the Housing Authority Board or its staff never contacted the City to request that it be filled.
33 Regardless of the time gap, they have now made that request.

34
35 The Housing Authority Board meets the fourth Thursday of each month at 12:00 noon. They
36 provide a lunch at 11:30 prior to the official start time of the meeting. The statutory terms are for
37 five (5) years and there are no limitations on the number of terms that can be served. Since this is
38 not a City Board there is no City residency requirement but the appointee should probably be a
39 Rowan County resident.

40
41 Council Member Dayvault made a motion to recommend to the Rowan County Board of
42 Commissioners, Mr. Mark Goodnight. Mr. Dayvault has spoken to Mr. Goodnight and he is willing
43 to serve on the Rowan County Housing Authority. Mr. Goodnight lives in the Rowan portion of
44 Kannapolis. Motion was seconded by Council Member Haas and approved by unanimous vote.

1 **Extension of Limited Letter of Intent/Notice to Proceed for the Sports and Entertainment**
2 **Venue (Mike Legg, City Manager) (Copy included as Exhibit C)**

3 August 2018 a Limited Letter of Intent/Notice to Proceed was issued to Barton Malow Company
4 to continue work on the Sports and Entertainment Venue ahead of the final Guaranteed Maximum
5 Price (GMP) Agreement being executed. An extension to that letter was approved by City Council
6 and issued in early September for an amount not to exceed \$3,000,000. This amount was in
7 addition to the approximately \$3,000,000 for pre-construction work (architecture, etc.). At the City
8 Council meeting on September 24th, the GMP was approved but execution was authorized only
9 after the South Atlantic League approval of the new baseball franchise ownership and execution
10 of the lease and development agreements. Both are scheduled to occur no later than October 16th
11 (possibly as early as sometime this week). Additionally, the Limited Obligation Bonds are
12 scheduled to be sold on October 29th. In order for Barton Malow to avoid having to re-bid parts
13 of the project, they have asked for an additional extension of the Limited Letter of Intent/Notice
14 to Proceed which would add \$2,000,000 to the commitment. This action keeps the project
15 progressing until the end of the month when the full financing is in place.
16

17 The above-described amounts are included in the full project costs. Additionally, the funds from
18 the full financing will be in place before the majority of the previously committed scope of work
19 is actually invoiced to the City. An existing budget ordinance for the full project amount has
20 already been approved by City Council.
21

22 Following general discussion, motion was made by Council Member Kincaid to authorize an
23 Extension of Limited Letter of Intent/Notice to Proceed for the Sports and Entertainment Venue
24 through October 21. Motion was seconded by Mayor Pro tem Berry and approved by unanimous
25 vote.
26

27 **CITY MANAGER REPORT:** None.
28

29 **CITY COUNCIL COMMENTS:**

30 Council Member Dayvault applauded Trent Marlow, General Services Manager and his staff for
31 the work done on the store fronts on Main Street. It is a difference between day and night, Mr.
32 Dayvault said. One more comment from Mr. Dayvault is that the City needs to be more pro-active
33 with citizens who leave carts out at the curb. He gets calls all the time about residents not rolling
34 their carts back and some are repeat offenders. He realizes the City has an Ordinance imposing
35 civil penalties, but feels it is time to be more aggressive.
36

37 **CLOSED SESSION:**

38 Mayor Pro tem Berry made a motion to go into closed session pursuant to G.S. 143.318.11 (a) (3)
39 for consulting with an attorney in order to preserve the attorney-client privilege and G.S.
40 143.318.11 (a) (4) for discussing matters related to the location or expansion of industries or
41 businesses in the area. Motion was seconded by Council Member Wilson and approved by
42 unanimous vote.
43

44 Council went into closed session at 6:32 PM.
45

1 Council Member Wilson made a motion to come out of closed session. Motion was seconded by
2 Council Member Dayvault and approved by unanimous vote.

3
4 Council resumed regular session at 7:45 PM.

5
6 There being no further business, Council Member Wilson made a motion to adjourn. Motion was
7 seconded by Council Member Dayvault and approved by unanimous vote.

8
9 The meeting adjourned at 7:45 PM on Monday, October 08, 2018.

10
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14 _____
15 Milton D. Hinnant, Mayor

16
17 _____
18 Bridgette Bell, MMC, NCCMC
19 City Clerk



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Tina Cline, Human Resource Director and Ernie Hiers, Fire Chief
TITLE: Fire Lateral Advancement Program

A. Action Requested by City Council

Motion to approve new Personnel Policy 400.25- Fire Lateral Advancement Program to be effective November 1, 2018.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The professionalism of the Fire Department is enhanced through the development of qualified personnel to assume leadership roles within the organization. The opportunity for advancement through the ranks of an organization is limited to the finite number of supervisory positions. An alternative career path for line-level personnel is necessary to provide the opportunity for advancement.

The purpose of this new policy is to define lateral advancement incentive pay for eligible employees of the Fire Department. This initiative was referenced in the FY 2019 budget document as presented by the City Manager.

D. Fiscal Considerations

Funding for the new lateral advancement program will come from Fire Department lapsed salaries generated by turnover throughout the year. There is no new budgetary impact.

E. Policy Issues

None

F. Legal Issues

New personnel administrative policies and amendments to personnel policies affecting employee compensation require Council approval.

G. Alternative Courses of Action and Recommendation
--

1. **Motion to approve Personnel Policy 400.25 - Fire Lateral Advancement Program to be effective November 1, 2018 (Recommended)**
2. Do not approve the proposed new policy
3. Table action until a future meeting

ATTACHMENTS:

File Name

▣ 400.25_Fire_Lateral_Advancement_Program.doc



CITY OF KANNAPOLIS

PERSONNEL

POLICIES AND PROCEDURES

SUBJECT: FIRE LATERAL ADVANCEMENT PROGRAM

POLICY NO: 400.25

EFFECTIVE DATE: 11/01/2018

APPROVED: _____
CITY MANAGER

AMENDMENT DATE(S):

SUBJECT: FIRE LATERAL ADVANCEMENT PROGRAM

PURPOSE: To establish administrative guidelines of the City's Fire Department Lateral Advancement Program

STATEMENT OF POLICY:

The professionalism of the Fire Department is enhanced through the development of qualified personnel to assume leadership roles within the organization. The opportunity for advancement through the ranks of an organization is limited to the finite number of supervisory positions. An alternative career path for line-level personnel is necessary to provide the opportunity for advancement.

PROCEDURES:

Minimum qualifications for each level of advancement within the program have been established by the Fire Department and are included in the Department's Standard Operating Guidelines, Management and Administrative - 1.5.8 - Employee Career Development. This policy is intended to provide guidelines for the payment of a financial incentive based on achievement of these qualifications. *Any pay incentive will be in accordance with established City Personnel Policy and as approved by Council.*

1. The qualifications for the levels within the Lateral Advancement Program have been established by the Fire Chief based on organizational needs. Personnel must meet all qualifications and operational requirements established by the Fire Department.
2. Personnel meeting the criteria and approved for the various levels of the program shall wear the corresponding insignia on their uniforms.
3. Personnel meeting the criteria and approved for the various levels of the program will be eligible for a flat-rate pay incentive in addition to their regular base pay.
4. Lateral Advancement Program Incentive pay will be removed from an employee's salary if the Fire Department finds that the employee fails to continuously meet the established criteria for a given level within the program.
5. Lateral Advancement Program Incentive pay is established at the following rates for eligible employees:
 - a. Firefighter Recruit: No pay incentive.
 - b. Firefighter: No pay incentive.
 - c. Senior Firefighter Amount equal to 5% of base pay
 - d. Engineer: No pay incentive.
 - e. Senior Engineer Amount equal to 5% of base pay
 - f. Captain No pay incentive.
 - g. Senior Captain: Amount equal to 5% of base pay



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: Public Hearing - Zoning Map Amendment CZ 2018-01 (267 N. Cannon Boulevard)

A. Action Requested by City Council

Conduct the required Public Hearing for Case #CZ 2018-01 (267 N. Cannon Blvd) and consider adopting a Statement of Consistency and Resolution to rezone property located at 267 N. Cannon Blvd from C-2 (General Commercial) and RM-1 (Residential Medium Density) to C-2-CZ, (General Commercial - Conditional Zoning).

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The applicant is proposing to rezone the northwest portion of the subject property from RM-1 (Residential Medium Density) to C-2-CZ (General Commercial Conditional Zoning District). The applicant is also requesting rezoning of the C-2 (General Commercial) portion of the property to C-2-CZ.

Within the area proposed to be rezoned, the applicant is proposing a restaurant (ice cream shop) with drive-thru, and mini golf course with associated pavilion and clubhouse. The applicant has previously removed a vacant structure on the property, which served as an office. The remaining structure on the site was previously used for a Kentucky Fried Chicken restaurant and will be remodeled for an ice cream shop.

NOTE:

The applicant is requesting a "Conditional Zoning" for the subject property. Unlike a "standard zoning", a conditional rezoning limits the use of the property to those uses being requested, subject to site specific standards and conditions made part of the approved site plan. In this case, the applicant would be limited to using the property for a restaurant (ice cream shop) with drive-thru, and mini golf course with associated pavilion and clubhouse as shown on the submitted site plan (see attached). No other uses allowed in the C-2 district would be permitted on this property, unless the applicant received subsequent approval from the Planning and

Zoning Commission in the future.

The applicant's request was heard by the Planning and Zoning Commission at their September 5, 2018 meeting. At this meeting (see attached minutes) there was testimony expressing concern about the impacts of the proposed commercial use on the adjoining Idlewood/Knollwood neighborhood. The Planning and Zoning Commission voted unanimously approve the request for rezoning, subject to conditions. An appeal of this decision was filed by residents from the Idlewood/Knollwood neighborhood (see attached). Under the provisions of the UDO (Section 3.3.4.2), as a result of this appeal, the City Council has final decision making authority on this request for rezoning.

D. Fiscal Considerations

None

E. Policy Issues

APPROVAL CRITERIA

Section 3.3.5 of the UDO states that the City Council may consider the following questions, at a minimum, in reviewing an application for rezoning:

1. The size of the tract in question.

The size of the subject tract is approximately 2 +/- acres.

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?

This property is located in an "Urban Residential" Character Area as designated in the Move Kannapolis Forward 2030 Comprehensive Plan, which consists of multiple uses within walking distance of each other. The Urban Residential character area calls for primary uses of single-family detached and attached residential and civic uses. Secondary uses are intended to be a mixture of multifamily residential, small retail and office, and live-work units. The C-2-CZ conditional zoning district with this rezoning proposes an ice cream shop, and miniature golf course with associated clubhouse and pavilion, which fit with the secondary uses of the Urban Residential character district.

3. Is the proposed rezoning compatible with the surrounding area?

The subject property is located at the entrance of the Idlewood/Knollwood neighborhood which includes approximately 90 residences, including 26 townhomes/condominiums, on approximately 80 acres. The requested rezoning proposes a restaurant (ice cream shop) with drive-thru, and mini golf course with associated pavilion and clubhouse of a scale that represents an appropriate transition between the commercial uses on Cannon Boulevard and the residential area behind the subject property.

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

The subject property is accessed from three curb cuts along Cannon Boulevard (NCDOT road) and two curb cuts along Willow Drive (City road). The curb cuts were installed for the former commercial uses on the property. Per discussions with NCDOT, the access point on Cannon Boulevard closest to Willow Drive may be closed off, leaving one access point along Cannon Boulevard in order to improve vehicular and pedestrian safety. Access on to Willow would have

to be approved by the City.

5. Will there be parking problems?

The site plan submitted with this request for rezoning includes adequate parking for the listed uses.

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

There are no anticipated environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, all development will be required to conform to all applicable local, state, and federal environmental regulations.

With regard to lighting, Staff recommends a condition that any new site lighting to be installed shall be full cut-off fixtures with all lighting directed away from adjacent properties, including properties along Willow Drive.

The required site plan will also be reviewed by City staff to ensure the development meets all storm-water requirements.

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?

The former KFC on the site was closed and replaced by a new restaurant approximately $\frac{3}{4}$ of a mile south on Cannon Boulevard. The character of the area in proximity to the proposed use has remained relatively stable over the recent past.

8. Is there compliance with the adequate public facilities criteria?

There are adequate public facilities available to the property, including water, sewer and access to Cannon Boulevard and Willow Drive. It is not anticipated that any new development would require additional public facilities.

9. What are the zoning districts and existing land uses of the surrounding properties?

Property to the south is zoned C-2 (General Commercial) and includes retail uses. Property to the north (across Willow Drive) is zoned RM-1 and is currently vacant woodland. Lady's Funeral Home is located across Cannon Boulevard to the east, and is zoned O-I (Office Institutional). Property to the west is zoned RM-1 and contains an existing single family detached residence.

10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?

The portion of the subject property that is being requested to be rezoned is currently zoned RM-1. The RM-1 portion of the property would not be permitted to include any C-2 uses. The C-2 portion of the site would allow all uses permitted by right in the C-2 zoning district listed in Table 4.6-1 of the UDO. Most of the uses allowed by right within the C-2 zone are more intense than the uses proposed by this rezoning request.

11. Is the zoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?

The proposed commercial uses are less intense than others allowed in the C-2 zone and would therefore be more compatible with the adjacent neighborhood.

12. What length of time has the subject property remained vacant as zoned?

The subject property is currently improved with an existing vacant structure (former Kentucky Fried Chicken restaurant).

13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?

Cannon Boulevard is predominately a commercial corridor. There are vacant parcels as well as underused parcels along Cannon Boulevard.

14. Was the existing zoning in error at the time of adoption?

No.

Statement of Reasonableness

Section 3.4.4.1. of the UDO requires the applicant to submit a "statement of reasonableness" for the proposed rezoning. The applicant's statement is attached.

Statement of Consistency

NCGS require that in making a decision on a rezoning, the City Council adopt a written statement describing whether the action is consistent with an adopted comprehensive plan and why the Council considers the action to be reasonable and in the public interest.

A draft "Statement of Consistency" is attached to this staff report.

It is the position of Planning staff that this rezoning is **consistent** with the ***Move Kannapolis Forward 2030 Comprehensive Plan***, adopted by City Council, which locates this property within an Urban Residential Character Area, which may include a mixture of residential, small format retail and office uses.

Furthermore, It is planning staff's assessment that the request for rezoning is reasonable and in the public interest because it provides for small format commercial uses of a scale appropriate for transitioning between the more intense commercial uses to the east along Cannon Boulevard and the lower intensity single family residential neighborhood to the west of the subject parcel. The proposed rezoning is compatible with the surrounding zoning and is not anticipated to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access to public facilities.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

Staff Recommendation

The City Council may choose to approve or deny the petition as presented.

Based on the request being consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan*, staff recommends approval of Zoning Map Amendment Case #CZ-2018-01, subject to the following conditions:

1. The uses permitted with this rezoning shall only include restaurant (with drive-thru), and mini golf course with associated club house and pavilion. A final Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
2. A minimum 21 foot undisturbed landscape buffer shall be provided along the western portion of the subject property. Where necessary, supplemental plantings shall be installed to achieve a fully opaque screening to the adjacent residential use along the western portion of the subject property.
3. Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent property on Willow Drive.
4. The business hours of operation shall not open before 8am Monday through Saturday and 2 pm Sundays, and shall not extend beyond 11pm on any day of the week.
5. Driveway locations shall be approved by NCDOT and the City.
6. Driveways and parking lots shall comply with all Fire Codes and Autoturn (a traffic engineering program which specifies the required turning radii for vehicles including delivery trucks and emergency vehicles) shall be run for an SU-30 and Bus-45 (mimics ladder truck).
7. Streams and wetlands shall be identified by a qualified person and all buffers shown in accordance with Article 4 of the Kannapolis UDO. Construction of buildings, roads, and other structures must comply with RSOD Buffer requirements or be relocated.
8. A Storm-water Management Permit will be required for this Development in accordance with Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be provided for all storm-water structures and BMP's. Storm-water BMP's cannot be constructed in the undisturbed buffer.
9. The applicant is responsible for verifying that the water meters, service lines and sanitary sewer connections are adequately sized for the building.
10. Hydrants and fire protection shall comply with UDO Appendix C.3 and City adopted Fire Codes.

Alternative Courses of Action :

APPROVAL (2 Motions)

Motion 1 - Motion to Approve Statement of Consistency

Should the City Council choose to approve the request for rezoning as presented in Case #CZ-2018-01, a motion should be made to adopt the following Statement of Consistency:

Statement of Consistency: The City Council finds this rezoning **consistent** with the ***Move Kannapolis Forward 2030 Comprehensive Plan***, adopted by City Council, which locates this property within an Urban Residential Character Area, which may include a mixture of residential, small format retail and office uses. Staff finds the request for rezoning reasonable and in the public interest because it provides for small format commercial uses of a scale appropriate for transitioning between the more intense commercial uses to the east along Cannon Boulevard and the lower intensity single family residential neighborhood to the west of the subject parcel. The proposed rezoning is compatible with the surrounding zoning and is not anticipated to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access to public facilities.

Motion 2 - Motion to Adopt Resolution to Zone

Should the City Council choose to approve Case #CZ-2018-01, a motion should be made to adopt the Resolution to Zone (attached).

The following excerpt from the UDO addresses the future status of a property which receives a conditional zoning approval.

3.4.7. RECORDATION OF CONDITIONAL ZONING DISTRICT .

"3.4.7.1. The applicant will ensure that the ordinance approving the Conditional Zoning District is duly certified, and that the legal description and accompanying map exhibit (required by Appendix B to this Ordinance), is recorded in the office of the register of deeds of Cabarrus or Rowan County. The applicant shall also record a deed restriction upon the subject property that requires compliance with the conditions attached to the Conditional Zoning District ordinance. This deed restriction is perpetually binding on the property, unless another rezoning request is brought and approved. The Applicant must provide the Administrator a copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording in order to receive approval of the application for a zoning clearance."

DENIAL (2 Motions)

Motion 1 - Motion to Approve Statement of Consistency

Should the City Council choose to recommend denial of Case #CZ-2018-01, a motion should be made to adopt the following Statement of Consistency:

Statement of Consistency: The City Council finds this zoning map amendment as presented in Case #CZ-2018-01 to be **inconsistent** with the goals and policies of the *Move Kannapolis Forward 2030 Comprehensive Plan*, adopted by City Council, because (state reason(s)) and is unreasonable and not in the public interest because (state reason(s)).

Motion 2 - Motion to Deny Rezoning

Should the City Council choose to deny Case #CZ-2018-01, a motion should be made to deny the rezoning.

ATTACHMENTS:

File Name

- ☐ Conditional_Rezoning_Application.pdf
- ☐ Vicinity_Z_2018_04.pdf
- ☐ CurrentZoning_CZ_2018_01.pdf
- ☐ Future_Land_Use_Map.jpg
- ☐ Community_Meeting__Brian_Freeman_072818675.pdf
- ☐ Kannapolis_Comprehensive_Plan_03262018_quick_find_35.pdf
- ☐ October_22_Public_Notice_Ad.pdf
- ☐ CZ-2018-01_Abutting_Ltr_Notification.pdf
- ☐ Notice_Map_Z_2018_04.pdf
- ☐ Copy_of_List_of_adjacent_property_owners.pdf
- ☐ publicnotice.pdf
- ☐ 5._Site_Plan.pdf
- ☐ Site_Layout.pdf

- ▢ PZ_Minutes_9.5.18_Draft.pdf
- ▢ Appeal_Letter.pdf
- ▢ Statement_of_Reasonableness.pdf
- ▢ CZ-2018-01_Consistency_Statement.pdf
- ▢ CZ-2018-01_Resolution_to_Zone.pdf



Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

Variance	_____	SIA Application	_____
Conditional Use Permit	_____	Nonconformity Adjustment	_____
Subdivision Exception	_____	Watershed Boundary Modification	_____
Zoning Text Amendment	_____	Zoning Map Amendment	_____
Appeal	_____	Conditional Zoning Map Amendment	<input checked="" type="checkbox"/>

Applicant: <u>William R. Cook</u>	Owner: <u>Wisdom Realty, LLC</u>
Address: <u>24163 Emory Rd.</u>	Address: <u>405 Shaping Mill Rd.</u>
<u>Albemarle, NC 28001</u>	<u>Salisbury, N.C. 28146</u>
Telephone: <u>704-791-5148</u>	Telephone: <u>704-965-0039</u>
Email: <u>rcCook@ctc.net</u>	Email: <u>brianfreemanpharmd@gmail.com</u>

Legal relationship of applicant to property owner: Contractor

Property Location/Address: 267 N. Cannon Blvd.

Tax Parcel Number: 5623096794000 Zoning District: C-2/RM Acreage of Site: 1.96

William R. Cook
Applicant Name (Print)

Brian Freeman
Property Owner Name (Print)

William R. Cook 8/20/18
Applicant Signature & Date

Brian Freeman 8-20-18
Property Owner Signature & Date

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: _____

Receipt # _____

Application No.: _____

Date Submitted (Complete): _____

KANNAPOLIS

APPLICATION FOR AMENDMENT TO THE KANNAPOLIS ZONING MAP

Property Identification Number(s): 5623-09-6794
(attach separate list if necessary)

Present zoning classification: C-2 and RM-1

Requested zoning classification: Conditional C-2

Number of parcels: 1 Approximate size of area: 2 acres

Physical location of area: 267 N. Cannon Blvd.

Are public utilities available? Yes

Reason for map amendment To make entire parcel one conditional
zoning district, all one conditional commercial use.

The above information is true and accurate to the best of my knowledge. Signature of Applicant(s):

Brian Human

(attach separate sheet if necessary)

Fee: Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

CITY OF KANNAPOLIS
APPLICATION FOR A CONDITIONAL ZONING DISTRICT
(to be attached to the Rezoning Application)

I, Brian Freeman, hereby petition for a Conditional Zoning District for the following exact land use(s), subject to the following condition(s):

The following use(s) is/are permitted by right or conditional in the general zoning district upon which the "CZ" district is based:

Miniature Golf Course
Restaurants and drive-through
Medical/Pharmacy
Clubhouse
Picnic pavilion

Parking
Office
Family Fun Center
Arcade/Games

Condition(s) proposed by the applicant (attach separate sheet if necessary):

No alcohol
Not open on Sundays until 2 P.M.
Not open before 8 A.M. and
not open after 11 P.M.
Shield lighting on property perimeters adjacent to RM-1 lots
No less than 21' buffers when
adjacent to RM-1

It is understood and acknowledged that if the property is conditionally rezoned as requested, the property involved in this request will be perpetually bound to the use(s) authorized and subject to such condition(s) as imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

Brian Freeman
Signature of Property Owner

Signature of Property Owner

405 Shyping Mill Rd
Salisbury NC 28146
Address

Address

(704) 965-0039
Telephone #

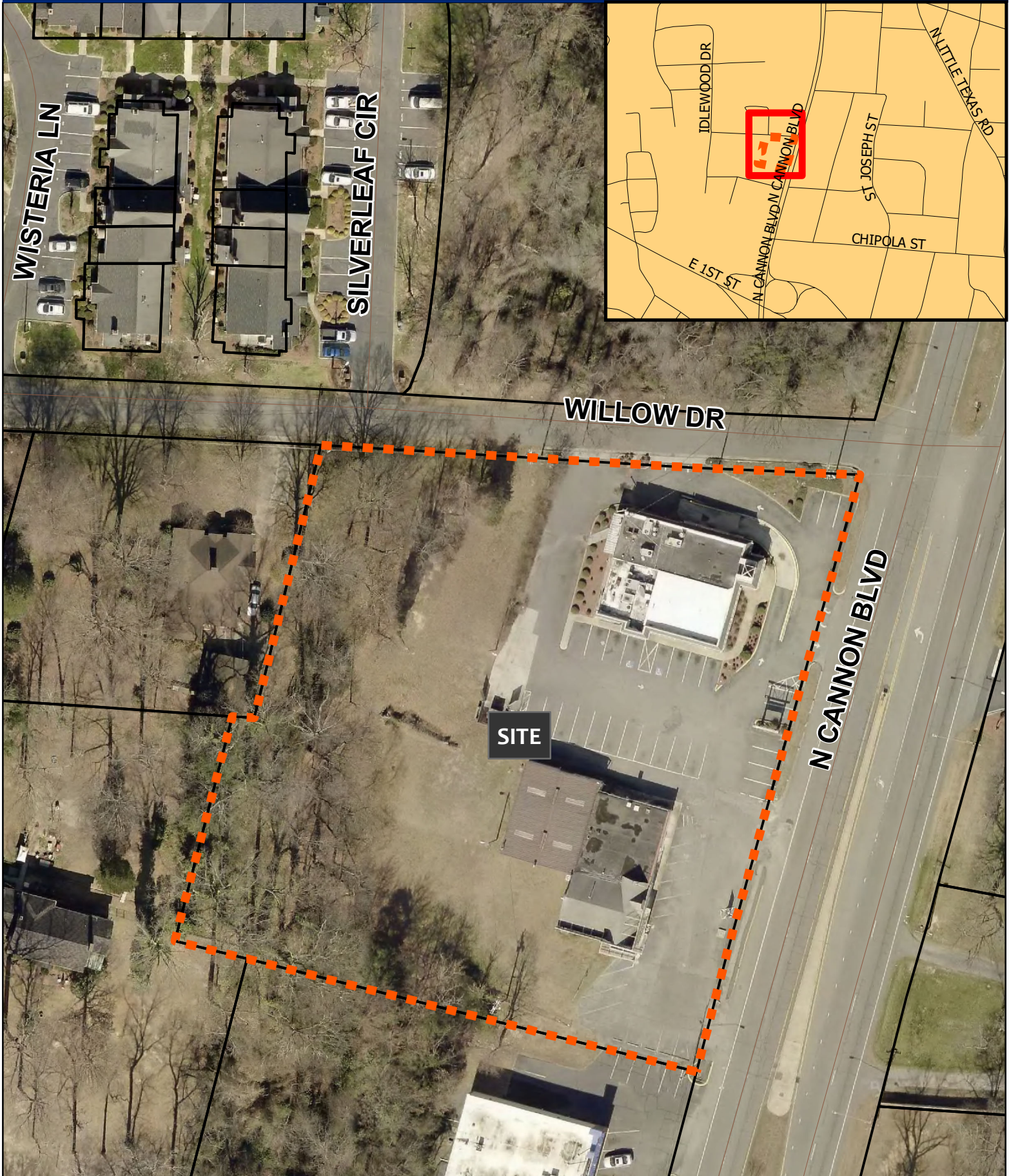
Telephone #

Please refer to fee schedule to determine applicable fees.
Fees are nonrefundable and help to cover administrative and notification costs.



Vicinity Map

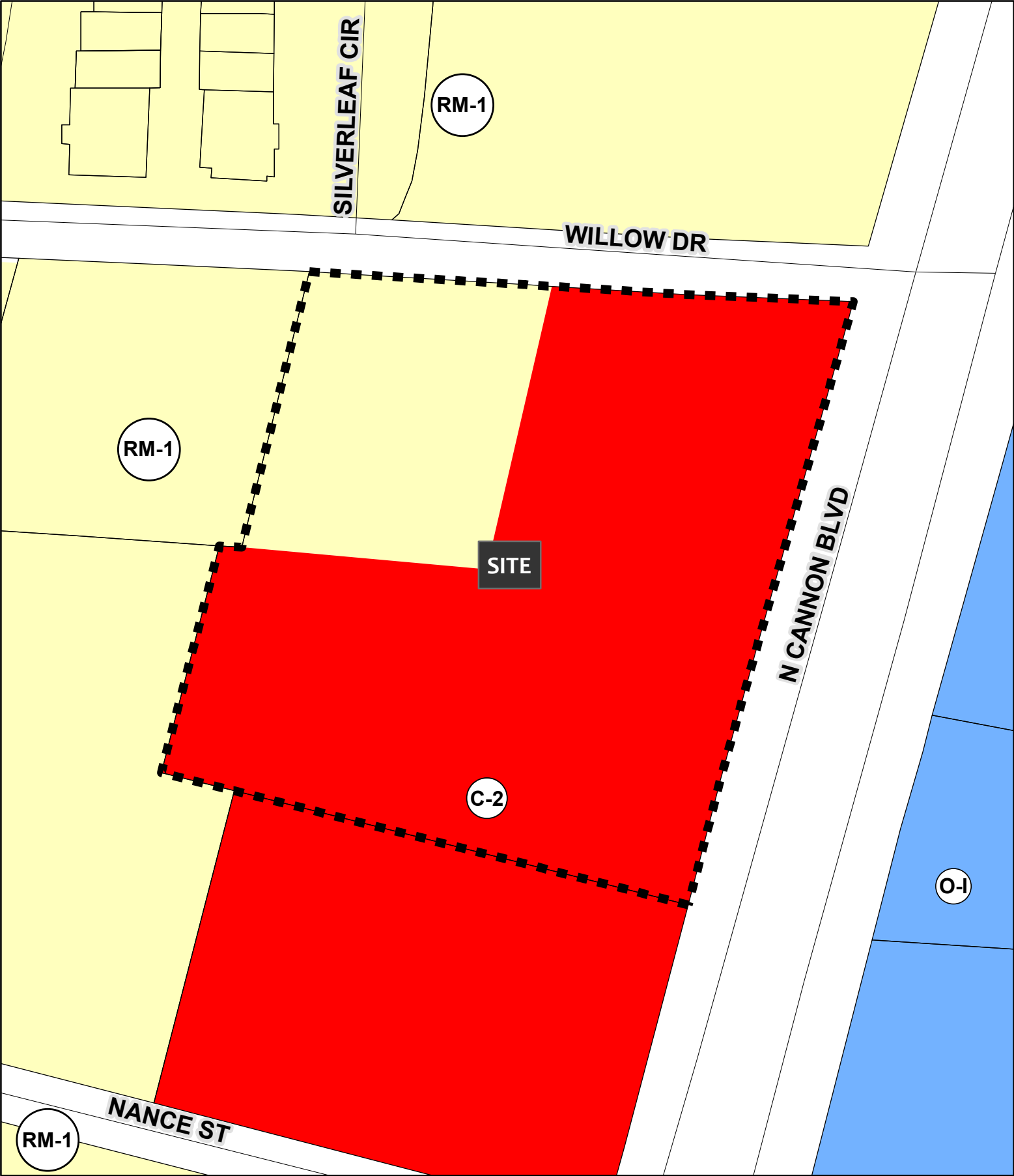
Case Number: CZ-2018-01
Applicant: William Cook





Current Zoning

Case Number: CZ-2018-01
Applicant: William Cook





2030 Future Land Use Plan

Case Number: CZ-2018-01
Applicant: William Cook

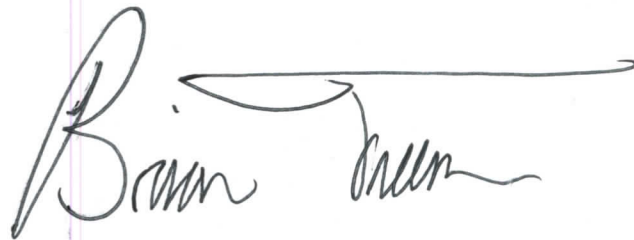


Summary of community meeting regarding conditional rezoning of 267 N. Cannon

Meeting was held Thurs July 26th at 6:30pm at the Amity House (268 N Cannon blvd). Roughly 30 people were in attendance. Meeting 90 minutes approximately. Attached is a handout of the presentation discussed. Also attached is a partial sign in sheet.

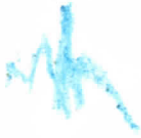
Neighbors asked questions about traffic flow, business model, what would happen to mini-golf course if it fails to be profitable, what would lot look like until mini golf is developed in 2021, buffers, lighting, main entrance, hours of operation.

Neighbors were given owners phone number and email for further questions.

A handwritten signature in black ink, appearing to read "Brian". The signature is stylized with a large, looped initial "B" and a horizontal line extending to the right, followed by the name "Brian" in a cursive script.

Community Meeting Sign in Sheet

Thursday, July 26, 2018



Name:

Address:

- 1) Bobby Seiffin 604 Walker St, Kannapolis
- 2) Larx Crosby 322 Wisteria Lane, Kannapolis
- 3) Joseph Ridenhour Hound dog club, Boone NC
- 4) JANIS RIDENHOUR 420 IDLEWOOD DR, KANNAPOLIS, NC
- 5) Alice Lloyd 317 Wisteria Ln. Kann. NC
- 6) Sandy & Dick 310 Wisteria Lane Kannapolis, NC
- 7) Melissa Howard 420 Idlewood Dr. Kannapolis NC
- 8) Jo Stephens 500 Tuttlewood DR Kannapolis, NC
- 9) BEN BISHOP 600 WILLOW DR " "
- 10) Cindy Tuttle 604 Tuttlewood Dr. Kannapolis, N.C.
- 11) Deana Petty/Andrew Petty 410 Idlewood Drive Kannapolis, NC
- 12) Melanie Keziah 412 Idlewood Dr. Kann. 28083
- 13) Neil and Alecia Horden 602 Willow
- 14) Mike & Tina Haynes 402 Idlewood
- 15) Kellie Reed 210 Idlewood Kann 28083
- 16)

Community Sign In Sheet (Cont.)

Thursday, July 26, 2018

Name:

Address:

- | | | |
|-----|---------------|---------------------------|
| 17) | Cindy Griggs | 213 Idlewood Dr. K. 28083 |
| 18) | Beverly Huxon | 710 Willow Dr |
| 19) | | |
| 20) | | |
| 21) | | |
| 22) | | |
| 23) | | |
| 24) | | |
| 25) | | |
| 26) | | |
| 27) | | |
| 28) | | |
| 29) | | |
| 30) | | |
| 31) | | |
| 32) | | |
| 33) | | |

Community Meeting Sign in Sheet

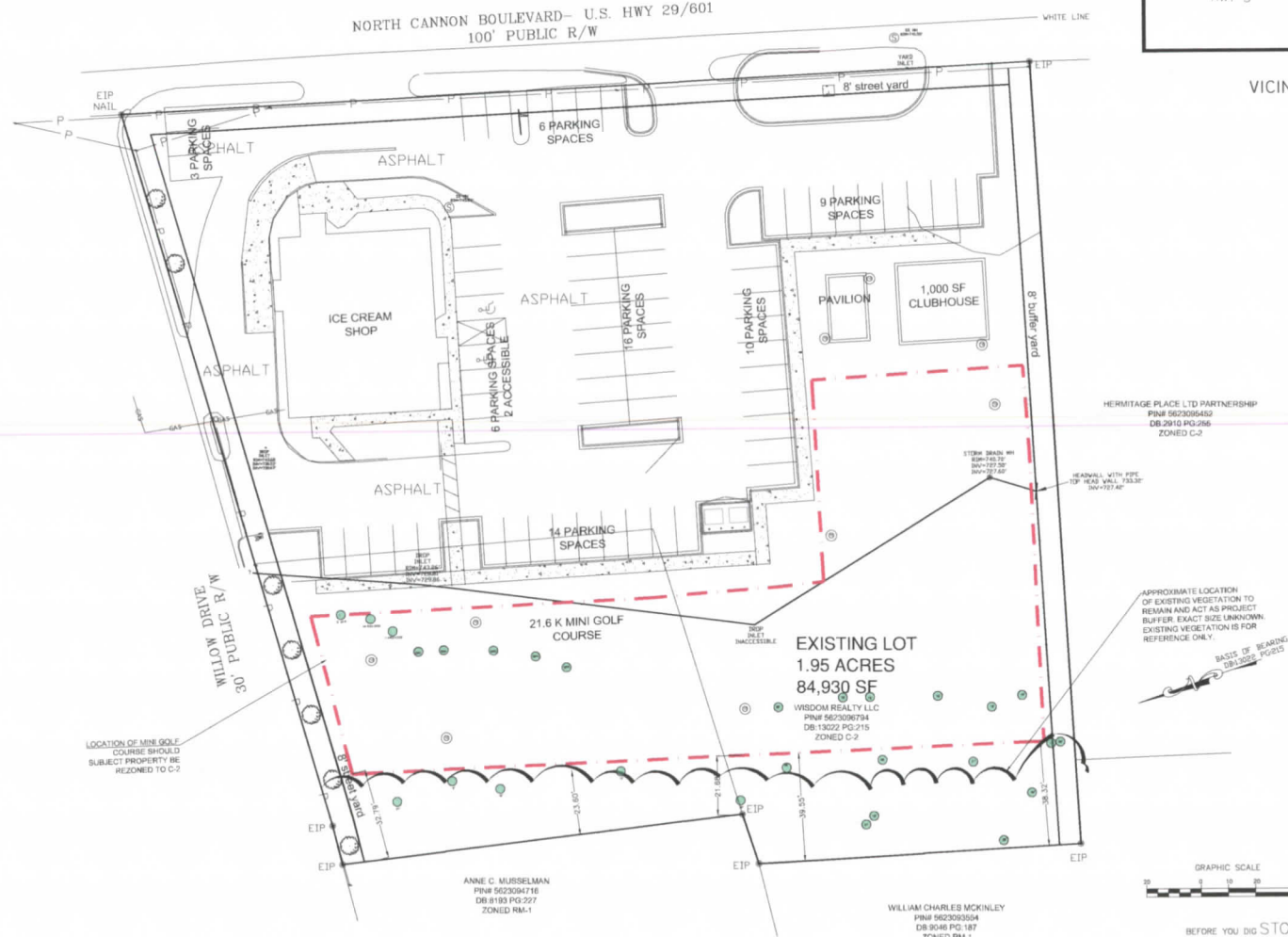
Thursday, July 26, 2018

Name:

Address:

- | | | |
|-----|-------------|------------------------|
| 1) | James Davis | 303 Silverleaf Circle. |
| 2) | | |
| 3) | | |
| 4) | | |
| 5) | | |
| 6) | | |
| 7) | | |
| 8) | | |
| 9) | | |
| 10) | | |
| 11) | | |
| 12) | | |
| 13) | | |
| 14) | | |
| 15) | | |
| 16) | | |

NORTH CANNON BOULEVARD- U.S. HWY 29/601
100' PUBLIC R/W



VICINITY MAP (N.T.S.)



Firm License # P-1191
7140 Weddington Road
Suite 100
Concord, NC 28027
Civil Site Design
Low Impact Development
Small-Scale Building Design
Telephone: 704.573.1821
Facsimile: 704.548.7903

Seals:

PRELIMINARY
NOT FOR
CONSTRUCTION

PROPOSED SKETCH PLAN
26 N CANNON BLVD
KANNAPOLIS NORTH CAROLINA
FOR
SYNERGY RE-SOURCE

Project Number: 17-18-138
Date: 7-28-18
Drawn By: CWM
Checked By: MWP

Scale:
1" = 20' PRELIMINARY
Sheet Title:

PRELIMINARY
SITE PLAN

Sheet No:
C-2.0

REFERENCE: ALL PARCEL AND BOUNDARY INFORMATION FOR THIS PROPERTY AND
ADJACENT PROPERTIES REFERENCED FROM A SURVEY CONDUCTED BY SOUTHPOINT SURVEY
PROPERTY DIVISIONS AND COORDINATES FOR PROPERTY REFERENCED FROM A SURVEY
CONDUCTED BY SOUTHPOINT SURVEY.



BEFORE YOU DIG STOP. CALL THE NC ONE-CALL
CENTER AT 811.
IT'S THE LAW.

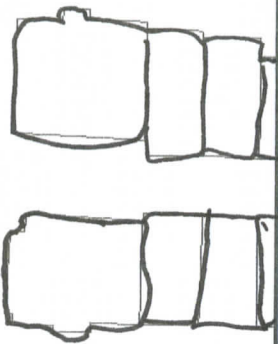




Future Zoning

Case Number: Z-2018-04

Applicant: William Cook



SILVERLEAF CIR

RM-1

WILLOW DR

RM-1

RM-1

SITE

C-2

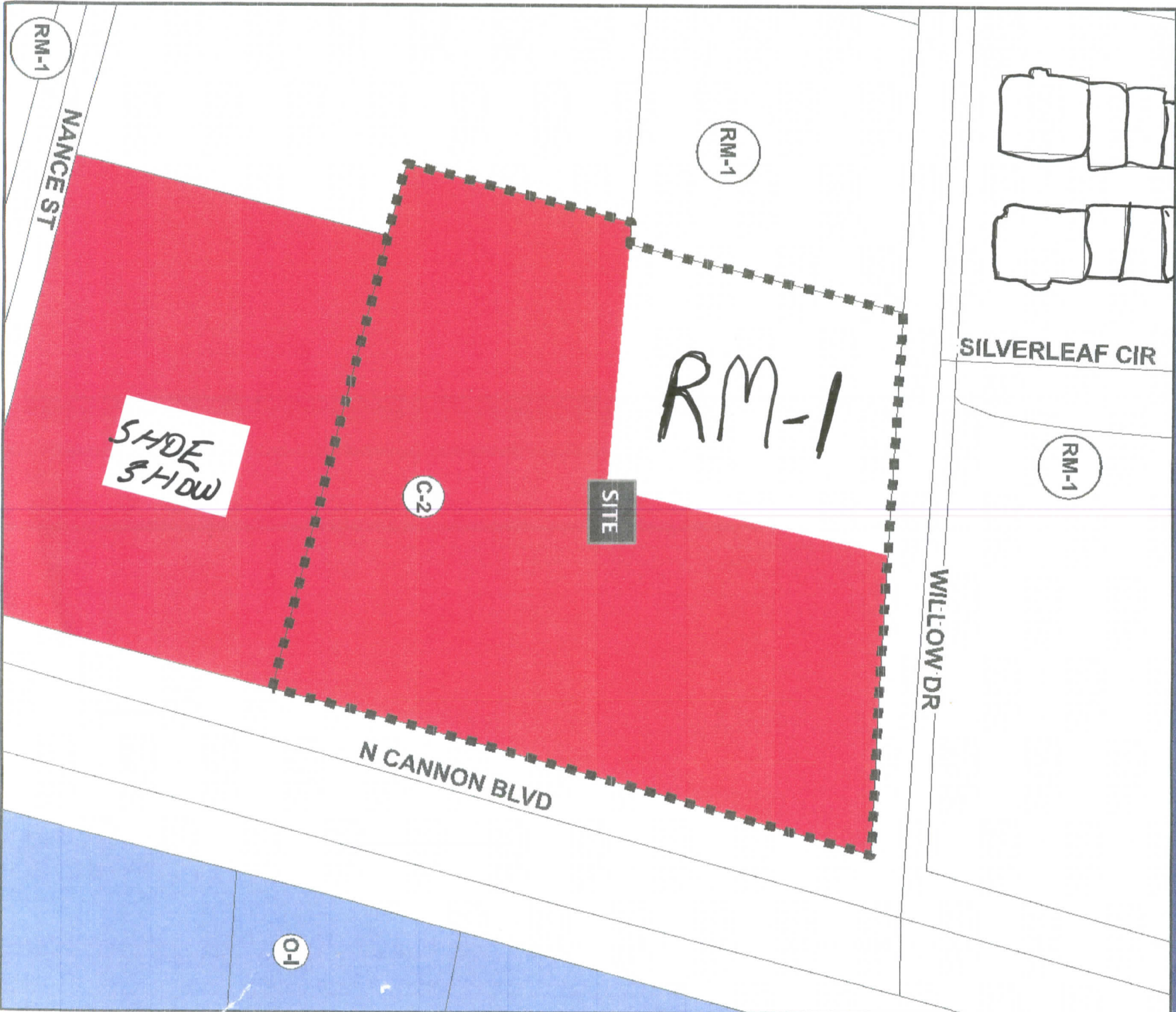
N CANNON BLVD

O-1

RM-1

NANCE ST

SHOE
SHOW



Community Meeting

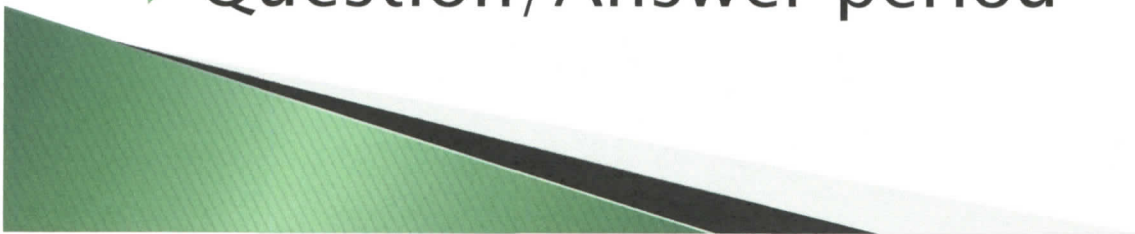
July 26, 2018

Discuss the Conditional Rezoning of
the Old KFC Property
(267 N. Cannon Blvd)



Purpose and Agenda

- ▶ Community meeting is a requirement to apply for a conditional rezoning of property
- ▶ Opportunity for owner to present his plans to the neighbors and answer their questions
- ▶ Obtain neighbor feedback to improve project
- ▶ Get to know each other and promote community cooperation
- ▶ Establish timeline for future events and communications
- ▶ Question/Answer period



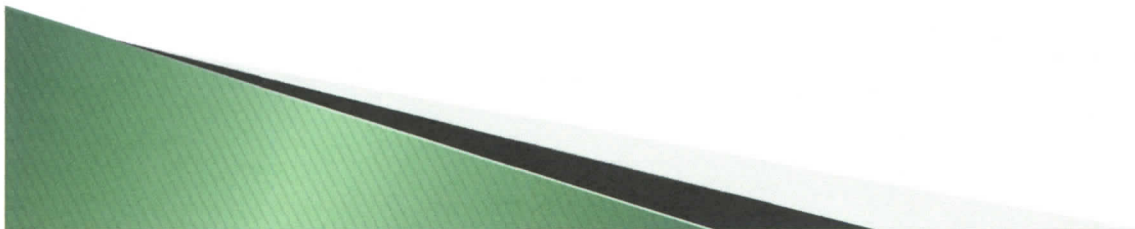
Getting to Know Each Other

▶ Brian Freeman, New Owner of Old KFC Site

- Married Hannah Long (from Landis)
- 3 children (Hunter, Miles, and Levi)
- Co-founder of Cannon Pharmacy
- Resident of Kannapolis area for 13 years
- Attend Bethel Baptist Church, Rockwell

▶ Neighbor Introduction

- Share your name, street and years in neighborhood
- Make sure you sign the “sign in sheet”



Proposed Use for Property

–Family Fun Center

- ▶ Ice cream and grill restaurant (Dairy Queen style)
- ▶ Miniature golf course
- ▶ Clubhouse for the mini-golf
- ▶ Games inside restaurant and clubhouse for kids/teens
- ▶ Picnic Pavilion
- ▶ Parking



Review and Discuss the Site Plan

- ▶ Refer to site plan (provided separately) (large versions available)
- ▶ Saving many of the old oak trees that are on the C2 zone creating a natural buffer
- ▶ Large prominent entrance in middle of property off hwy 29.
- ▶ Tearing down of old white building (safety and health concerns)
- ▶ Ample garbage cans on site for trash collection
- ▶ Creating a “Park” with a picnic pavilion, lots of landscaping
- ▶ Seeking neighbor input on type and style/quality of buffers you would like(not like)

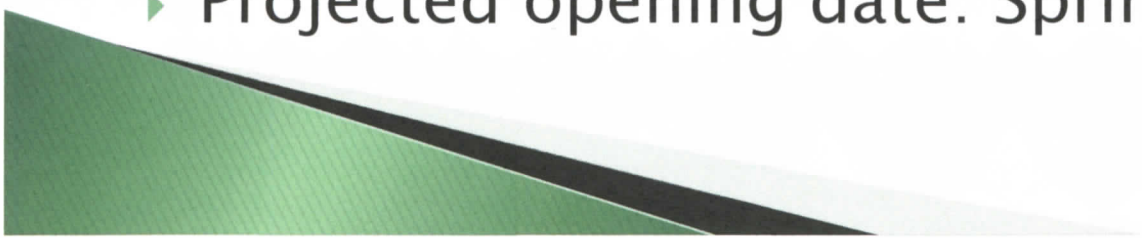


Summary of Zoning Request

- ▶ Applying for a CONDITIONAL rezoning vs a GENERAL zoning.
 - 80% of site is C2 commercial, allowing virtually ANY use, 20% of lot is RM1
 - Conditional rezoning would limit the future uses of the ENTIRE parcel to restaurant, parking, and mini-golf
 - Willing to give up the coveted general C2 zoning (for 80% of parcel) in exchange for allowing use of the RM1 section for parking and mini-golf only.
 - This is not a flip project but a long-term investment



Ice Cream and Grill Restaurant

- ▶ Completely renovate existing building (same footprint)
 - ▶ Drive-thru
 - ▶ 100% family atmosphere and entertainment—creating good job environment for students
 - ▶ Work with city to improve entrance and visibility at corner of Willow and Hwy 29
 - ▶ Seeking neighbor input on ingress and egress (Dept. of Trans has final word)
 - ▶ Hours of Operation: Mon–Thurs 10am–10pm, Fri & Sat 10am–11pm and Sun 2pm–10pm
 - ▶ Projected opening date: Spring 2019
- 

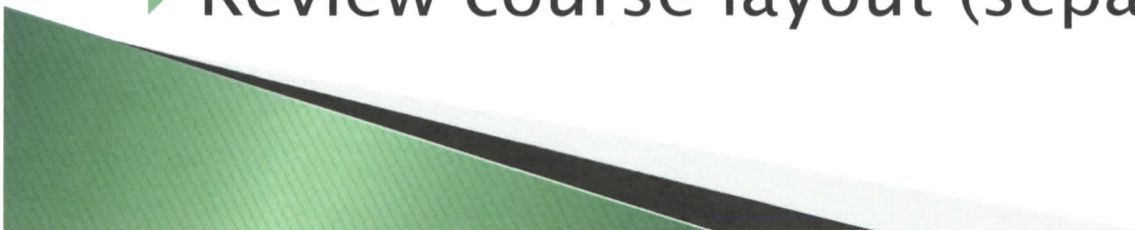
Miniature Golf Course

- ▶ 18 hole golf course requiring approximately 20,000 sq. feet
- ▶ Landscape inspired course
- ▶ 2 water features–waterfalls and streams to reduce noise pollution from site and hwy 29
- ▶ Seasonal business: March – October. Lower volume during spring/fall and closed winters
- ▶ Lighting exceeds Kannapolis code by using shielding to prevent light from falling outside the property
- ▶ Suggested hours of operation
 - Mon–Thurs 10am–9pm, Fri & Sat 10am–10pm, Sun 2pm–9pm (closing time is last person allowed to play through)



Miniature Golf Course (Cont.)

- ▶ Course will be designed to incorporate some of the mature hardwood trees and leaving larger buffer than Kannapolis code requires
- ▶ Harris Miniature Golf projected developer
 - Leader in golf course design
 - 50 years of experience
- ▶ Projected opening date: spring 2021
- ▶ Family focused entertainment for our community
- ▶ Review course layout (separate printout)



Timeline for Future Events

- ▶ Submit application for conditional rezoning by Tuesday, August 4th
- ▶ Present to the Planning and Zoning Commission on Wednesday, Sept 5th at 6pm
- ▶ Ice cream and grill opening spring 2019
- ▶ Miniature golf opening spring 2021



Final Comments

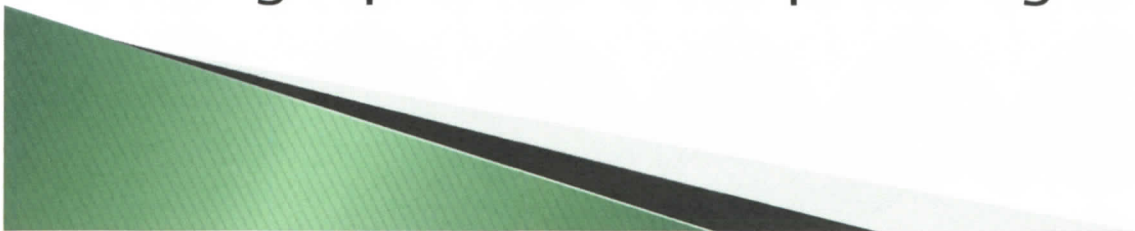
- ▶ This proposal assures community
 - Family focused use of property
 - No undesirable use will be permitted
 - Beautiful scenery with trees, water, landscaping
 - Owner who lives and works nearby
 - Owner with proven record of reputable business models and well maintained properties
 - Community input on lighting, buffers, hours, traffic flow, and preserving many older trees
 - \$1,000,000+ improvement to value of location increasing value of land and homes in our community
 - “Whatever you do, do it ALL for the Glory of GOD.” 1 Corinthians 10:31.



Questions and Answers

- ▶ To help answer technical questions
 - Roger Cook, Synergy Resources
 - General Contractor
 - 27 years of experience
 - 13 years of working with Brian
 - Albemarle, NC

- Gretchen Coperine, Kannapolis Senior Planner
- 401 Laureate Way, Kannapolis, NC 28081
- 704-920-4362
- gcoperine@kannapolisnc.gov

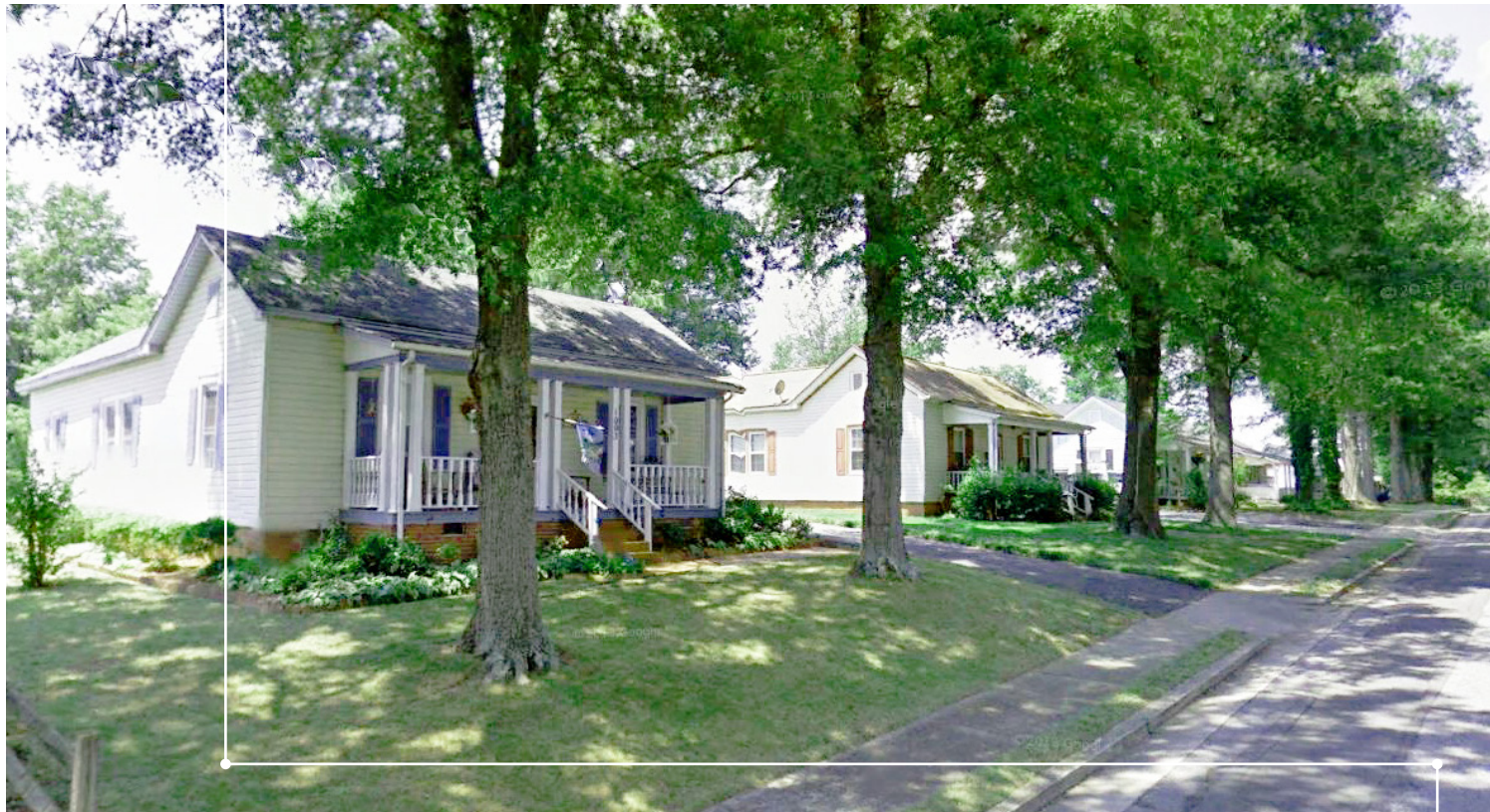


Thanks and Good Night

- ▶ Welcome to go to old KFC and tour the site and inspect property lines and proposed development
- ▶ Brian is available for questions either in person or by phone 704-965-0039, brianfreemanpharmd@gmail.com
- ▶ Option for another community meeting before planning and zoning date
- ▶ Thanks for listening and for being involved
- ▶ Good night and God bless



Urban Residential



Character Intent

The Urban Residential Character Area consists of a variety of housing built in and around the downtown of Kannapolis. Many of these neighborhoods exemplify the residential character of the City and contain walkable features - small blocks, connected streets, sidewalks, multiple uses in walking distance. These areas are better protected and enhanced through sidewalk and park construction, infill development, and other public and private investments.

Opportunities

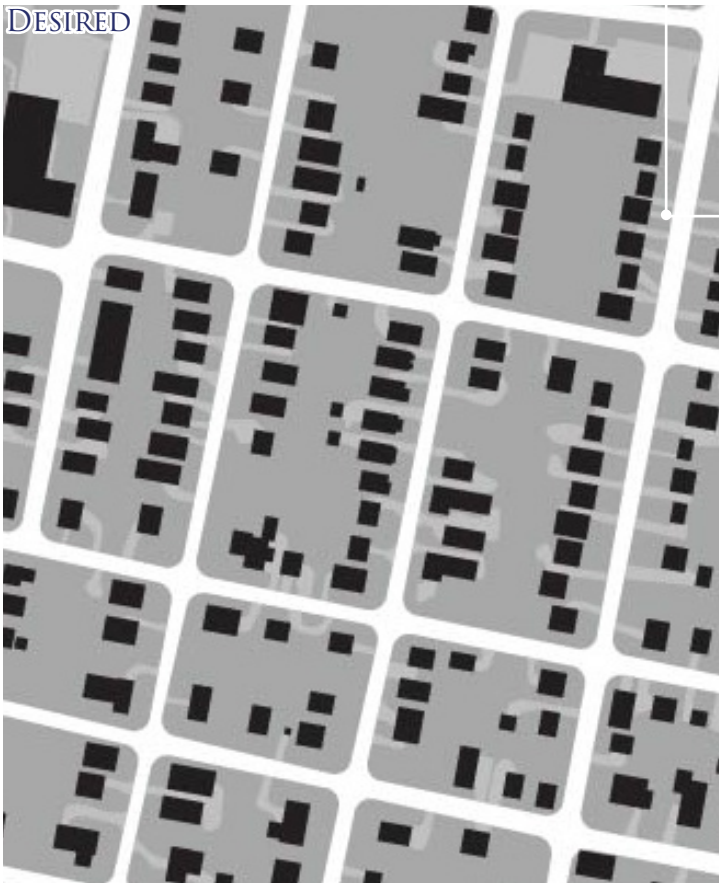
- Infill housing
- Housing redevelopment
- Sidewalks and greenways
- Neighborhood-serving walkable commercial and civic uses
- Pocket parks
- Use natural features for stormwater management
- Neighborhood conservation
- Connectivity enhancements
- Missing middle housing

Primary Uses

- Single family detached residential
- Single family attached residential
- Civic

Secondary Uses

- Multifamily residential
- Small format retail
- Small format office
- Live-work



Characteristics of Urban Form

	Existing	Desired
Building Heights	1 - 3 Stories	1 - 3 Stories
Setbacks	10 - 30 ft.	5 - 30 ft.
Block Length	300 - 600 ft.	300 - 600 ft.
Street Character	Gridded, Narrow	Gridded, Walkable
Parking	Driveways, On-street	Driveways, On-street
Residential Density	3 - 8 units/acre	4 - 10 units/acre

NORTH CAROLINA COMMUNITY NEWSPAPERS

Order Confirmation

Order# 0000507813

Client: KANNAPOLIS, CITY OF
 Client Phone: 7049204300
 Account #: 3143368
 Address: ACTS PAYABLE/WANDA/TEARSHEET
 KANNAPOLIS NC 28081

Payor Customer: KANNAPOLIS, CITY OF
 Payor Phone: 7049204300
 Payor Account: 3143368
 Payor Address: ACTS PAYABLE/WANDA/TEARSHEET
 KANNAPOLIS NC 28081

Fax: 7049337463
 EMail: byow@kannapolisnc.gov

Sales Rep: aboan
 Ordered By: Pam

Total Amount \$771.88
 Payment Amount \$771.88

Amount Due \$0.00
 Tax Amount: 0.00
 Payment Method: Credit - Debit Card
 Order Notes: PO Number:
 Invoice Text:

Ad Number 0000507813-01
 Ad Type CLS Liner
 Ad Size 2 X 61 li
 Color \$0.00

Pick Up Number
 Production Method AdBooker (liner)

Production Color
 Production Notes

Product and Zone CON Independent Trib
 Placement C--Announcements
 Position General-Spec Notice
 # Inserts 2

Run Schedule Invoice Text: NOTICE OF PUBLIC HEARING Kannapolis City Hall
 Run Dates 10/12/2018, 10/19/2018
 TagLine: NOTICE OF PUBLIC HEARING KANNAPOLIS CITY HALL LAUREATE CENTER 401
 LAUREATE WAY KANNAPOLIS NC 28081 CITY COUNCIL MEETING MONDAY OCT
 TOBER 22 2018 AT 600PM

Ad Content Proof

Note: Ad size does not reflect actual ad



NOTICE OF PUBLIC HEARING

Kannapolis City Hall
 Laureate Center
 401 Laureate Way, Kannapolis, NC 28081

City Council Meeting

Monday, October 22, 2018 at 6:00 pm

Public Hearing Notice

Public Hearing Notice - Zoning Map Amendment - CZ-2018-01 - Public hearing to consider a request to rezone property located at 267 N. Cannon Blvd. from C-2 (General Commercial) and RM-1 (Residential Medium Density) to C-2 - CZ (General Commercial-Conditional Zoning), further identified as Cabarrus County PIN(s) #5623-09-6794.

Public Hearing Notice - Zoning Text Amendment - TA-2018-05 - Public hearing to consider a text amendment to Table 4.6-1 of the Unified Development Ordinance pertaining to Principal Uses Permitted in Zoning Districts, and Article 11.1 Outdoor Storage Standards, to permit Equipment Rental and Leasing (with outdoor storage) in the CD (Campus Development) District subject to specific standards in Article 11.1.

Public Hearing Notice - Text Amendment - TA-2018-07 - Public hearing to consider a text amendment to Article 4, Section 4.14, Floodplain Protection Overlay District (FPOD), Appendix A Definitions and Appendix B9 Flood Prevention Plan of the Unified Development Ordinance to update the FPOD and relevant Sections to comply with the minimum criteria of the National Flood Insurance Program (NFIP) 44 CFR 60.3(d) and (e), and NC Session Law 2000-150, Senate Bill 1341 (NCGS 143-215.51-61).

If you have questions or concerns regarding these cases, please contact the City of Kannapolis Planning Department at 704-920-4350.

Hearing impaired persons desiring additional information or having questions regarding this subject should call the North Carolina Relay Number for the Deaf (1-800-735-8262). The meeting facility is accessible to people with disabilities. To request special accommodations in advance, contact the City's ADA Coordinator at 704-920-4302 or email tcilne@kannapolisnc.gov.

Publish: October 12, October 19, 2018



October 12, 2018

Dear Property Owner:

Please be advised that the City of Kannapolis City Council will conduct a Public Hearing on Monday, October 22, 2018 at 6:00 PM at City Hall, located at 401 Laureate Way, for the following case:

CZ-2018-01 –Zoning Map Amendment – 267 North Cannon Boulevard

The purpose of the Public Hearing is to consider a request by Brian Freeman to rezone property located at 267 N Cannon Boulevard from C-2 (General Commercial) and RM-1 (Residential Medium Density) to C-2-CZ (General Commercial-Conditional Zoning) for purposes of developing a miniature golf course, clubhouse, pavilion and restaurant with a drive-thru. The property is approximately 2 +/- acres in size and further identified as Cabarrus County Parcel Identification Number(s) 5623-09-6794 (see reverse side of this letter for 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 Unified Development Ordinance; and are invited to attend the public hearing and present testimony, should you desire, to the City Council.

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

Sincerely,

Gretchen Coperine, AICP
Senior Planner

Enclosure

The meeting facility is accessible to people with disabilities. To request special accommodation in advance, contact the City's ADA Coordinator at 704-920-4302 or e-mail to tcline@kannapolisnc.gov.



Zoning Map Amendment

Case Number: CZ-2018-01

Applicant: William Cook

PIN: 5623-09-6794



HUNTER OAK DR

WISTERIA LN

SILVERLEAF CIR

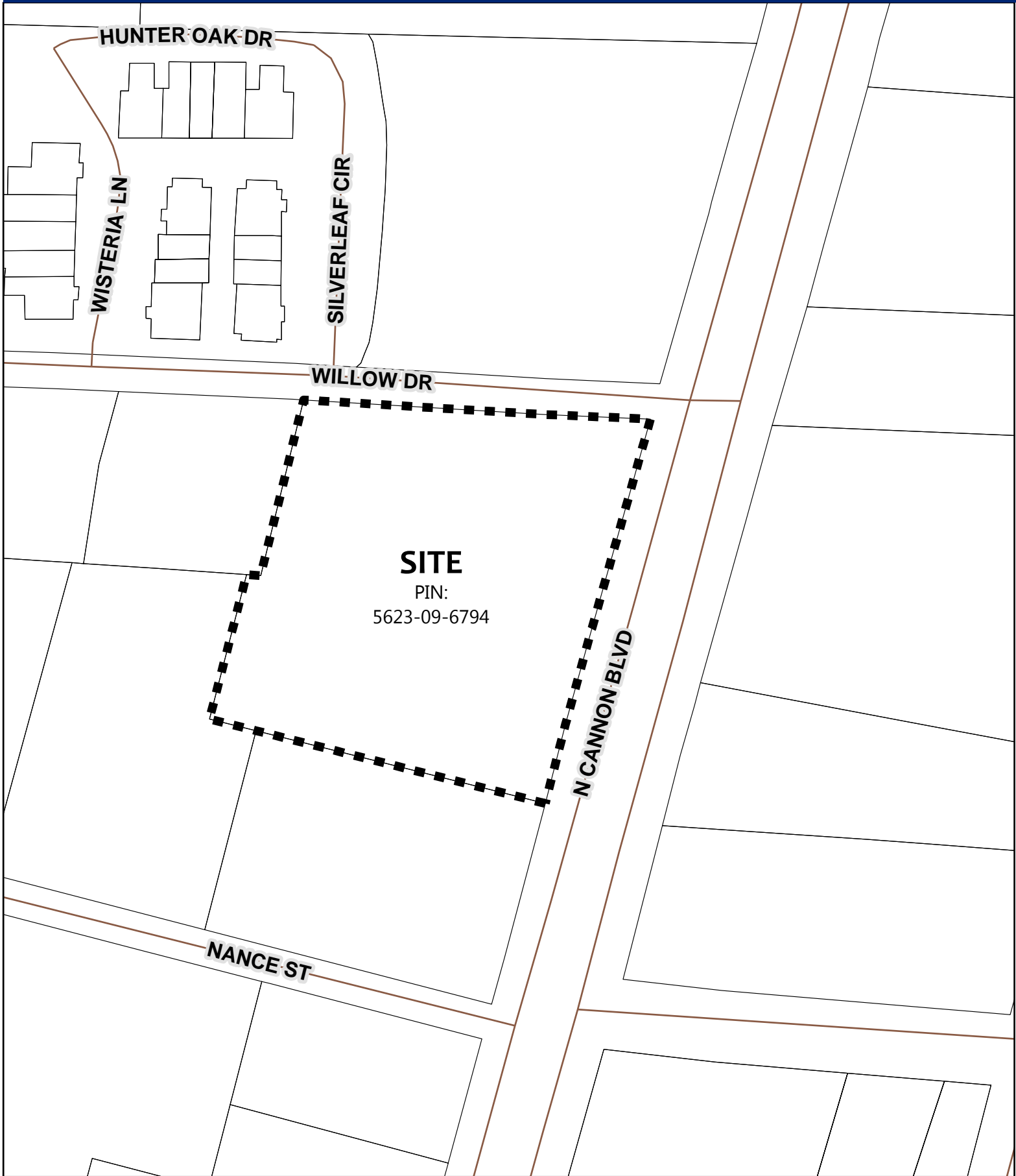
WILLOW DR

SITE

PIN:
5623-09-6794

N CANNON BLVD

NANCE ST





Zoning Map Amendment

Case Number: CZ-2018-01

Applicant: William Cook

PIN: 5623-09-6794



HUNTER OAK DR

WISTERIA LN

SILVERLEAF CIR

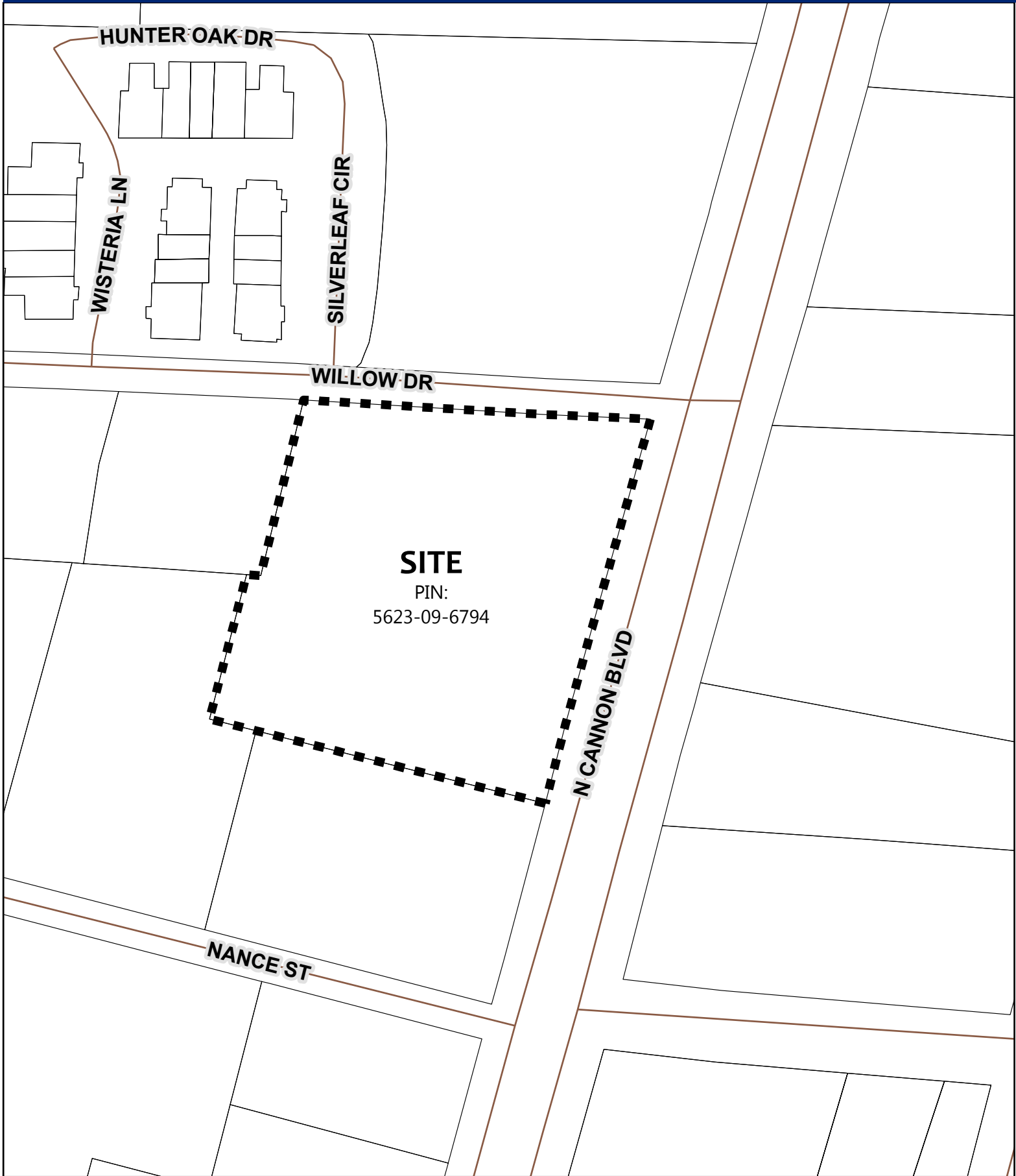
WILLOW DR

SITE

PIN:
5623-09-6794

N CANNON BLVD

NANCE ST



AcctName1	MailAddr1	MailCity	MailState	MailZipCod
SANDY D DICK	310 WISTERIA LN	KANNAPOLIS	NC	28083
M WAYNE NIXON JR	3462 RANKIN RD 40	CONCORD	NC	28027
ANNE C MUSSELMAN	PO BOX 397	WASHINGTON DEPOT	CT	6794
C/O BREDAN MARTIN				
WILLIAM MCKINLEY	705 NANCE STREET	KANNAPOLIS	NC	28081
LADYS FUNERAL HOME	268 N CANNON BLVD	KANNAPOLIS	NC	28083
JRN INC	PO BOX 22845	OKLAHOMA CITY	OK	73123
JRN CHECKEN STORES #376JR				
JAMES DAVIS	303 SILVERLEAF CIRCLE	KANNAPOLIS	NC	28083
RONNIE L SMITH	604 WILLOW DR	KANNAPOLIS	NC	28083
WILLOW WOODS TOWNHOME ASSO INC	322 WISTERIA LN	KANNAPOLIS	NC	28083
JANET MCDANIEL	315 SILVERLEAF CIR	KANNAPOLIS	NC	28083
BOBBY GRIFFIN	604 WALKER ST	KANNAPOLIS	NC	28081
HERMITAGE PLACE LTD PARTNRSHIP	P O BOX 648	CONCORD	NC	28026
FRANCES A MANER	307 SILVERLEAF CIR	KANNAPOLIS	NC	28083
PENSCO TRUST CO CUSTODIAN	PO BOX 173859	DENVER	CO	80217
ERIC & DIANE OVERCASH	5864 ROLLING RIDGE DR	KANNAPOLIS	NC	28081
FRANCES HOLLAND	258 N CANNON BLVD	KANNAPOLIS	NC	28083
MYF COMPANY LLC	2403 PINE CAPE CT	KANNAPOLIS	NC	28083
JOANN CROSBY	322 WISTERIA LN	KANNAPOLIS	NC	28083
WILLIAM COOK	24163 ENDY RD	ALBEMARLE	NC	28001

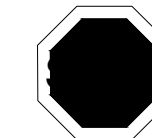




PROPOSED SKETCH PLAN
267 N. CANNON BLVD.
KANNAPOLIS, NORTH CAROLINA
FOR:
SYNERGY RESOURCES

Sheet Title:

C-2.0



REFERENCE: ALL PARCEL AND BOUNDARY INFORMATION FOR THIS PROPERTY AND ADJACENT PROPERTIES REFERENCED FROM A SURVEY CONDUCTED BY SOUTHPPOINT SURVEY. PROPERTY DIMENSIONS AND COORDINATES FOR PROPERTY REFERENCED FROM A SURVEY CONDUCTED BY SOUTHPPOINT SURVEY.

ICE CREAM SHOP



SPRAY FOUNTAIN (TYP.)

APPROXIMATE LOCATION OF PUMP HOUSING (TYP.)

JUMP SHOT

RETAINING WALL (TYP.)

BOULDER ARCH

TEXTURED STREAMS & PONDS (TYP.)

BRIDGE SHOT

PATH FOR GOLF BALLS



PIINGS (TYP.)

BOULDER WATERFALL



Handicap accessible portions of the course(s) are designed in accordance with ADAAG (Americans with Disabilities Act Accessibility Guidelines) Chapter 10 Section 1007.

REUSE OF DOCUMENTS:
This document, and the designs incorporated herein, are the property of Harris Miniature Golf Courses, Inc. and are not to be used in whole or in part for construction of this, or any other project without written authorization of Harris Miniature Golf Courses, Inc.



GRAPHICS LEGEND:

R- Rough
ST- Sand Trap
*Note: color codes may be used in place of natural sand
Elevation Change
Embankment

PROJECT: Proposed Miniature Golf Kannapolis, NC	
DRAWN BY: J. Onyiah	DATE: 07 / 17 / 18
CHECKED BY: P. Boylan	JOB #: 18-49-3
COLOR RENDERING	SHEET: 10 OF 10
REVISIONS:	
DATE PRINTED: 07 / 25 / 18	

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**CITY OF KANNPOLIS, NC
PLANNING AND ZONING COMMISSION**

**Minutes of Regular Meeting
September 5, 2018**

The Kannapolis Planning and Zoning Commission met on Wednesday, September 5, 2018 at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina.

Commission Members Present: Scott Trott, Chairman
David Steele, Vice-Chairman
Alan Overcash
Chris Puckett
Jeff Parker
Larry Ensley
Paula Severt
William Cranford

Commission Members Absent: N/A

Visitors:

Stephen Humphrey	Farrar Griggs, Jr.	Norris Dearmon
Alice Lloyd	Charley McKinley	Brian Freeman
Roger Cook	Tina Haynes	Joy Haynes
Michael Haynes	Ali Farabee	Brandon Farabee
Cindy Griggs	Janis Ridenhour	Richard Flowe
Jimmy Carter	Neil Horden	Aleece Horden
Jeff Cooper	Bruce Warnix	Karleen Warnix
Sandy Dick	JoAnn Crosby	Jo Stephens
Sandi Fogg	Darin Waller	Candy Waller
Beverly Hinson	Lee Forrest	Ashley Forrest
Cathy Allman	Donna Mauldin	Kellye Reed
Kay McAllister	Sam McAllister	Trish Russell
Dan Morgan	Hope Whitley	Thomas Barnhardt
John Tuttle, MD		

Staff Present: Zachary Gordon, AICP, Planning Director
Gretchen Coperine, AICP, Senior Planner
David Hancock, IT

Recording Secretary: Pam Scaggs

CALL TO ORDER

Chairman Scott Trott called the meeting to order at 6:00 P.M.

ROLL CALL AND RECOGNITION OF QUORUM

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

APPROVAL OF AGENDA

Mr. Trott asked for a motion to approve the Agenda. Mr. Steele made the motion to move case CZ-2018-01 to be heard first which was seconded by Mr. Ensley and the motion was unanimously approved.

1 **APPROVAL/CORRECTION OF MINUTES**

2 Mr. Trott asked for a motion to approve the August 8, 2018 minutes which was made by Mr. Parker,
3 seconded by Mr. Puckett and the motion was unanimously approved.
4

5 **Case #CZ-2018-01 – Conditional Zoning Map Amendment – 267 N. Cannon Blvd.**

6 Senior Planner Gretchen Coperine, gave a PowerPoint presentation regarding Case #CZ-2018-01 (Exhibit
7 1) for a request to rezone property located at 267 N. Cannon Blvd. from RM-1 (Residential Medium
8 Density) and C-2 (General Commercial) to C-2-CZ (General Commercial-Conditional Zoning) to allow the
9 development of a restaurant (ice cream shop), miniature golf with associated club house and a pavilion.
10 Ms. Coperine provided the property details and background on the request as well as points of access for
11 the subject property. She reviewed policy issues for the Commission and advised that staff is recommending
12 approval of the rezoning request with conditions (Exhibit 1). Ms. Coperine reminded the Commission of
13 the actions requested of them and made herself available for questions.
14

15 There being no questions or comments for staff, Chairman Trott opened the Public Hearing.
16

17 Brian Freeman, 24163 Endy Road, Albemarle, NC, gave a PowerPoint presentation detailing his conditional
18 rezoning request. He talked about the history of his rezoning request and the proposed use of the subject
19 property as well as his experience with owning and renovating commercial properties. Mr. Freeman
20 provided further detail regarding the type of restaurant and mini-golf being proposed, the hours of operation,
21 lighting, landscaping, and proposed ingress and egress changes. He talked about neighborhood meetings
22 that were conducted and the changes made to his request as a result of concerns raised by neighbors at those
23 meetings. Mr. Freeman provided reasons why he feels his request should be approved and thanked both
24 the staff and the Commission for their time and consideration.
25

26 Mr. Freeman responded to questions from Mr. Steele regarding existing trees on the property and the
27 proposed landscaping as part of the buffering requirement.
28

29 Charles McKinley, 705 Nance Street, identified himself as owning property that directly abuts the subject
30 property. Mr. McKinley stated that he supports the rezoning request and feels that Mr. Freeman is sensitive
31 to the fact that his commercial property has residential neighbors. He asked the Commission to consider
32 the fact that if zoning on the subject property remains unchanged, another business could come in which
33 would be much worse than an ice cream parlor.
34

35 Farrar Griggs, 213 Idlewood Drive, indicated that after Mr. Freeman's neighborhood meeting, the residents
36 of the Idlewood neighborhood conducted their own meeting and that the majority of those residents in
37 attendance were not in favor of rezoning the RM-1 portion of the subject property. Mr. Griggs voiced
38 concern regarding rezoning the RM-1 portion indicating that it has served as a buffer between the
39 commercial zoned property and the Idlewood neighborhood for over 30 years and disagreed with staff
40 finding consistency with the 2030 Plan. He stated that he is in favor of Mr. Freeman's proposal but asked
41 that the Commission honor the zoning that was placed upon RM-1 parcel and deny the rezoning request.
42 Mr. Griggs asked those in attendance to stand if they were opposed to the rezoning request.
43

44 Joanna Stephens, 500 Tuttlewood Drive, read through a list of businesses that are permitted uses by right
45 in the C-2 zoning district and indicated that she is in favor of the rezoning request because it limits the uses
46 allowed on the subject property. Ms. Stephens read a quote found in an April 2006 newspaper article
47 regarding the proposed Kentucky Fried Chicken restaurant from a former member of Planning staff where
48 he warned that any businesses permitted by right in the C-2 zoning district could use the subject property.
49 She recalled that prior to development of the Willow Woods townhome community, neighbors also opposed
50 that project but that it resulted in a favorable addition to the neighborhood. She asked that her neighbors
51 trust Mr. Freeman and be in favor of his request.

1 Jimmy Carter, 111 South Ridge Avenue, stated that he lives across the street from downtown Kannapolis
2 and has seen a lot of change. He indicated that he is in favor of the proposed rezoning and would be if he
3 happened to live in the Idlewood neighborhood. Mr. Carter remarked that Kannapolis does not have any
4 type of family entertainment that is being offered by Mr. Freeman and that it is needed. He mentioned that
5 that he is a current customer of Cannon Drug store where Mr. Freeman is a co-founder and talked about the
6 quality of service he receives from Mr. Freeman and his employees. Mr. Carter believes that Mr. Freeman
7 is invested in Kannapolis and the Idlewood community and asked the Commission to approve the rezoning
8 request.
9

10 Richard Flowe, 2720 Keady Mill Loop, stated that he is a consultant hired by some members of the
11 Idlewood neighborhood and that he worked for the City at the time when the subject property had been two
12 (2) separate parcels which is why there are two (2) different zoning designations. He indicated that
13 generally the neighborhood is in favor of the ice cream restaurant but that the concern is regarding the
14 requested rezoning of the RM-1 portion of the subject property which has served as a buffer between the
15 commercial zoning and the residential zoning for so many years. He cautioned the Commission that while
16 the requested zoning offers conditions, those conditions could be changed in the future. Mr. Flowe
17 recommended that Mr. Freeman move forward with his plans for the ice cream restaurant but that he hold
18 off on the putt-putt golf course until he could reconfigure the site plan without disrupting the RM-1 portion.
19

20 Cindy Griggs, 213 Idlewood Drive, thanked Mr. Freeman for his work and commitment to the community
21 but voiced concern regarding the rezoning of the RM-1 portion that would disturb the existing buffer and
22 hardwood trees which also serve as a sound barrier. She agreed that Kannapolis needs more restaurants
23 where people could sit outside and enjoy their meals but is opposed to the rezoning. Ms. Griggs asked the
24 Commission to deny the rezoning request.
25

26 Norris Dearmon, 301 Wisteria Lane, voiced concern regarding the rezoning request for the fear that
27 commercial zoning would take over the residential neighborhood. He stated that his biggest concern is
28 regarding the existing hardwood trees that serve as both a buffer from the commercial zoning as well as a
29 sound barrier from Cannon Boulevard.
30

31 Cathy Altman, 203 N. Cannon Boulevard, voiced concern regarding noise from the proposed putt-putt golf
32 course and the integrity of the neighborhood. She thanked the Commission for their time.
33

34 Beverly Hinson, 710 Willow Drive, stated that her property directly abuts the RM-1 portion of the subject
35 property and bought the home at 710 Willow Dr. with the intention of living in it but has decided to sell the
36 home due to the requested rezoning. She indicated that she is in favor of the ice cream restaurant but that
37 the RM-1 zoned property is needed to maintain the existing buffer between the commercial and residential
38 properties.
39

40 There being no further comments, Chairman Trott closed the Public Hearing.
41

42 Chairman Trott asked for a motion to adopt or deny the Statement of Consistency for case CZ-2018-01
43 which was made by Mr. Steele, seconded by Mr. Ensley and the motion was unanimously approved.
44

45 Chairman Trott asked for a motion to adopt a Resolution to Zone for case CZ-2018-01 which was made by
46 Mr. Ensley, seconded by Mr. Overcash and the motion was unanimously approved.
47

48 **Case TA-2018-05 – Text Amendment – Equipment Rental and Leasing in CD Zoning District**

49 Senior Planner Gretchen Coperine, stated that case TA-2018-05 was continued from the August 8, 2018
50 meeting and that the Commission directed staff to provide language that would limit the size of the area
51 used for outdoor storage. She gave a PowerPoint presentation regarding Case #TA-2018-05 (Exhibit 2) for

a text amendment to Table 4.6-1, Principal Uses Permitted in Zoning Districts. Ms. Coperine reminded the Commission that the proposed amendment is a result of being approached by a company wanting to establish an Equipment Rental and Leasing business to a parcel located in the CD (Campus Development) zoning district, which allows for Equipment Rental and Leasing but not with outdoor storage. She provided the request details and stated that the proposed amendment will allow Equipment Rental and Leasing with outdoor storage in the CD zoning district, subject to Article 11.1, Outdoor Storage and Solid Waste Storage Standards. The proposed text amendments to the UDO are shown below as additions:

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS																	
* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.																	
P - Permitted Use	S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)																
C - Conditional Use	(-) Prohibited Use																
USE	NAICS	AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R*	CD*	I-1*	I-2
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	-

11.1.2.5 Equipment Rental and Leasing (with outdoor storage)

11.1.2.5.1 The provisions of this section shall apply to any Equipment Rental and Leasing (with outdoor storage use) located in the CD zoning district. General provisions under Section 11.1.2.1 – 11.1.2.1.8 shall also apply.

11.1.2.5.2 Outdoor storage area shall not exceed 50% of the total parcel square footage in which it is located.

Ms. Coperine reminded the Commission of the actions requested of them and made herself available for questions.

Mr. Parker acknowledged that the proposed changes consider size of the outdoor storage area with regards to parcel size but asked if the size of the building would also be a factor when limiting outdoor storage space? Ms. Coperine responded that the proposed text amendment limits outdoor storage space to 50% of the total square footage of the site which would include the building, parking and landscaping square footage.

Chairman Trott asked for a motion to adopt or deny the Statement of Consistency for case TA-2018-05. Mr. Overcash made a motion to approve the Statement of Consistency which was seconded by Mr. Cranford and the motion was unanimously approved.

Chairman Trott asked for a motion to recommend approval of the proposed text amendment by City Council which was made by Mr. Steele, seconded by Mr. Parker and the motion was unanimously approved.

Case TA-2018-07 – Text Amendment – FEMA Flood Ordinance

Senior Planner Gretchen Coperine, gave a PowerPoint presentation regarding Case #TA-2018-07 (Exhibit 3) for a text amendment to Article 4, Section 4.14, Floodplain Protection Overlay District (FPOD), Appendix A, Definitions, and Appendix B9, Flood Prevention Plan of the Unified Development Ordinance (UDO). Ms. Coperine stated that the proposed text amendments are state mandated and that it requires completion by November 16, 2018 in order to update the FPOD and relevant Sections to comply with the minimum criteria of the National Flood Insurance Program (NFIP) 44 CFR 60.3 (d) and (e), and NC Session Law 2000-150, Senate Bill 1341 (NCGS 143-215.51-61). She added that the changes (see Exhibit 3) are directly from the North Carolina flood model which was published in 2017 and that staff has received preliminary approval from the state as part of a courtesy review as well as approval from the City's engineering department.

1 Ms. Coperine stated that staff is recommending approval of the proposed text amendment, reminded the
2 Commission of the actions requested of them and made herself available for questions.

3 There being no further questions or comments for staff, Chairman Trott asked for a motion to adopt or deny
4 the Statement of Consistency for case TA-2018-07. Mr. Ensley made the motion to approve the Statement
5 of Consistency which was seconded by Mr. Parker and the motion was unanimously approved.
6

7 Chairman Trott asked for a motion to recommend approval of the proposed text amendments by City
8 Council which was made by Mr. Steele, seconded by Mr. Puckett and the motion was unanimously
9 approved.
10

11 **PLANNING DIRECTOR UPDATE**

12 Planning Director Zac Gordon stated that a consultant for the UDO rewrite process has been selected but
13 the consultant has not been notified yet so he will provide a further update at the next Commission meeting.
14

15 **ADJOURN:**

16 There being no further business, questions or comments, the meeting was adjourned by unanimous vote at
17 7:34 PM on Wednesday September 5, 2018.
18
19
20

21 _____
Planning and Zoning Commission
22
23

24 _____
Pam Scaggs, Recording Secretary
25 Planning and Zoning Commission

September 19, 2018

Good afternoon Gretchen & Zac,

Thank you for providing the information requested.

On behalf of Ms. Janice Ridenhour, Mr. Farrar Griggs and others within the Idlewood-Knollwood neighborhood, I hereby submit this notice of appeal in writing and delivered by email.

Per the provisions of paragraph 3.3.4.2.C of the City of Kannapolis Unified Development Ordinance, we respectfully request a hearing before the Kannapolis City Council regarding the decision of the Planning & Zoning Commission as to Case # CZ-2018-01. As stated at the P&Z hearing, the concern of a majority of the neighborhood is simply the expansion of the C-2 zoning boundary, not the use of the commercial property for a restaurant and miniature golf. The appeal efforts hope to rectify these concerns by establishing mutually beneficial solution(s) as to the precise placement of the new zoning district boundary.

Upon verification of the appeal fee outlined in your email below we will promptly remit the amount due and payable to the City. Please provide a date for the appeal hearing at your earliest convenience.

Thank you and have a great afternoon,

*F. Richard "Rick" Flowe, AICP, CFM
N-Focus, Inc.*

*315 South Main Street, Suite 200
Kannapolis, NC 28081
704-933-0772 (office)*

704-793-7205 (cell)

www.nfocusplanning.org

On September 19, 2018 at 12:23 PM Gretchen Coperine <gcoperine@kannapolisnc.gov> wrote:

Hi Richard, please see the attached staff report and packet for the rezoning approved by P+Z on 9.5.18 for 267 N Cannon.

Per UDO Section 3.3.4.2.C, you may appeal the decision by filing a written notice with the Administrator (Planning Director) within 15 days of the decision. I've cc'd Zac (Planning Director) so he's in the loop.

The fees are as follows:

- Ad \$300 or actual ad fee, whichever is greater (Note: we have requested an estimate from the paper and will send you the estimated fee once we receive
- Notification \$ 25

Please let me know if you have any additional questions.

Best,

Gretchen Coperine, AICP

Senior Planner

City of Kannapolis

401 Laureate Way

Kannapolis, NC 28081

o: 704.920.4362

m: 980.439.9155

gcoperine@kannapolisnc.gov

www.kannapolisnc.gov

Planning and Zoning Department

City of Kannapolis

VIA EMAIL PDF

I am the owner of Cabarrus County parcel number 56230967940000. I feel that is its reasonable to rezone this property (259-267 N Cannon Blvd) due to the fact that the proposed use is consistent with the commercial nature of other land uses with road frontage on Cannon Blvd. In addition the conditional rezoning to a restaurant and mini golf, is consistent with the move Kannapolis Forward initiative.

Best of Health,

A handwritten signature in black ink, appearing to read "Brian Freeman". The signature is fluid and cursive, with a long horizontal flourish extending from the end.

Brian Freeman, Wisdom Realty, LLC

President



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
WITH REGARD TO CASE # CZ-2018-01**

WHEREAS, Section 160A-383 (2013) of the North Carolina General Statutes specifies that when adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable and explain why the action taken is reasonable and in the public interest; and

WHEREAS, Section 3.3.4.2 of the Unified Development Ordinance delegates final authority to the Planning and Zoning Commission on zoning map amendments subject to an affirmative vote of three-fourths of the Commission members present and not excused from voting, or if there is no appeal of the decision; and

WHEREAS, on September 5, 2018 the Planning and Zoning Commission after conducting a public hearing to consider a request to rezone property located at 267 North Cannon Boulevard from C-2 – General Commercial and RM-1 – Residential Medium Density to C-2-CZ – General Commercial Conditional Zoning, unanimously approved the request for rezoning;

WHEREAS, the decision of the Planning and Zoning Commission has been appealed to the City Council and in accordance with Section 3.3.4.2 of the UDO, when an appeal is filed, City Council has final decision making authority on this request; and

WHEREAS, on October 22, 2018, City Council conducted a public hearing to consider a request to rezone property located at 267 North Cannon Boulevard from C-2 – General Commercial and RM-1 – Residential Medium Density to C-2-CZ – General Commercial Conditional Zoning; and

NOW, THEREFORE BE IT RESOLVED *that the City Council finds this rezoning consistent with the Move Kannapolis Forward 2030 Comprehensive Plan, adopted by City Council, which locates this property within an Urban Residential Character Area, which may include a mixture of residential, small format retail and office uses. Staff finds the request for rezoning reasonable and in the public interest because it provides for small format commercial uses of a scale appropriate for transitioning between the more intense commercial uses to the east along N. Cannon Boulevard and the lower intensity single family residential neighborhood to the west of the subject parcel. The proposed rezoning is compatible with the surrounding zoning and is not anticipated to have an adverse effect on the capacity and safety of the surrounding street network, nor is anticipated to generate parking problems or any adverse impact on the environment. Finally, there is adequate access to public facilities.*

Adopted this the 22nd Day of October, 2018;

Milton D. Hinnant, Mayor
Mayor

Attest:

Bridgette Bell, MMC, NCCMC
City Clerk



**RESOLUTION TO ZONE
Case # CZ-2018-01
(267 North Cannon Boulevard)**

**City of Kannapolis General Commercial (C-2) and
Residential Medium Density (RM-1) Zoning District to**

City of Kannapolis General Commercial Conditional Zoning District (C-2-CZ)

WHEREAS, Section 3.3.4.1 of the City of Kannapolis Unified Development Ordinance specifically delegates authority from the City Council to the Planning and Zoning Commission to take final action on a rezoning petition; and

WHEREAS, Section 3.3.4.2 of the City of Kannapolis Unified Development Ordinance subjects this authority to an affirmative vote of three-fourths of the Commission members present and not excused from voting, or if there is no appeal of the decision; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on September 5, 2018 for consideration of rezoning petition Case #CZ-2018-01 as submitted to the City of Kannapolis Planning Department; and

WHEREAS, the request was to rezone properties located at 267 North Cannon Boulevard (Cabarrus County Parcel Identification Number(s) 5623-09-6794) owned by Wisdom Realty, LLC., from City of Kannapolis Zoning Designation C-2 – General Commercial and RM-1 – Residential Medium Density to City of Kannapolis Zoning Designation C-2-CZ – General Commercial Conditional Zoning; and

WHEREAS, the Commission unanimously approved the request for rezoning and found it to be consistent with the *Move Kannapolis Forward: 2030 Comprehensive Plan*, reasonable and in the public interest; and

WHEREAS, the decision of the Planning and Zoning Commission has been appealed to the City Council and in accordance with Section 3.3.4.2 of the UDO, when an appeal is filed, City Council has final decision making authority on this request; and

WHEREAS, on October 22, 2018, City Council rezoned property located at 259-267 North Cannon Boulevard (Cabarrus County Parcel Identification Number(s) 5623-09-6794) owned by Wisdom Realty, LLC., from City of Kannapolis Zoning Designation C-2 – General Commercial and RM-1 – Residential Medium Density to City of Kannapolis Zoning Designation C-2-CZ – General Commercial Conditional Zoning; and

WHEREAS, the City Council has approved the request for rezoning and found it to be consistent with the *Move Kannapolis Forward: 2030 Comprehensive Plan*, reasonable and in the public interest; and

WHEREAS, per Section 3.3.5 of the Kannapolis UDO, the City Council makes the following findings in support and in analysis of the rezoning:

1. The size of the tract in question.

The size of the subject tract is approximately 2 +/- acres.

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?

This property is located in an "Urban Residential" Character Area as designated in the *Move Kannapolis Forward 2030 Comprehensive Plan*, which consists of multiple uses within walking distance of each other. The Urban Residential character area calls for primary uses of single-family detached and attached residential and civic uses. Secondary uses are intended to be a mixture of multifamily residential, small retail and office, and live-work units. The C-2-CZ conditional zoning district with this rezoning proposes an ice cream shop, and miniature golf course with associated clubhouse and pavilion, which fit with the secondary uses of the Urban Residential character district.

3. Is the proposed rezoning compatible with the surrounding area?

The subject property is located at the entrance of the Idlewood/Knollwood neighborhood which includes approximately 90 residences, including 26 townhomes/condominiums, on approximately 80 acres. The requested rezoning proposes an ice cream shop and mini golf course of a scale that represents an appropriate transition between the commercial uses on Cannon Boulevard and the residential area behind the subject property.

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

The subject property is accessed from three curb cuts along Cannon Boulevard (NCDOT road) and two curb cuts along Willow Drive (City road). The curb cuts were installed for the former commercial uses on the property. Per discussions with NCDOT, the access point on Cannon Boulevard closest to Willow Drive may be closed off, leaving one access point along Cannon Boulevard in order to improve vehicular and pedestrian safety. Access on to Willow would have to be approved by the City.

5. Will there be parking problems?

The site plan submitted with this request for rezoning includes adequate parking for the listed uses.

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

There are no anticipated environmental impacts such as water, air, or noise pollution issues associated with the rezoning request. In addition, all development will be required to conform to all applicable local, state, and federal environmental regulations.

With regard to lighting, Staff recommends a condition that any new site lighting to be installed shall be full cut-off fixtures with all lighting directed away from adjacent properties, including properties along Willow Drive.

The required site plan will also be reviewed by City staff to ensure the development meets all stormwater requirements.

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?

The former KFC on the site was closed and replaced by a new restaurant approximately ¾ of a mile south on Cannon Boulevard. The character of the area in proximity to the proposed use has

remained relatively stable over the recent past.

8. Is there compliance with the adequate public facilities criteria?

There are adequate public facilities available to the property, including water, sewer and access to Cannon Boulevard and Willow Drive. It is not anticipated that any new development would require additional public facilities.

9. What are the zoning districts and existing land uses of the surrounding properties?

Property to the south is zoned C-2 (General Commercial) and includes retail uses. Property to the north (across Willow Drive) is zoned RM-1 and is currently vacant woodland. Lady's Funeral Home is located across Cannon Boulevard to the east, and is zoned O-I (Office Institutional). Property to the west is zoned RM-1 and contains an existing single family detached residence.

10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?

The portion of the subject property that is being requested to be rezoned is currently zoned RM-1. The RM-1 portion of the property would not be permitted to include any C-2 uses. The C-2 portion of the site would allow all uses permitted by right in the C-2 zoning district listed in Table 4.7-1 of the UDO. Most of the uses allowed by right within the C-2 zone are more intense than the uses proposed by this rezoning request.

11. Is the zoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?

The proposed commercial uses are less intense than others allowed in the C-2 zone and would therefore be more compatible with the adjacent neighborhood.

12. What length of time has the subject property remained vacant as zoned?

The subject property is not vacant.

13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?

Cannon Boulevard is predominately a commercial corridor. There are vacant parcels as well as underused parcels along Cannon Boulevard.

14. Was the existing zoning in error at the time of adoption?

No.

NOW, THEREFORE BE IT RESOLVED by the Kannapolis City Council that the above referenced property be rezoned City of Kannapolis C-2-CZ – General Commercial Conditional Zoning District, subject to the following conditions:

1. The uses permitted with this rezoning shall only include restaurant, and mini golf with associated club house and pavilion.
2. A Site Plan shall be submitted and approved by City Staff prior to issuance of a Zoning Clearance Permit.
3. A minimum 21 foot undisturbed landscape buffer shall be provided along the western portion of the subject property. Where necessary, supplemental plantings shall be installed to achieve a fully opaque screening to the adjacent residential use along the western portion of the subject property.
4. Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed downward and away from adjacent property on Willow Drive.

RESOLUTION TO ZONE (Case #CZ-2018-01)

City of Kannapolis General Commercial (C-2) and Residential Medium Density (RM-1) to
City of Kannapolis General Commercial Conditional Zoning District (C-2-CZ)

5. The business hours of operation shall not open before 8am Monday through Saturday and 2pm Sundays, and shall not extend beyond 11pm on any day of the week.
6. Driveway locations shall be approved by NCDOT and the City.
7. Driveways and parking lots shall comply with all Fire Codes and Autoturn (a traffic engineering program which specifies the required turning radii for vehicles including delivery trucks and emergency vehicles) shall be run for an SU-30 and Bus-45 (mimics ladder truck).
8. Streams and wetlands shall be identified by a qualified person and all buffers shown in accordance with Article 4 of the Kannapolis UDO. Construction of buildings, roads, and other structures must comply with RSOD Buffer requirements or be relocated.
9. A Stormwater Management Permit will be required for this Development in accordance with Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be provided for all stormwater structures and BMP's. Stormwater BMP's cannot be constructed in the undisturbed buffer.
10. The applicant is responsible for verifying that the water meters, service lines and sanitary sewer connections are adequately sized for the building.
11. Hydrants and fire protection shall comply with UDO Appendix C.3 and Fire Codes.

Adopted this the 22nd Day of October, 2018

Milton D. Hinnant, Mayor

Attest:

Bridgette Bell, MMC, NCCMC
City Clerk



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: Public Hearing - TA-2018-05, Text Amendment to Unified Development Ordinance (UDO)

A. Action Requested by City Council

Conduct the required Public Hearing for Case # TA-2018-05 and consider adopting a Statement of Consistency and adopt an Ordinance amending the UDO in accordance with Table 4.6-1 and Article 11 to allow Equipment Rental and Leasing (with outdoor storage) in the CD Zoning District, subject to Outdoor Storage standards in Article 11.1 of the UDO.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

Planning staff was approached by a company wanting to locate an Equipment Rental and Leasing business on a parcel in the CD district. The business requires outdoor storage of machinery. Table 4.6-1 allows Equipment Rental and Leasing in the CD district but does not allow outdoor storage.

The proposed amendment would allow Equipment Rental and Leasing with outdoor storage in the CD zoning district, subject to Article 11.1 Outdoor Storage and Solid Waste Storage Standards. Article 11.1 requires landscaping and screening of outdoor storage areas in non-residential zoning districts.

Staff believes that the proposed amendment is consistent with the purpose statement of the CD district in Article 4.3.15 of the UDO, because it provides flexibility in the internal arrangement of uses within the district while achieving integration of the district into the surrounding area. For reference, Articles 4.3.15 and 11.1 are attached.

The Planning and Zoning Commission voted unanimously at its September 5, 2018 meeting to recommend City Council adoption of TA-2018-05. A First Reading of the proposed text amendment occurred at City Council's September 24, 2018 meeting.

D. Fiscal Considerations

None

E. Policy Issues

The proposed text amendments to the UDO are attached.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

Planning staff concurs with the recommendation of the Planning and Zoning Commission and recommends City Council adoption of TA-2018-05

The following actions are required to approve TA-2018-05:

1. Motion to approve a Resolution to Adopt a Statement of Consistency (attached)
2. Motion to approve an Ordinance to Amend Table 4.6-1 and Article 11.1 of the Unified Development Ordinance (UDO) (attached)

The following are alternate actions to the approval of TA-2018-05:

1. Take no action.
2. Refer TA-2018-05 back to the Planning and Zoning Commission with recommendations.
3. Table action to a future meeting.

ATTACHMENTS:**File Name**

- ❑ Application_for_Text_Amendment.pdf
- ❑ Proposed_Changes_to_Table_4.6-1_and_Article_11.1.pdf
- ❑ UDO_Article_4.3.15.pdf
- ❑ UDO_Article_11_2.pdf
- ❑ TA-2018-05_CC-Statement_of_Consistency.pdf
- ❑ Ordinance_to_amend_text_of_UDO_-_TA_2018-05.pdf



Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

Variance	_____	SIA Application	_____
Conditional Use Permit	_____	Nonconformity Adjustment	_____
Subdivision Exception	_____	Watershed Boundary Modification	_____
Zoning Text Amendment	<input checked="" type="checkbox"/>	Zoning Map Amendment	_____
Appeal	_____	Conditional Zoning Map Amendment	_____

Applicant: Zachary D. Gordon, AICP - Planning Director Owner: _____

Address: 401 Laureate Way Address: _____

Kannapolis, NC 28081

Telephone: 704-920-4355 Telephone: _____

Email: zgordon@kannapolisnc.gov Email: _____

Legal relationship of applicant to property owner: _____

Property Location/Address: _____

Tax Parcel Number: _____ Zoning District: _____ Acreage of Site: _____

Zachary D. Gordon

Applicant Name (Print)

Property Owner Name (Print)

[Signature]
Applicant Signature & Date

Property Owner Signature & Date

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: _____

Receipt # _____

Application No.: _____

Date Submitted (Complete): _____



CITY OF KANNAPOLIS

AN APPLICATION TO AMEND THE TEXT OF THE UNIFIED DEVELOPMENT ORDINANCE

I Zachary D. Gordon, AICP, hereby make application for an amendment to the following section(s) of the Unified Development Ordinance:

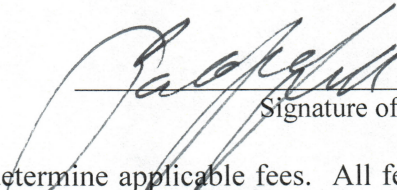
Table 4.6-1, Article 11.1

In the space provided below, or on a separate sheet, present your requested text for the Ordinance provisions in question:

See Attached Staff Report

State your reasons for amending the text of the Ordinance:

See Attached Staff Report



Signature of applicant

Fee: Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

Proposed Changes to Table 4.6-1

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS															
* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.															
P - Permitted Use	S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)														
C - Conditional Use	(-) Prohibited Use														
USE	NAICS	AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-1	CC*	C-1	C-2	CD-R*	CD*
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	-	P
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	-	P/S	-	<u>P/S</u>

Proposed Changes to Article 11.1

11.1.2.5 Equipment Rental and Leasing (with outdoor storage)

11.1.2.5.1 The provisions of this section shall apply to any Equipment Rental and Leasing (with outdoor storage use) located in the CD zoning district. General provisions under Section 11.1.2.1 – 11.1.2.1.8 shall also apply.

11.1.2.5.2 Outdoor storage area shall not exceed 50% of the total parcel square footage in which it is located.

4.3.15. CD CAMPUS DEVELOPMENT DISTRICT.

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the City primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

4.3.16. ⁽¹⁾CD-R CAMPUS DEVELOPMENT – RESIDENTIAL DISTRICT.

The CD-R District is established to provide small areas within existing CD Developments for high density residential. The district allows compact residential development consisting of condos, townhouses, and apartments, with a maximum of twenty-two (22) dwelling units per acre where adequate public facilities and services are available, except as otherwise provided in this Ordinance. Development within the district shall conform to the specific design controls required for multi-family and/or single-family attached projects set forth in Article 11.2. The CD-R District shall not be approved unless the lot, parcel, or tract subject to the application adjoins an existing CD Campus Development zoning district and is coordinated with the adjacent CD project.

4.3.17. I-1 LIGHT INDUSTRIAL DISTRICT.

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible

with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.18. I-2 GENERAL INDUSTRIAL DISTRICT.

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.19. STANDARDS FOR BASE DISTRICTS.

4.3.19.1. Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as conditional uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with § 5.2 of this Ordinance.

4.3.19.2. Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in § 4.7.

4.3.19.3. Standards for landscaping, screening and

11.1. OUTDOOR STORAGE AND SOLID WASTE STORAGE STANDARDS.

11.1.1. RESIDENTIAL DISTRICTS.

11.1.1.1. In the RE, RL, RM-1, RM-2, RV and RC districts, open storage of junk, salvage or equipment including but not limited to scrap metal, used boxes, or crates, used appliances, salvaged furniture or glassware, salvaged automobiles or parts shall be prohibited. All Nonconforming open storage areas as described above, which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any open storage areas that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 11.1.1.1.

11.1.1.2. Open storage of materials for non-residential uses within a residential zoning district shall conform to the standards of § 11.1.2 Non-residential Zoning Districts.

11.1.2. NON-RESIDENTIAL ZONING DISTRICTS.

11.1.2.1. ⁽²⁾General Provisions.

In the AG, B-1, CC, C-1, C-2, CD, I-1 and I-2 districts, outdoor storage areas shall comply with the following, except that allowed under §§ 11.1.2.2-11.1.2.4.

11.1.2.1.1. Outdoor storage areas shall be prohibited within 50 feet of any public street right-of-way and within ⁽¹⁾one hundred (100) feet of residential uses and/or residential zoning districts. This provision shall not apply to nursery stock in non-residential zoning districts.

⁽¹⁾All measurements used in the enforcement of this Section shall be depicted on a major or minor site plan as required for development approval.

11.1.2.1.2. ⁽⁴⁾Outdoor storage areas shall be screened where visible from the public or private right-of-way and residential zoned or residential used properties by an opaque screen. This provision shall not apply to Junk/Salvage Yards (see § 5.13).

11.1.2.1.3. Except for integral units (see Definitions, Appendix A), openly stored items shall not project above the screening. Notwithstanding this requirement, no item may exceed the building height restrictions in Table 4.7-1 for the zoning district within which the item is located.

11.1.2.1.4. No open storage area shall be maintained in the required front yard area, except that allowed by §§ 11.1.2.3 and 11.1.2.4.

11.1.2.1.5. Fences of chain link ⁽⁴⁾with fabric mesh, and fences of sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, shall not be considered as sufficient materials to screen outdoor storage areas or operations.

11.1.2.1.6. ⁽⁴⁾Screening shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, vinyl, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.

11.1.2.1.7. All Nonconforming open storage areas as described above, which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any open storage areas that were subject, to and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not

(1) City Council 4/23/2004

(2) City Council 10/25/2004

(3) TA-2009-05 – City Council approved 5/11/2009

(4) TA-2018-02 – City Council approved 3/26/2018



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
WITH REGARD TO TEXT AMENDMENT CASE# TA-2018-05**

WHEREAS, Section 160A-383 (2013) of the North Carolina General Statutes specifies that the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

WHEREAS, the proposed text amendments to **Article 4, Table 4.6-1. and Article 11, Section 11.1**, to allow Equipment Rental and Leasing (with outdoor storage) in the Campus Development (CD) zoning district, subject to Section 11.1, are consistent with the policies of Outcome 5.1 A Stabilized Economy, of the *Move Kannapolis Forward 2030 Comprehensive Plan*, because they will foster a positive business climate. Furthermore, the City Council finds the text amendments to be reasonable and in the public interest because they will support the economic growth and development of the City; and

WHEREAS, the City Council conducted a Public Hearing on October 22, 2018 for consideration of Case # TA-2018-05 as submitted by the Planning Department staff;

NOW, THEREFORE BE IT RESOLVED that the City Council finds the text amendments as represented in Case #TA-2018-05, consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan* as well as state statutes, reasonable, and in the public interest, and are recommended for approval by the City Council based on consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff.

Adopted this the 22nd Day of October, 2018;

Milton D. Hinnant, Mayor

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk



**AN ORDINANCE TO AMEND TEXT OF THE UNIFIED DEVELOPMENT
ORDINANCE, TABLE 4.6-1 and ARTICLE 11.1
CASE # TA-2018-05**

WHEREAS, per Section 3.8 of the Kannapolis Unified Development Ordinance (“UDO”), the City Council has final authority on zoning text amendments; and

WHEREAS, per Section 3.8 of the UDO, the Planning and Zoning Commission, at its regular meeting on September 5, 2018, recommended City Council approval of text amendments that will allow Equipment Rental and Leasing (with outdoor storage) in the CD Zoning District, subject to Outdoor Storage standards in Article 11.1 of the UDO; and

WHEREAS, City Council conducted a public hearing on October 22, 2018 to consider amendments to Table 4.6-1 and Article 11.1 of the UDO; and

WHEREAS, the proposed amendments are consistent with the City of Kannapolis *Move Kannapolis Forward 2030 Comprehensive Plan*, as well as state statutes, reasonable and in the public interest as detailed in the “Resolution to Adopt a Statement of Consistency for Text Amendment Case # TA-2018-05”;

NOW, THEREFORE, BE IT ORDAINED, by the Kannapolis City Council that Table 4.6-1 and Article 11.1 of the UDO be amended as follows:

The proposed text amendments to the UDO are included below as additions:

Table 4.6-1

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS															
* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.															
P - Permitted Use	S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see “§ 0.00” for reference)														
C - Conditional Use	(-) Prohibited Use														
USE		ZONING DISTRICTS													
		NAICS	AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R*
Equestrian Boarding & Riding Arenas, Commercial		81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)		53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	P
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)		53231, 5324	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S

Article 11.1

11.1.2.5 Equipment Rental and Leasing (with outdoor storage)

11.1.2.5.1 The provisions of this section shall apply to any Equipment Rental and Leasing (with outdoor storage use) located in the CD zoning district. General provisions under Section 11.1.2.1 – 11.1.2.1.8 shall also apply.

11.1.2.5.2 Outdoor storage area shall not exceed 50% of the total parcel square footage in which it is located.

ADOPTED this the 22nd Day of October, 2018.

ATTEST:

Milton D. Hinnant, Mayor

Bridgette Bell, MMC, NCCMC
City Clerk



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: Public Hearing - TA-2018-07, Text Amendments to Unified Development Ordinance (UDO)

A. Action Requested by City Council

Conduct the required Public Hearing for Case #TA-2018-07 and consider adopting a Statement of Consistency and an Ordinance amending the UDO in accordance with Article 4.14 Appendix A and Appendix B.9 to update the Flood Protection Overlay District pursuant to North Carolina's Flood Damage Prevention Ordinance.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The City of Kannapolis is required, by North Carolina legislation (Part 6, Article 21, Chapter 143; Parts 3, 5 and 8, Article 19, Chapter 160A; and Article 8, Chapter 160A), to adopt regulations designed to promote the public health, safety and general welfare as it relates to flood damage prevention. North Carolina State law requires an update to the FPOD and relevant Sections to comply with the minimum criteria of the National Flood Insurance Program (NFIP) 44 CFR 60.3(d) and (e), and NC Session Law 2000-150, Senate Bill 1341 (NCGS 143-215.51-61).

The proposed amendment fulfills a statutory requirement to update Article 4.14 Floodplain Protection Overlay District (FPOD) of the Unified Development Ordinance in order to continue eligibility to obtain flood insurance for properties within the City of Kannapolis and the ETJ. Changes are also proposed to Appendices A and B.9 as referenced in Article 4.14.

The proposed text changes are taken directly from the 2017 North Carolina Model Flood Damage Prevention Ordinance released by the State of North Carolina. Staff recommends adopting the proposed text amendment as presented.

D. Fiscal Considerations

None

E. Policy Issues

The proposed text amendments to the UDO are attached.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

Planning staff concurs with the unanimous recommendation of the Planning and Zoning Commission to approve this text amendment and recommends City Council adoption of TA-2018-07.

The following actions are required to approve TA-2018-07:

1. Motion to approve a Resolution to Adopt a Statement of Consistency (attached) |
2. Motion to approve an Ordinance to Amend Article 4.14, Appendix A and Appendix B.9 of the Unified Development Ordinance (UDO) to update the Flood Protection Overlay District pursuant to North Carolina's Flood Damage Prevention Ordinance (attached)

The following are alternate actions to the approval of TA-2018-07:

1. Take no action. |
2. Refer TA-2018-07 back to the Planning and Zoning Commission with recommendations
3. Table action to a future meeting

ATTACHMENTS:

File Name

- ❑ Application_for_Text_Amendment..pdf
- ❑ UDO_Article_4.14.pdf
- ❑ 3._UDO_Appendix_A_-_Definitions.pdf
- ❑ 4._UDO_Appdx_B9.pdf
- ❑ TA-2018-07_CC-Statement_of_Consistency.pdf
- ❑ Ordinance_to_amend_text_of_UDO_-_TA_2018-07.pdf
- ❑ Exhibit_A_-_Article_4.14__App_A_and_B9_Changes.pdf



Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

Variance	_____	SIA Application	_____
Conditional Use Permit	_____	Nonconformity Adjustment	_____
Subdivision Exception	_____	Watershed Boundary Modification	_____
Zoning Text Amendment	<input checked="" type="checkbox"/>	Zoning Map Amendment	_____
Appeal	_____	Conditional Zoning Map Amendment	_____

Applicant: Zachary D. Gordon, AICP - Planning Director Owner: _____

Address: 401 Laureate Way Address: _____

Kannapolis, NC 28081

Telephone: 704-920-4355 Telephone: _____

Email: zgordon@kannapolisnc.gov Email: _____

Legal relationship of applicant to property owner: _____

Property Location/Address: _____

Tax Parcel Number: _____ Zoning District: _____ Acreage of Site: _____

Zachary D. Gordon
Applicant Name (Print)

Property Owner Name (Print)

[Signature]
Applicant Signature & Date

Property Owner Signature & Date

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: _____

Receipt # _____

Application No.: _____

Date Submitted (Complete): _____



CITY OF KANNAPOLIS

AN APPLICATION TO AMEND THE TEXT OF THE UNIFIED DEVELOPMENT ORDINANCE

I Zachary D. Gordon, AICP, hereby make application for an amendment to the following section(s) of the Unified Development Ordinance:

Article 4.14, Appendix A and Appendix B9

In the space provided below, or on a separate sheet, present your requested text for the Ordinance provisions in question:

See Attached Staff Report

State your reasons for amending the text of the Ordinance:

See Attached Staff Report

Signature of applicant

Fee: Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

4.14. FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT.

4.14.1. FINDINGS OF FACT.

4.14.1.1. The flood prone areas within the jurisdiction of City of Kannapolis are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

4.14.1.2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

4.14.2. STATEMENT OF PURPOSE.

It is the purpose of this Floodplain Overlay District to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- Restrict and prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

4.14.3. OBJECTIVES OF FLOODPLAIN OVERLAY DISTRICT

The objectives of this Section 4.14 are to:

- Protect human life and safety, health;

- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business losses and interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable, sewer lines, streets and bridges located in flood prone areas;
- Minimize damage to private and public property due to flooding;
- Make flood insurance available to the community through the National Flood Insurance Program;
- Maintain the natural and beneficial functions of floodplains;
- Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- Ensure that potential home buyers are aware that property is in a Special Flood Hazard Area.

4.14.4. LANDS TO WHICH THIS ARTICLE APPLIES.

This Section 4.14 shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the City of Kannapolis and within the jurisdictions of any other community whose governing body agrees, by resolution, to such applicability.

4.14.5. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated ~~November 5, 2008~~ November 16, 2018, and associated Digital Flood Insurance Maps (DFIRM) panels, including any digital data developed as part of the FIS which are adopted by reference and declared to be a part of this Section 4.14 and shall constitute the official boundaries of the Floodplain Overlay District. Future revisions to the FIS and DFIRM panels that do not

change flood hazard data within the jurisdictional authority of the City of Kannapolis are also adopted by reference and declared a part of this ordinance.

4.14.6. COMPLIANCE WITH THIS ORDINANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section 4.14 and other applicable regulations.

4.14.7. ABROGATION AND GREATER RESTRICTIONS.

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section 4.14 and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4.14.8. INTERPRETATION AND APPLICATION OF SECTION 4.14.

In the interpretation and application of this Section 4.14 all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the City; and
- Deemed neither to limit nor repeal any other powers granted under State statutes.

4.14.9. PENALTIES FOR VIOLATION.

Violation of the provisions of this Section 4.14 or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Section 4.14 or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

4.14.10. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Section 4.14 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section 4.14 does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Section 4.14

shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section 4.14 or any administrative decision made pursuant to this Section 4.14.

4.14.11. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City's Planning Director or his /her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this Section.

4.14.12. DUTIES OF ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

4.14.12.1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

4.14.12.2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

4.14.12.3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4.14.12.4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

4.14.12.5. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this § 4.14.26 are met.

4.14.12.6. Obtain actual elevation, in relation to mean sea level, of the reference level, including the basement, and all attendant utilities of all new or substantially improved structures, in accordance with 4.14.14.

4.14.12.7. Obtain actual elevation, in relation to mean sea level, to which the new or substantially improved structures and utilities have been floodproofed, in accordance with 4.14.14.

4.14.12.8. Obtain actual elevation, in relation to mean sea level, of all public utilities in accordance with the provisions of 4.14.14.

4.14.12.9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or surveyor in accordance with 4.14.14 and 4.14.19.4.

4.14.12.10. Where interpretation is needed as to the exact location of boundaries of the areas of the Special Flood Hazard Areas, floodways, or non-encroachment areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 3.7 of this Ordinance.

4.14.12.11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.14.5 herein, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this Ordinance.

4.14.12.12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with 4.14.5, obtain review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.

4.14.12.13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

4.14.12.14. Permanently maintain all records to the administration of this Section and make these

records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

4.14.12.15. Make on-site inspections of work in progress. .

4.14.12.16. Issue stop-work orders as required.

4.14.12.17. Revoke floodplain development permits as required.

4.14.12.18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.12.19. Follow through with corrective procedures of 4.14.16.

4.14.12.20. Review, provide input, and make recommendations for variance requests.

4.14.12.21. Maintain a current map repository to include, but not limited to, FIS Report, FIRM and other official flood maps and studies adopted in accordance with 4.14.4, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

4.14.12.22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.14.13. DEVELOPMENT PERMIT.

4.14.13.1. A floodplain development permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 4.14.5 of this ordinance.

4.14.13.2. Application of a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The

Applicant shall submit a Flood Prevention Plan as set forth in Appendix B.

4.14.13.3. The Floodplain Development Permit shall include, but not be limited to:

- A description of the development to be permitted under the floodplain development permit.
- The Special Flood Hazard Area determined for the proposed development in accordance with available data specified in Section 4.14.5.
- The regulatory flood protection elevation required for the reference level and all attendant utilities.
- The regulatory flood protection elevation required for the protection of all public utilities.
- All certification submittal requirements with timelines.
- A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- Limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access, and limited storage only)

4.14.14. CERTIFICATION REQUIREMENTS

4.14.14.1. Elevation Certificates

- An Elevation Certificate (FEMA Form ~~81-31~~ 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- An Elevation Certificate (FEMA form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference

level. Any work done within the seven (7) day calendar period and prior to the submission of the certification

- A final as-built Elevation Certificate (FEMA ~~81-31~~ Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

4.14.14.2. Floodproofing Certificate

- If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA ~~81-65~~ Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan area required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to the permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the

issuance of a Certificate of Compliance/Occupancy.

- A final finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certificate design shall be cause to deny a Certificate of Compliance/Occupancy.

4.14.14.3. If a manufactured home is placed within Zone A, AO, AE, ~~or A1-30, AH, A99~~ and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 4.14.19.3.

4.14.14.4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

4.14.14.5. Certification Exceptions. The following structures, if located within Zone A, AO, AE ~~or A1-30, AH, A99~~, are exempt from the elevation/floodproofing certification requirements specified in 4.14.14.1 and 4.14.14.2:

- Recreational Vehicles meeting requirements of 4.14.24;
- Temporary Structures meeting requirements of 4.14.21; and
- Accessory Structures less than 150 square feet meeting requirements of 4.14.22.

4.14.14.6 Determination for existing buildings and structures

- For applications for building permits to improve buildings and structures, including alternations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, an any other improvements of or work on such building and structures, the Floodplain Administrator shall:
 - Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - Notify the applicant if it is determine that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirement of the NC Building Code and this Section is required.

4.14.15. INSPECTIONS AND VIOLATIONS.

4.14.15.1. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the

work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.15.2. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

4.14.15.3. The Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

4.14.15.4. When the Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

4.14.16. REMEDY TO VIOLATION.

4.14.16.1. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- That the building or property is in violation of the floodplain management regulations;
- That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days

after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

- That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as applicable.
- If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this § 4.14, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eight (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.
- Any Applicant for which a Floodplain Development Permit has been denied, or to which conditions have been attached, or any Applicant owner who has received an order to take corrective action, may appeal from the decision or order pursuant to § 3.7 of this Ordinance.
- Failure to Comply with Order: If the Owner of a building or property fails to comply with an order to take corrective actions for which no Appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to

prevent or remedy any violation.

4.14.17. VARIANCE PROCEDURES.

4.14.17.1. The Board of Adjustment as established by the City of Kannapolis, shall hear and decide requests for variances from the requirements of this Section 4.14 in accordance with the procedures and standards set forth in § 3.7 of this Ordinance.

4.14.17.2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

4.14.17.3. Variances may be issued for:

- The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- Functionally dependent facilities if determined to meet the definition as stated in Appendix A of the UDO, provided such facilities are protected by methods that minimize flood damages during base flood damages during the base flood and create no additional threats to public safety.
- Any other type of development, provided it meets the requirements of 4.14.17.

4.14.17.4. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of 4.14., and:

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location as defined in Appendix A as a functionally dependent facility, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety of access to the property in times of flood for ordinary and emergency vehicles;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and
- The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4.14.17.5. The findings listed above shall be submitted to the Board of Adjustment in writing, and included in the application for a variance.

4.14.17.6. Upon consideration of the factors listed above, and the purposes of this Section 4.14, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section 4.14.

4.14.17.7. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

4.14.17.8. Conditions for variances are as follows:

- Variances shall not be issued when the variance will render the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Variances shall only be issued prior to development permit approval.
- Variances shall only be issued upon:
 - A showing of good and sufficient cause;
 - A determination that failure to grant the variance would result in exceptional hardship; and
 - A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense,

create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4.14.17.9. A variance may be issued for solid waste disposal facilities per site, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the flowing conditions are met:

- The use serves a critical need in the community.
- No feasible location exists for the use outside the Special Flood Hazard Area.
- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State, and local laws.
- The City of Kannapolis has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.14.17.10. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risk of life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

4.14.17.11. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

4.14.18. PROVISIONS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required:

- All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

- All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- ~~Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of new construction as contained in this Section 4.14.~~
- Nothing in this Section 4.14 shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 4.14 and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section 4.14.
- New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 4.14.17.9. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of water treatment plant or wastewater

treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 4.14.14.

- All subdivision and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

4.14.19. SPECIFIC STANDARDS FOR CONSTRUCTION OF PERMANENT STRUCTURES.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in 4.14.5 or 4.14.14, the following provisions, in addition to the provisions of 4.14.18 are required:

4.14.19.1. Residential Construction.

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.

4.14.19.2. Manufactured Homes.

The following shall apply to Manufactured homes only:

- New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.
- Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the

State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- All enclosures or skirting below the lowest floor shall meet the requirements of 4.14.20.
- An evacuation plan must be developed of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4.14.19.3. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in A, AE, AO, ~~and A1-30 AH~~ and A99 Zones may be floodproofed to the regulatory flood prevention elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 4.14.14.2. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 4.14.4, along with the operational and maintenance plans.

4.14.20. ELEVATED BUILDINGS.

4.14.20.1. New construction or substantial improvements of elevated buildings that include fully enclosed areas which are below the lowest floor:

- 4.14.20.1.1.** Shall not be temperature controlled

or conditioned. Shall not be designed or used for human habitation, but shall only be used for the parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

4.14.20.1.2. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

4.14.20.1.3. Shall include, in Zones A, AO, AE, ~~and A1-30~~ AH and A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

- A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage rooms.
- Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as

outlined above.

4.14.21. TEMPORARY NON-RESIDENTIAL STRUCTURES.

4.14.21.1. Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

- All applicants must submit to the Floodplain Administrator, a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;
- A specified time period for which the temporary use will be permitted Time specified may not exceed three (3) months, renewable up to one (1) year;
- The name, address and phone number of the individual responsible for the removal of the temporary structure;
- The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure ; and
- Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

4.14.22. ACCESSORY AND OTHER STRUCTURES.

4.14.22.1. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Boundary Area, the following criteria shall be met:

- Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- Accessory structures shall not be temperature-controlled;
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

- Accessory structures shall be firmly anchored in accordance with § 4.14.18;
- Service facilities such as electrical shall be installed in accordance with § 4.14.18.
- Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below base flood elevation in conformance with § 4.14.20.

4.14.22.2. An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4.14.14.

4.14.22.3. Tanks: When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- Underground tanks: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- Above-ground tanks, elevated: Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirement of the applicable flood hazard area;
- Above-ground tanks, not elevated: Above-ground tanks that do not meet the elevation requirement of the above Section (Above-ground tanks, elevated), shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood without release of content in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

- Tank, inlets and vents: Tank inlets, fill openings and vents shall be:

- At or above Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of design flood.

4.14.22.4. Other Development

- Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockage fences and wire mesh fences, shall meet the requirements of Section 4.14.26.
- Retaining walls, sidewalks and driveways in regulated floodways and NEAs that involve placement of fill in regulated floodways shall meet the requirements of Section 4.14.26.
- Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the requirements of Section 4.14.26.

4.14.23. ADDITIONS/IMPROVEMENTS

4.14.23.1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.23.2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

4.14.23.3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.23.4 Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has a sustained damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
- Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified and that are the minimum necessary to assume safe living conditions.
- Any alterations of a historic structure provided that the alteration will not produce the structure's continued designation as an historic structure.

4.14.24. RECREATIONAL VEHICLES.

4.14.24.1. A Recreation vehicles shall either:

- Be on-site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions) ; or
- Meets all requirements for new construction.

4.14.25. STANDARDS FOR LAND SUBDIVISIONS.

4.14.25.1. All subdivision proposals shall be consistent with the need to minimize flood damage;

4.14.25.2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

4.14.25.3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

4.14.26. FLOODWAYS AND NON-ENCROACHMENT AREAS.

4.14.26.1. Areas designated floodways or non-encroachment areas are located within Special Flood Hazard Areas established in 4.14.5. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 4.14.18 through 4.14.20, shall apply to all development within such areas:

4.14.26.2. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
- A Conditional Letter of Map Revisions (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

4.14.26.3. If § 4.14.26.2 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section 4.14.

4.14.26.4. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or

subdivision, providing the following provisions are met:

- The anchoring and the elevation standards of 4.14.19; and
- The no encroachment standard of 4.14.26.2.

4.14.27. STREAMS WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

4.14.27.1. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 4.14.5, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 4.14.18, shall apply:

4.14.27.1.1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

4.14.27.1.2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

- When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with 4.14.18 and 4.14.19.
- When floodway data is available from a Federal, State, or other resource, all new construction and substantial improvements within floodway areas shall also comply with the requirements of 4.14.19 and 4.14.22.
- All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with 4.14.5 and utilized in

implementing this ordinance.

- When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of 4.14.19 and 4.14.20 shall also apply.

4.14.28. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

4.14.28.1. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- Standards of Sections 4.14.18 and 4.14.19; and
- Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

4.14.29. AREAS OF SHALLOW FLOODING (AO ZONES).

4.14.29.1. Located within the Special Flood Hazard Areas established in § 4.14.5 are areas designated as shallow flooding areas. These areas have special flood hazard associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.14.18 through 4.14.20, all new construction and substantial improvements shall meet the following requirements:

4.14.29.1.1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth is specified.

4.14.30. AREA OF SHALLOW FLOODING (ZONE AH)

4.14.30.1 Located within the Special Flood Hazard Areas established in Section 4.15.5, are areas designated as shallow flooding areas. These are subject to inundation by 1% annual chance shallow flooding (usually area of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations derived from detailed hydraulic analyses are shown in this zone. All new construction and substantial improvement shall meet the following requirement:

- Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

4.14.31. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2008 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Kannapolis enacted on October 27, 2008, as amended, which are not reenacted herein are repealed.

Appendix A

Definitions

ALTERATION OF A WATERCOURSE - a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AREA OF SHALLOW FLOODING – A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF FUTURE-CONDITIONS FLOOD HAZARD - the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

DESIGN FLOOD - See “Regulatory Flood Protection Elevation.”

DEVELOPMENT ACTIVITY - any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE Map (DFIRM) - the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

EXISTING BUILDING AND EXISTING STRUCTURE - any building and/or structure for which the “start of construction” commenced before date the community’s first floodplain management ordinance was adopted.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

FLOOD-RESISTANT MATERIAL - any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining

damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY ENCROACHMENT ANALYSIS - an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

LETTER OF MAP CHANGE (LOMC) - an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIGHT DUTY TRUCK - any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

~~MEAN SEA LEVEL—The national Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base Flood Elevations (BFEs) shown on a FIRM as referenced. Refer to each FIRM panel to determine datum used.~~

NON-CONVERSION AGREEMENT - a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET - a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

TEMPERATURE CONTROLLED - having the temperature regulated by a heating and/or cooling system, built-in or appliance.

B.9. FLOOD PREVENTION PLAN.

The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.14.5, or a statement that the entire lot is within the Special Flood Hazard Area;
 - Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 4.14.5;
 - The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 4.14.5;
 - The Base Flood Elevation (BFE) where provided as set forth in Section 4.14.5; 4.14.12; or 4.14.28;
 - The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - Certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - Elevation in relation to mean sea level to which any non-residential the structure in Zone AE, A, or AO will be floodproofed; and
 - Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing a Floodproofing Certificate (FEMA ~~84-65~~ [Form 086-0-34](#)) with supporting data and an operations plans that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
4. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e. fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/ piers/piles/shear walls);
2. Opening to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 4.14.19 of this Ordinance when solid foundation perimeter walls are used in Zones A, AO, AE, and ~~A1-30~~ AH and A99;
5. Usage details of any enclosed areas below the lowest floor.
6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
7. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 4.14.20 and 4.14.23 of this Ordinance are met.

A description of proposed watercourse alterations or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
WITH REGARD TO TEXT AMENDMENT CASE# TA-2018-07**

WHEREAS, Section 160A-383 (2013) of the North Carolina General Statutes specifies that the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

WHEREAS, text amendments to **Article 4, Section 4.14 (Flood Protection Overlay District), Appendix A (Definitions) and Appendix B.9 (Flood Prevention Plan)** to update Article 4, and Appendices A and B.9 to comply with the minimum criteria of the National Flood Insurance Program (NFIP) 44 CFR 60.3(d) and (e), and NC Session Law 2000-150, Senate Bill 1341 (NCGS 143-215.51-61) are consistent with the policies of Outcome 7.5 A Resilient Community, of the *Move Kannapolis Forward 2030 Comprehensive Plan*, because they will minimize or mitigate development within floodplain zones. Furthermore, the City Council finds the text amendments to be reasonable and in the public interest because the amendments provides protection for areas located in floodplains within the City; and

WHEREAS, the City Council conducted a Public Hearing on October 22, 2018 for consideration of Case # TA-2018-07 as submitted by the Planning Department staff;

NOW, THEREFORE BE IT RESOLVED that the City Council finds the text amendments as represented in Case #TA-2018-07, to be consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan* as well as state statutes, reasonable, and in the public interest, and is recommended for approval in consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff.

Adopted this the 22nd Day of October, 2018;

Milton D. Hinnant, Mayor

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk



**AN ORDINANCE TO AMEND TEXT OF THE UNIFIED DEVELOPMENT
ORDINANCE, ARTICLE 4.14, APPENDIX A AND APPENDIX B.9
CASE # TA-2018-07**

WHEREAS, per Section 3.8 of the Kannapolis Unified Development Ordinance (“UDO”), the City Council has final authority on zoning text amendments; and

WHEREAS, per Section 3.8 of the UDO, the Planning and Zoning Commission, at its regular meeting on September 5, 2018, recommended City Council approval of text amendments to update the Flood Protection Overlay District (FPOD) and Appendix A and Appendix B.9, pursuant to North Carolina’s Flood Damage Prevention Ordinance; and

WHEREAS, City Council conducted a public hearing on October 22, 2018 to consider amendments to Article 4.14, Appendix A and Appendix B.9 of the UDO; and

WHEREAS, the proposed amendments are consistent with the City of Kannapolis *Move Kannapolis Forward 2030 Comprehensive Plan*, as well as state statutes, reasonable and in the public interest as detailed in the “Resolution to Adopt a Statement of Consistency for Text Amendment Case # TA-2018-07”;

NOW, THEREFORE, BE IT ORDAINED, by the Kannapolis City Council that Article 4.14, Appendix A and Appendix B.9 of the UDO be amended as follows:

The proposed text amendments to the UDO are attached as Exhibit A as additions and ~~deletions~~:

ADOPTED this the 22nd Day of October, 2018.

Milton D. Hinnant, Mayor

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk

EXHIBIT A

4.14. FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT.

4.14.1. FINDINGS OF FACT.

4.14.1.1. The flood prone areas within the jurisdiction of City of Kannapolis are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

4.14.1.2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

4.14.2. STATEMENT OF PURPOSE.

It is the purpose of this Floodplain Overlay District to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- Restrict and prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

4.14.3. OBJECTIVES OF FLOODPLAIN OVERLAY DISTRICT

The objectives of this Section 4.14 are to:

- Protect human life and safety, health;

- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business losses and interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable, sewer lines, streets and bridges located in flood prone areas;
- Minimize damage to private and public property due to flooding;
- Make flood insurance available to the community through the National Flood Insurance Program;
- Maintain the natural and beneficial functions of floodplains;
- Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- Ensure that potential home buyers are aware that property is in a Special Flood Hazard Area.

4.14.4. LANDS TO WHICH THIS ARTICLE APPLIES.

This Section 4.14 shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the City of Kannapolis and within the jurisdictions of any other community whose governing body agrees, by resolution, to such applicability.

4.14.5. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated ~~November 5, 2008~~ November 16, 2018, and associated Digital Flood Insurance Maps (DFIRM) panels, including any digital data developed as part of the FIS which are adopted by reference and declared to be a part of this Section 4.14 and shall constitute the official boundaries of the Floodplain Overlay District. Future revisions to the FIS and DFIRM panels that do not

change flood hazard data within the jurisdictional authority of the City of Kannapolis are also adopted by reference and declared a part of this ordinance.

4.14.6. COMPLIANCE WITH THIS ORDINANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section 4.14 and other applicable regulations.

4.14.7. ABROGATION AND GREATER RESTRICTIONS.

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section 4.14 and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4.14.8. INTERPRETATION AND APPLICATION OF SECTION 4.14.

In the interpretation and application of this Section 4.14 all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the City; and
- Deemed neither to limit nor repeal any other powers granted under State statutes.

4.14.9. PENALTIES FOR VIOLATION.

Violation of the provisions of this Section 4.14 or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Section 4.14 or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

4.14.10. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Section 4.14 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section 4.14 does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Section 4.14

shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section 4.14 or any administrative decision made pursuant to this Section 4.14.

4.14.11. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City's Planning Director or his /her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this Section.

4.14.12. DUTIES OF ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

4.14.12.1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

4.14.12.2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

4.14.12.3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4.14.12.4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

4.14.12.5. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this § 4.14.26 are met.

4.14.12.6. Obtain actual elevation, in relation to mean sea level, of the reference level, including the basement, and all attendant utilities of all new or substantially improved structures, in accordance with 4.14.14.

4.14.12.7. Obtain actual elevation, in relation to mean sea level, to which the new or substantially improved structures and utilities have been floodproofed, in accordance with 4.14.14.

4.14.12.8. Obtain actual elevation, in relation to mean sea level, of all public utilities in accordance with the provisions of 4.14.14.

4.14.12.9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or surveyor in accordance with 4.14.14 and 4.14.19.4.

4.14.12.10. Where interpretation is needed as to the exact location of boundaries of the areas of the Special Flood Hazard Areas, floodways, or non-encroachment areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 3.7 of this Ordinance.

4.14.12.11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.14.5 herein, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this Ordinance.

4.14.12.12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with 4.14.5, obtain review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.

4.14.12.13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

4.14.12.14. Permanently maintain all records to the administration of this Section and make these

records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

4.14.12.15. Make on-site inspections of work in progress. .

4.14.12.16. Issue stop-work orders as required.

4.14.12.17. Revoke floodplain development permits as required.

4.14.12.18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.12.19. Follow through with corrective procedures of 4.14.16.

4.14.12.20. Review, provide input, and make recommendations for variance requests.

4.14.12.21. Maintain a current map repository to include, but not limited to, FIS Report, FIRM and other official flood maps and studies adopted in accordance with 4.14.4, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

4.14.12.22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.14.13. DEVELOPMENT PERMIT.

4.14.13.1. A floodplain development permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 4.14.5 of this ordinance.

4.14.13.2. Application of a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The

Applicant shall submit a Flood Prevention Plan as set forth in Appendix B.

4.14.13.3. The Floodplain Development Permit shall include, but not be limited to:

- A description of the development to be permitted under the floodplain development permit.
- The Special Flood Hazard Area determined for the proposed development in accordance with available data specified in Section 4.14.5.
- The regulatory flood protection elevation required for the reference level and all attendant utilities.
- The regulatory flood protection elevation required for the protection of all public utilities.
- All certification submittal requirements with timelines.
- A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- Limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access, and limited storage only)

4.14.14. CERTIFICATION REQUIREMENTS

4.14.14.1. Elevation Certificates

- An Elevation Certificate (FEMA Form ~~81-31~~ 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- An Elevation Certificate (FEMA form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference

level. Any work done within the seven (7) day calendar period and prior to the submission of the certification

- A final as-built Elevation Certificate (FEMA ~~81-31~~ Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

4.14.14.2. Floodproofing Certificate

- If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA ~~81-65~~ Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan area required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to the permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the

issuance of a Certificate of Compliance/Occupancy.

- A final finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certificate design shall be cause to deny a Certificate of Compliance/Occupancy.

4.14.14.3. If a manufactured home is placed within Zone A, AO, AE, ~~or A1-30, AH, A99~~ and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 4.14.19.3.

4.14.14.4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

4.14.14.5. Certification Exceptions. The following structures, if located within Zone A, AO, AE ~~or A1-30, AH, A99~~, are exempt from the elevation/floodproofing certification requirements specified in 4.14.14.1 and 4.14.14.2:

- Recreational Vehicles meeting requirements of 4.14.24;
- Temporary Structures meeting requirements of 4.14.21; and
- Accessory Structures less than 150 square feet meeting requirements of 4.14.22.

4.14.14.6 Determination for existing buildings and structures

- For applications for building permits to improve buildings and structures, including alternations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, an any other improvements of or work on such building and structures, the Floodplain Administrator shall:
 - Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - Notify the applicant if it is determine that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirement of the NC Building Code and this Section is required.

4.14.15. INSPECTIONS AND VIOLATIONS.

4.14.15.1. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the

work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.15.2. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

4.14.15.3. The Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

4.14.15.4. When the Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

4.14.16. REMEDY TO VIOLATION.

4.14.16.1. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- That the building or property is in violation of the floodplain management regulations;
- That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days

after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

- That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as applicable.
- If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this § 4.14, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eight (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.
- Any Applicant for which a Floodplain Development Permit has been denied, or to which conditions have been attached, or any Applicant owner who has received an order to take corrective action, may appeal from the decision or order pursuant to § 3.7 of this Ordinance.
- Failure to Comply with Order: If the Owner of a building or property fails to comply with an order to take corrective actions for which no Appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to

prevent or remedy any violation.

4.14.17. VARIANCE PROCEDURES.

4.14.17.1. The Board of Adjustment as established by the City of Kannapolis, shall hear and decide requests for variances from the requirements of this Section 4.14 in accordance with the procedures and standards set forth in § 3.7 of this Ordinance.

4.14.17.2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

4.14.17.3. Variances may be issued for:

- The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- Functionally dependent facilities if determined to meet the definition as stated in Appendix A of the UDO, provided such facilities are protected by methods that minimize flood damages during base flood damages during the base flood and create no additional threats to public safety.
- Any other type of development, provided it meets the requirements of 4.14.17.

4.14.17.4. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of 4.14., and:

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location as defined in Appendix A as a functionally dependent facility, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety of access to the property in times of flood for ordinary and emergency vehicles;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and
- The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4.14.17.5. The findings listed above shall be submitted to the Board of Adjustment in writing, and included in the application for a variance.

4.14.17.6. Upon consideration of the factors listed above, and the purposes of this Section 4.14, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section 4.14.

4.14.17.7. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

4.14.17.8. Conditions for variances are as follows:

- Variances shall not be issued when the variance will render the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Variances shall only be issued prior to development permit approval.
- Variances shall only be issued upon:
 - A showing of good and sufficient cause;
 - A determination that failure to grant the variance would result in exceptional hardship; and
 - A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense,

create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4.14.17.9. A variance may be issued for solid waste disposal facilities per site, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the flowing conditions are met:

- The use serves a critical need in the community.
- No feasible location exists for the use outside the Special Flood Hazard Area.
- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State, and local laws.
- The City of Kannapolis has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.14.17.10. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risk of life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

4.14.17.11. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

4.14.18. PROVISIONS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required:

- All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

- All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- ~~Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of new construction as contained in this Section 4.14.~~
- Nothing in this Section 4.14 shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 4.14 and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section 4.14.
- New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 4.14.17.9. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of water treatment plant or wastewater

treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 4.14.14.

- All subdivision and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

4.14.19. SPECIFIC STANDARDS FOR CONSTRUCTION OF PERMANENT STRUCTURES.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in 4.14.5 or 4.14.14, the following provisions, in addition to the provisions of 4.14.18 are required:

4.14.19.1. Residential Construction.

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.

4.14.19.2. Manufactured Homes.

The following shall apply to Manufactured homes only:

- New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.
- Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the

State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS [§ 143-143.15](#). Additionally, when the elevation would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- All enclosures or skirting below the lowest floor shall meet the requirements of 4.14.20.
- An evacuation plan must be developed of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4.14.19.3. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in A, AE, AO, ~~and A1-30 AH~~ [and A99](#) Zones may be floodproofed to the regulatory flood prevention elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 4.14.14.2. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 4.14.4, along with the operational and maintenance plans.

4.14.20. ELEVATED BUILDINGS.

4.14.20.1. New construction or substantial improvements of elevated buildings that include fully enclosed areas which are below the lowest floor:

- 4.14.20.1.1.** [Shall not be temperature controlled](#)

or conditioned. Shall not be designed or used for human habitation, but shall only be used for the parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

4.14.20.1.2. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

4.14.20.1.3. Shall include, in Zones A, AO, AE, ~~and A1-30~~ AH and A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

- A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage rooms.
- Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as

outlined above.

4.14.21. TEMPORARY NON-RESIDENTIAL STRUCTURES.

4.14.21.1. Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

- All applicants must submit to the Floodplain Administrator, a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;
- A specified time period for which the temporary use will be permitted Time specified may not exceed three (3) months, renewable up to one (1) year;
- The name, address and phone number of the individual responsible for the removal of the temporary structure;
- The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure ; and
- Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

4.14.22. ACCESSORY AND OTHER STRUCTURES.

4.14.22.1. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Boundary Area, the following criteria shall be met:

- Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- Accessory structures shall not be temperature-controlled;
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

- Accessory structures shall be firmly anchored in accordance with § 4.14.18;
- Service facilities such as electrical shall be installed in accordance with § 4.14.18.
- Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below base flood elevation in conformance with § 4.14.20.

4.14.22.2. An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4.14.14.

4.14.22.3. Tanks: When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- Underground tanks: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- Above-ground tanks, elevated: Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirement of the applicable flood hazard area;
- Above-ground tanks, not elevated: Above-ground tanks that do not meet the elevation requirement of the above Section (Above-ground tanks, elevated), shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood without release of content in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

- Tank, inlets and vents: Tank inlets, fill openings and vents shall be:

- At or above Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of design flood.

4.14.22.4. Other Development

- Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockage fences and wire mesh fences, shall meet the requirements of Section 4.14.26.
- Retaining walls, sidewalks and driveways in regulated floodways and NEAs that involve placement of fill in regulated floodways shall meet the requirements of Section 4.14.26.
- Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the requirements of Section 4.14.26.

4.14.23. ADDITIONS/IMPROVEMENTS

4.14.23.1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.23.2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

4.14.23.3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.23.4 Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has a sustained damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
- Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified and that are the minimum necessary to assume safe living conditions.
- Any alterations of a historic structure provided that the alteration will not produce the structure's continued designation as an historic structure.

4.14.24. RECREATIONAL VEHICLES.

4.14.24.1. A Recreation vehicles shall either:

- Be on-site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions) ; or
- Meets all requirements for new construction.

4.14.25. STANDARDS FOR LAND SUBDIVISIONS.

4.14.25.1. All subdivision proposals shall be consistent with the need to minimize flood damage;

4.14.25.2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

4.14.25.3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

4.14.26. FLOODWAYS AND NON-ENCROACHMENT AREAS.

4.14.26.1. Areas designated floodways or non-encroachment areas are located within Special Flood Hazard Areas established in 4.14.5. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 4.14.18 through 4.14.20, shall apply to all development within such areas:

4.14.26.2. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
- A Conditional Letter of Map Revisions (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

4.14.26.3. If § 4.14.26.2 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section 4.14.

4.14.26.4. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or

subdivision, providing the following provisions are met:

- The anchoring and the elevation standards of 4.14.19; and
- The no encroachment standard of 4.14.26.2.

4.14.27. STREAMS WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

4.14.27.1. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 4.14.5, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 4.14.18, shall apply:

4.14.27.1.1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

4.14.27.1.2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

- When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with 4.14.18 and 4.14.19.
- When floodway data is available from a Federal, State, or other resource, all new construction and substantial improvements within floodway areas shall also comply with the requirements of 4.14.19 and 4.14.22.
- All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with 4.14.5 and utilized in

implementing this ordinance.

- When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of 4.14.19 and 4.14.20 shall also apply.

4.14.28. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

4.14.28.1. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- Standards of Sections 4.14.18 and 4.14.19; and
- Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

4.14.29. AREAS OF SHALLOW FLOODING (AO ZONES).

4.14.29.1. Located within the Special Flood Hazard Areas established in § 4.14.5 are areas designated as shallow flooding areas. These areas have special flood hazard associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.14.18 through 4.14.20, all new construction and substantial improvements shall meet the following requirements:

4.14.29.1.1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth is specified.

4.14.30. AREA OF SHALLOW FLOODING (ZONE AH)

4.14.30.1 Located within the Special Flood Hazard Areas established in Section 4.15.5, are areas designated as shallow flooding areas. These are subject to inundation by 1% annual chance shallow flooding (usually area of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations derived from detailed hydraulic analyses are shown in this zone. All new construction and substantial improvement shall meet the following requirement:

- Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

4.14.31. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2008 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforces. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Kannapolis enacted on October 27, 2008, as amended, which are not reenacted herein are repealed.

Appendix A

Definitions

ALTERATION OF A WATERCOURSE - a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AREA OF SHALLOW FLOODING – A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF FUTURE-CONDITIONS FLOOD HAZARD - the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

DESIGN FLOOD - See “Regulatory Flood Protection Elevation.”

DEVELOPMENT ACTIVITY - any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE Map (DFIRM) - the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

EXISTING BUILDING AND EXISTING STRUCTURE - any building and/or structure for which the “start of construction” commenced before date the community’s first floodplain management ordinance was adopted.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

FLOOD-RESISTANT MATERIAL - any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining

damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY ENCROACHMENT ANALYSIS - an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

LETTER OF MAP CHANGE (LOMC) - an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIGHT DUTY TRUCK - any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

~~MEAN SEA LEVEL—The national Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base Flood Elevations (BFEs) shown on a FIRM as referenced. Refer to each FIRM panel to determine datum used.~~

NON-CONVERSION AGREEMENT - a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET - a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

TEMPERATURE CONTROLLED - having the temperature regulated by a heating and/or cooling system, built-in or appliance.

B.9. FLOOD PREVENTION PLAN.

The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.14.5, or a statement that the entire lot is within the Special Flood Hazard Area;
 - Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 4.14.5;
 - The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 4.14.5;
 - The Base Flood Elevation (BFE) where provided as set forth in Section 4.14.5; 4.14.12; or 4.14.28;
 - The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - Certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - Elevation in relation to mean sea level to which any non-residential the structure in Zone AE, A, or AO will be floodproofed; and
 - Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing a Floodproofing Certificate (FEMA ~~84-65~~ [Form 086-0-34](#)) with supporting data and an operations plans that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
4. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e. fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/ piers/piles/shear walls);
2. Opening to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 4.14.19 of this Ordinance when solid foundation perimeter walls are used in Zones A, AO, AE, and ~~A1-30~~ AH and A99;
5. Usage details of any enclosed areas below the lowest floor.
6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
7. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 4.14.20 and 4.14.23 of this Ordinance are met.

A description of proposed watercourse alterations or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Irene Sacks, Director of Economic & Community Development
TITLE: Gem Theater Master Plan Overview

A. Action Requested by City Council

None, presentation only

B. Required Votes to Pass Required Action

Presentation Only, no action required

C. Background

The City has engaged an architect to assist with master planning of the Gem Theatre, with the short-term goal of identifying suitable location options for handicap accessible restrooms, and a long-term goal of understanding how the facility could be used in the future and what improvements might be needed to address circulation and future growth. Clearscapes is the selected architect and will provide an overview of their experience with historic theatres and performing arts facilities, as well as what public input and their analysis of the current facility have indicated.

D. Fiscal Considerations

None at this time. If City Council decides to move forward on certain improvements, those will come with a cost which will be a matter for a future discussion.

E. Policy Issues

None.

F. Legal Issues

None.

G. Alternative Courses of Action and Recommendation

Presentation Only. No action required

ATTACHMENTS:

File Name

No Attachments Available



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP Planning Director
TITLE: Clarion Associates Contract for Update of UDO

A. Action Requested by City Council

Motion to authorize the City Manager to execute the contract with Clarion Associates for the update of Unified Development Ordinance.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

A Request for Qualifications (RFQ) was issued on June 6, 2018 for Update of the City of Kannapolis Unified Development Ordinance (UDO) (see attached).

The City received three (3) responses to the RFQ and interviewed the following consulting firms:

- Clarion Associates
- Stewart
- McAdams
-

After conducting interviews, a review committee consisting of Planning staff, City Attorney and the City Engineer unanimously agreed that Clarion Associates was the most qualified firm to complete the UDO update. Clarion has significant North Carolina (Mooresville, Cary, Highpoint and Fayetteville UDOs), southeastern and national experience updating development codes, having completed over 150 comprehensive code updates. Clarion is recognized as a national leader in zoning best practices and code development and has been the recipient of a number of awards, including most recently receiving the **2018 Resilient Virginia Community of the Year Award for the Norfolk Zoning Ordinance**.

Clarion prepared the ***Move Forward Kannapolis 2030 Comprehensive Plan***, recently adopted by the City Council. The selection of Clarion to prepare the UDO update will allow for a seamless implementation of the vision and policies contained in the 2030 Plan.

The UDO update will be overseen by the Planning Department, with stakeholder input provided by City staff, developers, engineers, architects, attorneys and residents, along with input by City Council, Planning and Zoning Commission and Board of Adjustment.

Clarion intends to begin work on the UDO update in November and complete the update by the spring of 2020.

D. Fiscal Considerations

The contract fee for the UDO update totals \$199,305. \$200,000 is included in the adopted FY 2019 City of Kannapolis Budget to cover the cost of the UDO update.

E. Policy Issues

None

F. Legal Issues

The City Attorney has reviewed the proposed contract and approved for signature by the City Manager and Finance Director.

G. Alternative Courses of Action and Recommendation

1. **Motion to authorize the City Manager to execute the contract with Clarion Associates for the update of Unified Development Ordinance (recommended).**
2. Table action to a future date.
3. Take no action.

ATTACHMENTS:

File Name

- ❑ RFQ - _June__2018.pdf
- ❑ Clarion_RFQ_Response_to_Kannapolis_UDO.pdf
- ❑ Services_Contract_(Professional)_(City-Clarion_Associates)_10-3-18.pdf
- ❑ Kannapolis_UDO_Draft_Scope_-_revised_9-27-18.pdf



Update of
Unified Development Ordinance (UDO)
For
City of Kannapolis, NC

Request for Qualifications (RFQ)

Issued By: Kannapolis Planning Department

Issued: June 6, 2018

Proposals Due: July 9, 2018, 5:00 PM EST

1. Introduction

The City of Kannapolis, North Carolina (“City”) is seeking “Qualification Statements” from experienced consultants (individual firms or teams of consultants) to complete a comprehensive update of the City’s Unified Development Ordinance (“UDO”). The City is interested in firms capable of providing professional services including, research, analysis, stakeholder engagement, drafting of UDO text, graphics and final document preparation.

Qualification Statements are due by 5:00 p.m. Monday, July 9, 2018

2. Project Background and Purpose

The [City of Kannapolis NC](#), incorporated in 1984, is [located within the Charlotte metropolitan region](#), in Cabarrus and Rowan Counties, approximately 25 northeast of the City of Charlotte. The US Census 2017 population estimate for Kannapolis is 48,806, making it the 21th largest municipality in North Carolina. Located within the “Piedmont” region of the state, Kannapolis measures approximately 32 square miles (including three lakes and a public reservoir), with an additional 33 square miles potentially available for annexation. The City also exercises extra-territorial (ETJ) planning and zoning jurisdiction for approximately 5 square miles in Rowan County.

The City adopted its first zoning ordinance in 1988, followed by adoption of the current UDO in 2000. Significant changes in the City’s population, land development pattern and economy, along with legislative and land use changes since that time have highlighted the need for a comprehensive rewrite of the UDO.

In 2018, the Kannapolis City Council adopted the ***Move Kannapolis Forward 2030 Comprehensive Plan***. This plan provides the vision and framework for future development of the City through 2030. The primary objective of the UDO update is to implement the 2030 Comprehensive Plan, through regulations that will guide land use development within the City’s corporate limits and ETJ.

3. Guiding Principles

The UDO update is the primary regulatory document guiding all development and land use within the City of Kannapolis and its ETJ. The following principles shall guide preparation of the UDO update:

- Ensure consistency between UDO and ***Move Kannapolis Forward 2030 Comprehensive Plan*** stated outcomes and policies;
- Regulations shall incorporate and be consistent with state (NCGS), as well as applicable federal statutes pertaining to zoning, land use, subdivision, environmental protection, permitting, administration, appeals/variances, conditional uses and enforcement;
- Create user-friendly format with “plain language” text in place of jargon;
- Where possible, ensure continuity between existing and new UDO text;
- Minimize text redundancies and need to reference multiple sections of UDO. Provide cross-references where multiple sections of ordinance must be accessed;
- Ensure text, terms and procedural consistency within UDO;
- Update and add definitions to reflect current planning practice and usage;
- Update use table to reflect both existing and future uses;

- Maximize use of diagrams and graphics to promote intuitive understating and use of UDO;
- Produce “static” as well as “interactive” (internet-ready) ordinance formats – with latter utilizing hyperlinks and searchable functions.

4. Scope of Work

The following Scope of Work is intended to guide preparation of the update to the City of Kannapolis UDO. This Scope of Work is intended to provide a general framework for the UDO update. The City expects that the Final Scope of Work will reflect modifications made based upon staff discussions with the consultant selected to prepare the UDO update.

I. Analysis of Existing UDO

Conduct detailed review and diagnostic examination of current UDO to assess the following:

- **Function and flow** – Ease of use and efficiency of layout
- **Internal consistency** – Identify conflicts within UDO
- **Accuracy** – Identify typographical, technical or graphical errors or omissions
- **Compliance with NC General Statutes for zoning, subdivision, and land development**

Analysis should be thorough and identify areas of deficiency, especially those related to changes in legislation and planning practices since adoption of UDO in November 2000. Analysis should benchmark analysis of Kannapolis UDO with ordinances of similarly sized communities both within and outside North Carolina in order to identify “state-of the-practice” regulations.

[City of Kannapolis UDO](#)

Work Product: Detailed report assessing current UDO, including matrix with itemized list of areas of deficiency and preliminary recommendations for remedying those deficiencies.

II. Review *Move Kannapolis Forward 2030 Comprehensive Plan*

The City Council adopted the 2030 Comprehensive Plan in March 2018. This plan serves as the policy document for zoning, subdivision and land development in the City of Kannapolis through the year 2030. Vision, outcomes, policies and action items detailed in 2030 Plan shall serve as foundation for update of UDO.

[Move Kannapolis Forward 2030 Comprehensive Plan](#)

Work Product: Synthesize recommendations of 2030 Comprehensive Plan into functional categories for use in preparation of UDO text.

III. Develop Framework for UDO Update

Based on policies and action items contained in 2030 Comprehensive Plan, develop framework for UDO which synthesizes existing UDO with new elements. Framework shall be based upon City staff input and include (at a minimum) the following elements:

- Administration
- Zoning and Permitting
- Zoning Districts and Dimensional Regulations
- Supplemental Use Regulations
- Subdivision Regulations
- Landscaping and Buffering
- Off-Street Parking and Design Standards
- Sign Regulations
- Street Improvement Standards
- Bike/Pedestrian Improvements
- Traffic Impact Analysis Standards
- Site Design Standards
- Non-conformities, including vested rights
- Adequate Public Facilities
- Corridor Overlay Districts
- Zoning Text and Map Amendments
- Definitions

UDO framework shall be “user-friendly” and make use of graphics and charts wherever possible to communicate regulatory elements of ordinance.

Work Product: Develop framework for UDO update, incorporating existing with new ordinance text.

IV. Draft UDO Update

Consultant shall prepare UDO text update with all necessary charts, graphics and appropriate references. UDO shall be in searchable format with appropriate cross-references to insure ease of use.

Work Product: UDO document in digital and print format.

5. Coordination with City Staff

Oversight and guidance for preparation of the UDO update will be provided by Planning Department staff, in close cooperation and coordination with the City Attorney with input from the Planning and Zoning Commission.

6. Time Frame

The City anticipates the following timetable for completion of the Comprehensive Plan, with key dates noted below. A final schedule will be adopted as part of the contract between the City and consultant chosen to prepare the plan.

Preliminary UDO Update Plan Schedule:

Action	Date
RFQ Issued	June 6, 2018
RFQ Responses Due	July 9, 2018
Firms Short-listed	July 20, 2018
Firm Interviews	August 7 th – 9 th , 2018
Selection of Firm	August 24, 2018
Contract Approval by City Council	September 24, 2018
Project Start	October 1, 2018
Project Completion (Adoption of UDO)	April 1, 2020

7. Funding

Funding for the UDO update is \$200,000, subject to final approval by City Council as part of the City of Kannapolis FY 2019 budget.

8. Request for Clarification & Additional Information

Any request for clarification or additional information regarding this RFQ should be directed to:

Zachary D. Gordon, AICP
Planning Director
City of Kannapolis
401 Laureate Way
Kannapolis, NC 28081
Email: zgordon@kannapolisnc.gov

9. Submittal Format and Content

The Statement of Qualifications should include (at a minimum) the following elements:

- 1) **Transmittal Letter:** Designated contact person with address and telephone number.
- 2) **Project Manager:** Identify project manager and describe their experience related to this project. Provide client references for project similar in scope. Discuss the experience of this project manager with other members of the project team.
- 3) **Project Team and Sub-Consultants:** Identify other team members and sub consultants and their relative experience. Discuss the role of key team members. Specify the percentage and type of work that will be performed by each team member and any sub-consultants. This information will become part of the contract with the selected firm.
- 4) **Firm Qualifications:** Discuss the firm's work on projects similar in size and complexity. Quality assurance should be addressed. Indicate firm's history of meeting established schedules. In addition:
 - Lead consultant's office should be located within driving distance of the City. Consultant's office must have appropriate support staff for a project of this size and complexity; please identify the office size and number of staff and percentage of time to be devoted to project.

- Consultant should identify a team matrix of all personnel working on project, including office location and specialty.
- Consultant should demonstrate experience on at least (3) similar projects, preferably within the past five (5) years.
 - Consultant shall discuss their experience and strategy for stakeholder engagement and outreach to the community during the project.
 - A concise narrative that presents the services the firm would provide detailing the approach, methodology, deliverables, and client meetings.
 - A summary of any suggested innovative approaches the City should consider for this effort.
 - Discussion of options for a “phased” adoption of UDO update.
 - A timeline for the preparation and implementation of the tasks/activities being proposed per the **Scope of Work** detailed in this RFQ.

10. Evaluation of Statements of Qualifications

Responses submitted by consultant firms and/or teams will be evaluated based on the following criteria:

1. Experience of firm(s) with projects of a similar scope and scale;
2. Qualification and experience of the proposed team and location of team members;
3. Current workload and firm capacity;
4. Responsiveness to RFQ and quality of the submittal;
5. Proposed approach to project and schedule for completion;
6. Performance assessments and/or references on past work efforts;
7. Knowledge of City of Kannapolis and Cabarrus County;
8. Any other experience or criteria deemed applicable to the projects.

11. Short-List, Interviews and Selection

The City will review Qualification Statements and prepare a short-list of firms to be interviewed by no later than July 24, 2018, with interviews scheduled for August 7th – 9th. Selection of a firm to prepare the UDO update is anticipated by August 24, 2018. Once a selection has been made by the City, a final contract will be negotiated with the selected firm. It is anticipated that a final contract will be signed by no later than October 1, 2018 with work to commence immediately thereafter.

12. Negotiating Offers

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

13. Submission Requirements

Firm(s) interested in being considered for this project should submit five (5) bound copies and one (1) electronic version via email or flash drive of their **Statement of Qualifications no later than 5:00 p.m. on July 9, 2018.**

14. Delivery of Proposals

Proposals should be delivered to the attention of:

Zachary D. Gordon, AICP

Planning Director

City of Kannapolis

401 Laureate Way

Kannapolis, NC 28081

Email: zgordon@kannapolisnc.gov

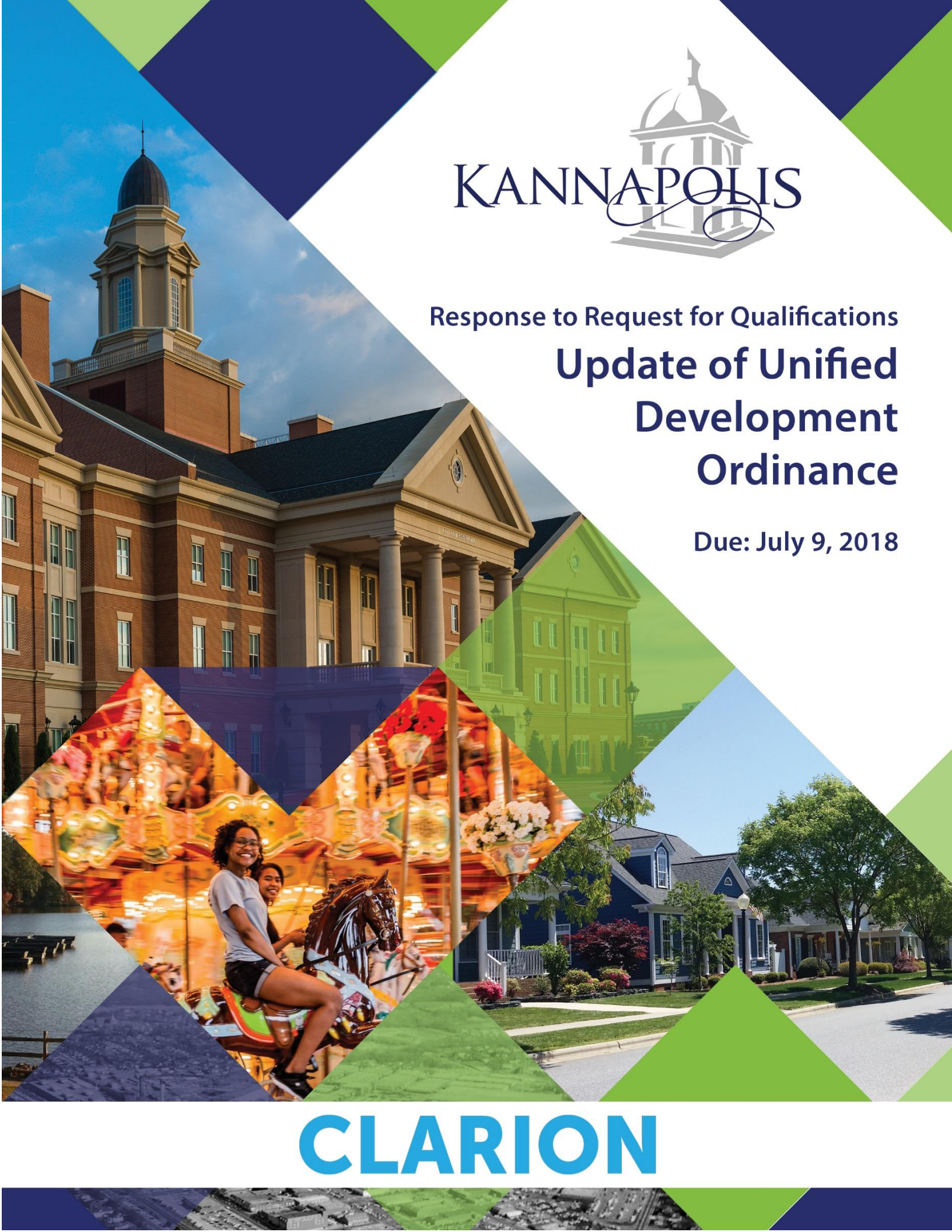
QUALIFICATION STATEMENTS ARE DUE NO LATER THAN 5:00 P.M. EST ON JULY 9, 2018



Response to Request for Qualifications

Update of Unified Development Ordinance

Due: July 9, 2018



CLARION

Clarion Associates, LLC
101 Market Street, Suite D
Chapel Hill, North Carolina 27516
919.967.9188
919.967.9077 fax

Community Planning
Zoning/Design Standards
Impact Fees
Growth Management
Sustainability



Via Email

July 5, 2018

Zachary D. Gordon, AICP
Planning Director
City of Kannapolis
401 Laureate Way
Kannapolis, NC 28081

RE: Response to Request for Qualifications (RFQ) for a Unified Development Ordinances (UDO)

Dear Mr. Gordon,

We are pleased to submit this response to the City of Kannapolis's RFQ for consulting services to prepare a Unified Development Ordinance (UDO) update for the City.

Established in 1992, **Clarion Associates** is a national planning and zoning consulting firm with offices in Chapel Hill and Denver, and affiliate offices in Cincinnati and Philadelphia. Firm principals have substantial experience assisting local government clients in conducting comprehensive updates to development codes throughout North Carolina and the nation. If selected for this project, all the work would be done by Clarion professionals in our Chapel Hill office.

We believe our team is uniquely suited to assist the City in completing the UDO update for the following reasons:

We are expert code drafters. Drafting development codes is one of Clarion's core practice areas. Team principals have successfully completed over 125 comprehensive development code updates throughout the nation. Hallmarks of Clarion-authored codes include simple language, clear procedures, measureable standards, user-friendly formats, and consistency with best practices.

We are experts at user-friendliness. We are experts at making codes more user-friendly through reorganization and streamlining, clarification of language, and use of technology to convey complex zoning concepts in a simple manner. Improving user-friendliness is usually a key goal in development code updates.

We know plan implementation. A majority of the development code updates we work on involve implementing new policy direction from newly-adopted plans. We have substantial experience helping communities put the plan to work through development regulations that are practical and straightforward.

We understand how to integrate design and form controls into development codes. Almost every code Clarion has drafted in the last decade incorporates some type of design and form controls, or form-based districts.

We have significant experience addressing development issues in multiple contexts. We understand that many development codes require regulations that address multiple development contexts: urban, infill, and greenfield — and recognize the importance of ensuring a code distinguishes these different contexts.

We know mixed-use development. We are responsible for the development of innovative regulations for mixed-use development across the country. Team members have a wealth of practical experience in developing plans and standards that reflect economic realities that are viable.

We are national leaders in incorporating green building practices and resiliency in codes. Clarion, in partnership with the Rocky Mountain Land Use Institute (RMLUI), pioneered the Model Community Sustainable Development Code. Since then, we have designed numerous development codes that incorporate green building practices and resiliency concepts.

We are national leaders in zoning best practices. Clarion has developed zoning best practices for planned developments, procedural streamlining, mixed-use development, design standards, parking, landscaping, lighting, and aesthetic controls for communities across the nation. Our team members enjoy sharing this knowledge through webinars, professional conferences, presentations and publications, and in the development codes we draft for our clients.

We have extensive North Carolina experience. We have successfully completed or are currently working on comprehensive development code updates and/or diagnostics in a number of North Carolina communities, including Cary, Mooresville, Fayetteville, High Point, Morrisville, and Currituck County.

We are skilled facilitators. We are experienced in working with citizens, staff, and elected officials to identify key concerns and gain consensus on difficult issues. As a result, many of our projects are adopted unanimously.

We have expertise in project management. Projects like this require strong leadership and effective project management. We have a proven track record of effective project management, bringing projects in on time and within budget.

We are excited about the prospect of working with the City of Kannapolis and would welcome an opportunity to discuss our qualifications with you in person. If our firm is selected for this work, I would serve as Project Director and firm contact. Please contact me at 919-967-9188 or at crichardson@clarionassociates.com (Fax number: 919-967-9077) if you have questions or need additional information to evaluate our submittal.

Very truly yours,

A handwritten signature in black ink that reads "Craig Richardson". The signature is written in a cursive, flowing style with a prominent initial "C".

Craig Richardson, Esq.
Director

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1. Executive Summary

Background

If there is one word that best describes development trends in Kannapolis today, it is “Change.” The City has embarked upon ambitious planning and development initiatives. These initiatives, coupled with the explosive economic growth and population influx to the Charlotte region, are transforming what was once a company town and bedroom community into a diverse city of bustling activity centers and corridors, livable residential neighborhoods, and connected open space.

In part because of these changes, the City initiated a project to update to its comprehensive plan in the Fall of 2016. An initial report prepared for that project, the Planning Influences Report, identifies key trends influencing development in Kannapolis today:

- The City’s population will continue to grow, likely attracting 20,000 new residents by 2035;
- The rate of increase in land area within Kannapolis is exceeding the rate of population growth due to annexations and continued outward expansion of mostly low-density residential neighborhoods (which have limited connectivity);
- Approximately 70 percent of the City’s land area is currently zoned for residential uses;
- A large percentage of the land in the City is either undeveloped (45 percent) or underdeveloped (28 percent), creating significant opportunities for future greenfield development, infill development, and redevelopment;
- Several existing and planned transportation corridors cross the City, representing opportunities for revitalization and compact multimodal development;
- Downtown, thanks to strategic investments, is undergoing rapid change and becoming a regional hub served by residential, retail, entertainment, and employment development; and
- Downtown and surrounding neighborhoods contain well-connected streets and blocks, but there are opportunities for improvements to support walkable places, such as sidewalk construction, compatible infill, and multimodal paths.

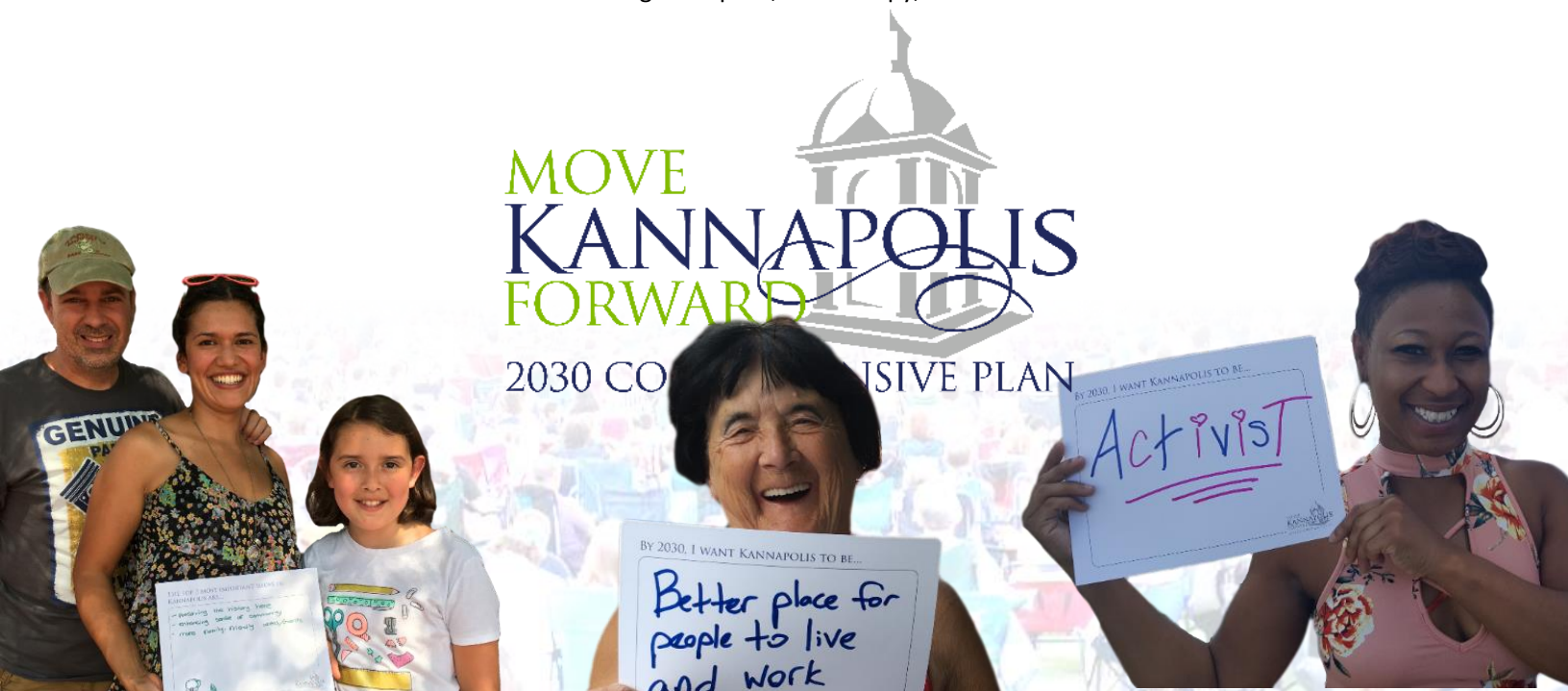


The comprehensive plan, *Move Kannapolis Forward*, was adopted unanimously by City Council on March 26, 2018. The plan establishes a Vision Framework for the future that articulates the community's broad aspirations for the future, aiming for a vibrant and connected, fiscally and economically balanced, and healthy and active City. Within this vision, the plan lays out a Growth Management Framework, embodied in three maps: the Conceptual Growth Framework Map, the Future Land Use and Character Map, and the Activity Centers and Corridors Map.

The Future Land Use and Character Map provides direct guidance for all areas of the City, identifying the types of land uses and character that are supported by the community's vision plan. The character district descriptions are drafted to balance clear guidance with flexibility. For each district, the description identifies the character intent, retrofit opportunities, and general use categories, as well as the existing characteristics of urban form (in areas where there is existing development) and desired characteristics. A fourth map, the Tiered Growth Map, supports the Growth Management Framework, by addressing questions related to the timing of growth and development. It lays out a phased approach to urban expansion, with targeted growth, primary service, limited service, and future service areas.

These maps, with their accompanying descriptive text and the plan's enumerated outcomes and policies, establish a comprehensive framework for growth management. They also provide a solid foundation for updating the City's development regulations (the UDO). In particular, the plan's Action 2.1 identifies key elements to be adjusted in the comprehensive UDO update. Based on the vision, maps, and policies laid out in *Move Kannapolis Forward*, the updated UDO should:

- Facilitate high quality commercial, employment, and mixed use development along corridors, and within the downtown and other activity nodes;
- Build complete, connected, and livable neighborhoods in greenfield areas;
- Promote green building with compact pedestrian and bicycle-oriented design that supports healthy active lifestyles;
- Protect and support the character of existing neighborhoods;
- Provide for a variety of housing options throughout the City; and
- Protect green space, tree canopy, and lands for conservation.



In part to implement these significant changes in policy direction, on June 6, 2018, the City issued an RFQ requesting consultant assistance to update its UDO. The RFQ states the updated UDO should comply with the following guiding principles:

- Be consistent with the stated outcomes and policies in *Move Kannapolis Forward*;
- Incorporate and conform with applicable state (NCGS) and federal statutes related to zoning, land use, subdivision, environmental protection, permitting, administration, appeals/variances, conditional uses, and enforcement;
- Establish a user-friendly format with “plain language” text in place of jargon;
- Where possible, ensure continuity between existing and updated UDO text;
- Minimize text redundancies and the need to reference multiple sections of the UDO, and provide cross-references where multiple sections of ordinance must be accessed;
- Be internally consistent;
- Update and modernize the definitions to reflect current planning and zoning practice and usage (adding or modifying definitions where necessary);
- Include a modernized and updated use table to reflect both existing and future uses;
- Maximize the use of diagrams and graphics to promote intuitive understating and use of the UDO; and
- Produce “static” as well as “interactive” (internet-ready) ordinance formats – with the latter utilizing hyperlinks and searchable functions.



Why Clarion

Depth of Experience

The Clarion team is excited about the possibility of working with the City on this important project for several reasons.

First, given that we assisted Kannapolis in the preparation, design, and adoption of *Move Kannapolis Forward*, working with the City to ensure its effective implementation is the type of project we live for.

Second, we know Kannapolis. We have deep knowledge, understanding, and experience in the City through our work on the plan. This knowledge of the City's background, key influences, challenges, opportunities, and policy documents mean we can "hit the ground running," build on the good relationships and trust already established with the community, and bridge the gap between the visionary plan and the updated UDO.

Third, the project requires a consultant who can work closely with staff, citizens, stakeholders, and appointed and elected officials. This collaboration will be essential not only in evaluating and deciding on the most appropriate regulatory tools and best practices for implementing *Move Kannapolis Forward*, but also in modernizing and making the UDO more efficient and easy to use. These are issues that we have helped local governments across the nation successfully navigate many times.

Fourth, the project provides an opportunity to apply our extensive experience in updating development regulations to eliminate redundancies and make them more user-friendly, predictable, and navigable through reorganization, streamlining, and use of illustrations, graphics, "plain language," and hyperlinks.

Fifth, the project provides an opportunity to prepare development regulations that support redevelopment and new development that is consistent with the City's policy direction, an issue we have assisted a number of communities with.

Finally, the project provides an opportunity to explore the integration of various regulatory concepts in targeted areas in the community, such as context-sensitive regulations for redevelopment and infill areas, and new development standards for greenfield development. This is a key opportunity to tailor the most appropriate and workable development regulations that meet the City's needs and facilitate high quality development at activity centers and along key corridors, consistent with the *Move Kannapolis Forward's* Growth Management Framework — something we also have had a significant amount of experience doing.



Quality Control

Clarion has a proven system of managing UDO projects that has been tested and refined over time. It focuses on quality control, the timely delivery of products, and cost containment. It starts with the preparation of a detailed work program and budget before work commences, and continues through regular status meetings with City staff, preparation of policy analysis documents, and a detailed outline that sets out the contents and structure of the UDO before drafting begins. We use task-based project management software that allows us to track and manage the time being spent on the project, and each task, so that adjustments can be made, if necessary.

In addition, in all our projects, we use seasoned project managers and professionals with experience in drafting development regulations. All draft work products are reviewed or written by principals and principals conduct public meetings. There is no “learning on the job,” and we will hit the ground running. Also, given the amount of experience of team members, the Clarion team is well prepared to address unexpected issues that typically come up during a UDO update process, and make mid-course adjustments when necessary (we have dealt with unexpected issues in many prior projects).

Structure of Response

In accordance with the direction in the RFQ, this response is organized into five sections.

This **Executive Summary (Section I)** provides an introduction and summarizes the strengths of the Clarion team.

Section II. The Clarion Team, summarizes information about the firm, how the Clarion team is organized and will be managed, and provides the professional qualifications and experience of the key professionals who would be involved in the project if the team is selected.

Section III. Relevant Project Experience, identifies and provides descriptions (with references) of recent relevant comprehensive development code updates and other relevant projects that Clarion team members have completed, or are in the process of completing.

Section IV. Approach, outlines a suggested approach and work plan to complete the project based on the direction provided in the RFQ and our experience in updating development codes.

Section V. Timeline, identifies the schedule for completion of each task in the project approach work plan spelled out in Section IV.

CLARION

2. The Clarion Team

The Firm - Clarion Associates

Clarion Associates, LLC, a limited liability company organized under the laws of the state of Colorado, is a national land use and zoning consulting firm founded in 1992. We have offices in Chapel Hill—within a two-hour driving distance of Kannapolis—and Denver, as well as affiliate offices in Cincinnati and Philadelphia. The firm has been in business for 25 years, and consists of approximately 20 professionals (city planners, landscape architects, and attorneys). No firm in the country matches the combination of land use and zoning, urban design, community development, and planning experience of Clarion's firm principals. Clarion is particularly known for its expertise in:

- Development code updates;
- Design standards and incorporating form controls into development regulations;
- Regulations that protect a community's character;
- Incorporating green building and resiliency concepts in development codes;
- Zoning best practices;
- Regulations to protect environmentally sensitive lands;
- Community and neighborhood planning; and
- Land use and planning law.

Clarion projects have been recognized as exemplary and have received numerous awards from state chapters of the American Planning Association throughout the country. Recent national planning awards include:

- A 2015 Charter Award and Dreihaus Award from CNU for the Beaufort County, SC Form-Based Code;
- A 2013 national APA implementation award for the Philadelphia Zoning Code update;
- The 2012 EPA national Smart Growth Award for the Portsmouth, VA Zoning Ordinance; and
- APA Burnham Awards for *Plan Cheyenne* and the Will County, IL Plan.



Team Organization and Project Manager

The Clarion team proposed for this project consists of **Craig Richardson, Esq.**, who will serve as Project Director; **Tim Richards, AICP**, who will serve as Project Manager; **Leigh Anne King, AICP, LEED**, who will serve as a principal advisor; **Nate Baker, AICP, CNU**, who will assist with public engagement, the code assessment, and code drafting; and **Christopher Peterson**, who will assist with graphics and document design.

The proposed Clarion team draws on the substantial depth and breadth of planning and development code drafting experience within Clarion's Chapel Hill office. All professionals on the Clarion team are based in Clarion's Chapel Hill office and are available and have the time to complete the project within the desired time frame (18 months). In addition, the team is able to draw on the resources and expertise of the firm's Denver office as needed to get the job done in a timely fashion.

Below is a matrix demonstrating the aspects of the project each Clarion team member will focus on. Bios for team members are provided on the pages that follow.

CLARION	    				
	Craig Richardson	Leigh Anne King	Tim Richards	Nate Baker	Chris Peterson
Project Management	✓		✓		
Public Engagement	✓		✓	✓	✓
Assessment of Current Regulations	✓	✓	✓	✓	
Recommendations for Updated UDO	✓	✓	✓	✓	
Code Drafting	✓		✓	✓	
Code Graphics			✓	✓	✓

Professional Experience of Key Professionals

Craig Richardson, Esq. | Director



Craig is a Director of Clarion Associates. He is a planner/lawyer with 35 years of practice experience, primarily representing local government clients on a variety of planning and zoning matters. He has a strong record of success in managing or serving as a principal in code revision projects and other plan implementation efforts. Example code projects include Mooresville, Fayetteville, High Point, and Currituck County, NC; Columbia, Greenville, Folly Beach, Richland and Charleston counties, SC; Norfolk, Portsmouth (winner of the 2012 EPA Smart Growth Award), Vienna, and Henrico (Richmond metro area) and Fairfax counties, VA; Daytona Beach, Estero, Apopka, Palm Beach County, and Pompano Beach, FL; State College, PA; Prince George's County, MD (Washington, D.C., metro area); Albany, NY; the Capitol region (Hartford) in Connecticut (model sustainable development code); Teton County and Jackson, WY (Jackson Hole); as well as over 30 other comprehensive code update projects.

He served on the faculty for APA's national Zoning Clinic, speaks regularly at planning conferences on code implementation issues, worked on the USEPA Sustainable Code Building Blocks project, and has worked on the Model Sustainable Community Development Code project for the Rocky Mountain Land Use Institute. Craig has been a member of the Florida Bar for over 35 years.

Leigh Anne King, AICP, LEED | Principal



Leigh Anne has over 15 years of experience, working on a variety of public sector planning, growth management, zoning, affordable housing, and impact fee projects. She has been involved in the updating of zoning ordinances for Orange County and Hillsborough, NC; Portsmouth and Henrico County, VA; Richland County and Rock Hill, SC; and Biloxi, MS. She was the primary author of five award winning plans: comprehensive plans for Iredell County, City of Wilson, and Camden County, NC, the Eastern Orangeburg County (SC) Sustainability Plan, and the Richland County, SC Comprehensive Plan. She has worked on comprehensive plan updates for Lee County, FL, and affordable housing support studies for mandatory mitigation programs for Islamorada, Monroe County, and Palm Beach County, FL, and Teton County/Jackson, WY. She recently led the comprehensive plan update for Cary, NC, which was adopted in early 2017, and led the comprehensive plan update in Kannapolis, which was recently adopted.. She frequently speaks at national and state conferences on the topics of comprehensive planning, affordable housing, local food systems, and rural sustainability. Leigh Anne received her master of city and regional planning degree from the University of North Carolina, Chapel Hill, where she served as a research assistant, and was named the outstanding student in her graduating class.

Tim Richards, AICP | Senior Associate

Tim's practice focuses on zoning and plan implementation. While at Clarion, he has worked on and taken an active role in managing development code rewrites in Columbia, SC; Richland County, SC; and Henrico County, VA (Richmond metro area). He has also worked on the consolidated zoning and subdivision regulations for Prince George's County, MD (Washington, D.C., metro area), Fairfax County, VA, and the zoning ordinance update in State College, PA. Prior to joining Clarion, he worked as a planner for Onslow County, NC, where he served as staff lead on a variety of projects involving comprehensive planning, small area planning, and amendments to land development regulations. Tim received his undergraduate and law degrees from Brigham Young University, and holds a masters of city planning from the University of Arizona.



Nate Baker, AICP, CNU-A | Associate

Nate's work at Clarion focuses on developing future land use frameworks that integrate market realities, a community's vision for character and design, and economic aspirations. He has recently worked on several projects to develop land use and character frameworks, including work for Kannapolis, NC; Loudoun County, VA; and Cary, NC. His development code work with the firm includes updating the zoning and subdivision ordinances for State College, PA and Tuscaloosa, AL. He holds a B.S. in urban planning from Cornell University and a Master of Regional Planning from the University of North Carolina, Chapel Hill. He was awarded a Fulbright Research Fellowship in 2016 to study regional planning and interjurisdictional collaboration in Brazil. He is fluent in Spanish and Portuguese and has assisted the firm in providing outreach to Hispanic and Latino populations.



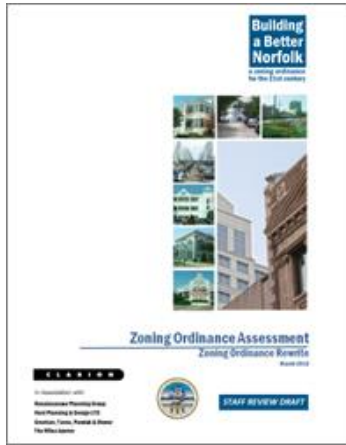
Chris Peterson | Marketing & Graphic Design

Chris serves as the Special Projects Coordinator for Clarion's Chapel Hill team. He has a diverse background in communication sciences, focusing on public relations, and in geospatial science, focusing on GIS and remote sensing applications. He assists with various public engagement products including developing project websites, graphic design, 3D renderings, document design, GIS mapping, and drafting. Most recently, he developed an interactive online zoning ordinance for Norfolk, VA, which the city is able to maintain on its own, minimizing time and costs of amending the ordinance. Since joining Clarion he has assisted in the graphic design of, and developed graphics for, development codes in Apopka, FL; Prince George's County, MD (Washington, D.C., metro area); Columbia SC; Norfolk and Henrico County, VA (Richmond metro area); and State College, PA. Prior to joining Clarion, he worked at a civil engineering firm where he performed similar duties with marketing, graphic design, and GIS applications.



3. Relevant Project Experience

Firm professionals have successfully completed over 125 comprehensive development code updates across the nation. The professionals who would assist in the project have substantial experience managing and drafting comprehensive code updates. This section includes summaries of relevant code update projects. A list of others follow that highlight the range of Clarion's project experience.

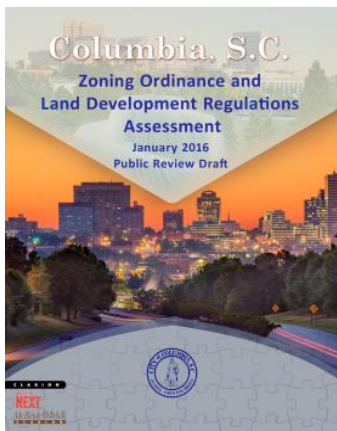


Norfolk, VA | Zoning Ordinance Rewrite | 2014-2018

George Homewood
757.664.6565

Planning Director
George.Homewood@norfolk.gov

In 2014, the City of Norfolk retained Clarion Associates, along with the Renaissance Planning Group and Herd Planning and Design to undertake a rewrite of the its 25-year-old zoning ordinance. Norfolk has had the highest rate of measured sea level rise of any east coast city over the last 100 years; with estimates that sea level rise will continue to increase consistent with historic levels. For this and other reasons, the city was one of the initial communities included in the Rockefeller Foundation's *100 Resilient Cities Initiatives*. One of the primary goals of *plaNorfolk2030*, the city's recently adopted plan, as well as the zoning ordinance rewrite, is to retool the zoning ordinance to support Norfolk as a more resilient city, both environmentally and economically. The Norfolk City Council adopted the updated Zoning Ordinance in January, 2018, and it is now effective. It is the most resilience-focused zoning approach in the nation, and also includes a number of context sensitive standards that recognize five different character areas in the city.



Columbia, SC | Zoning Ordinance and Subdivision Regulations Rewrite | 2015-present

Krista Hampton
803.545.3425

Planning Director
kmhampton@columbiasc.net

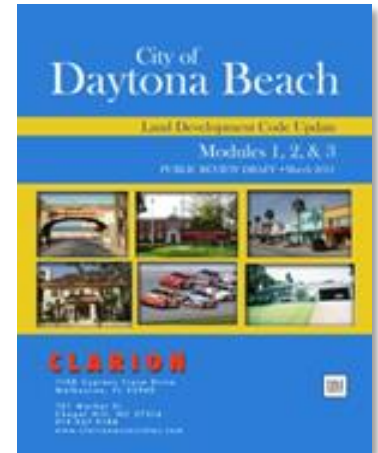
The City of Columbia retained Clarion Associates, along with McBride Dale Clarion and Planning NEXT, to conduct a comprehensive rewrite of the city's land development code. The project will transform the current regulations into a more user-friendly and efficient set of modern development controls that further the city's long-term planning goals and vision for future growth and development as established in the recently adopted *Plan Columbia Land Use Plan*. Clarion completed the public review draft of the code in late 2017. It is scheduled for adoption in Fall 2018. Mr. Richardson served as Project Director. Mr. Richardson and Mr. Richards jointly managed the code drafting effort.

Daytona Beach, FL | Land Development Code | 2011-2015

Rich Walton
386.671.812

Planning Director
waltonr@codb.us

Daytona Beach retained Clarion Associates to prepare an update to the city's existing Land Development Code. The goals of the update process included (1) making the code more user-friendly and more procedurally efficient; (2) implementing the goals and policy direction in the city's adopted vision plan and comprehensive plan update; (3) modifying development regulations and practices in infill and built areas of the community to encourage redevelopment/revitalization in ways that are compatible with the desired context; (4) encourage redevelopment of older, suburban-oriented commercial corridors into more mixed use, pedestrian-oriented places; (5) ensuring the character of existing residential neighborhoods is protected, and (6) raising the bar for development quality in the community generally. The code was completed and adopted in spring 2015..



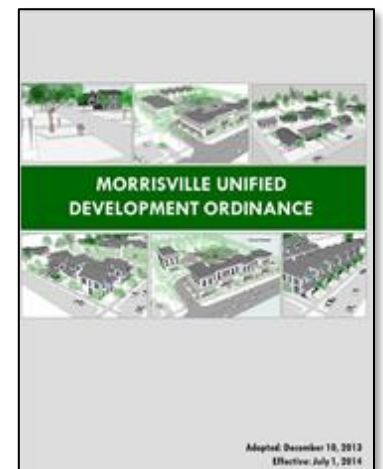
Morrisville, North Carolina | Unified Development Ordinance | 2012-2013

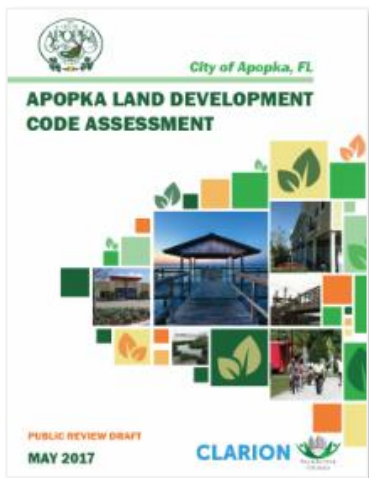
Courtney Tanner
919.463.6199

Planning Director
ctanner@townofmorrisville.org

Morrisville is a rapidly growing town in the Raleigh/Durham metropolitan area. In late 2010, the Town of Morrisville retained Clarion Associates to analyze its current development regulations and recommend how they might be consolidated into a unified development ordinance (UDO) that implements the Town's recently adopted Land Use Plan. The resulting Assessment Report, derived from extensive input from the development community and resident stakeholders, recommended a consolidated UDO that would streamline and provide greater certainty to development review processes and better reflect the Land Use Plan's land classifications, smart growth, and transit-oriented development policies.

In 2012, the Town retained Clarion to help it prepare such a UDO. The UDO, adopted in December 2013, consolidates the Town Center Code and the Town's zoning, subdivision, design and construction, riparian buffer, stormwater management, and floodplain ordinances into a single unified ordinance with coordinated review procedures and standards and a user-friendly organization and format (with extensive graphics). It focuses new development into a hierarchy of mixed-use activity center districts—including a special Transit-Oriented Development (TOD) district around a proposed commuter rail transit station—adds open space and tree preservation standards, and modifies access/circulation and parking standards to reflect current best practices.





Apopka, FL | Land Development Code | 2016- current

Jim Hitt, FRA-RA
Community Development Director

407.703.1712
jhitt@apopka.net

Apopka retained Clarion Associates, in association with Plan Active Studio, to prepare a comprehensive update to the City's existing Land Development Code. The goals of the update include: (1) making the code more user-friendly and procedurally efficient; (2) implementing the goals and policy direction in the recently updated comprehensive plan and several special area plans; (3) retooling the regulations to support more intense, mixed-use, pedestrian-oriented development in the downtown; (4) preparing new regulations to support intense walkable urbanism at several new interchanges; (5) encouraging the redevelopment of older, suburban-oriented commercial corridors into more mixed-use, pedestrian-oriented places; (5) ensuring the character of existing residential neighborhoods is protected; and (6) raising the bar for development quality in the community generally. The code assessment for the effort was completed in late spring, 2017, and Clarion completed a full draft of the code in Spring 2018.



Portsmouth, VA | Zoning Ordinance | 2007-2010

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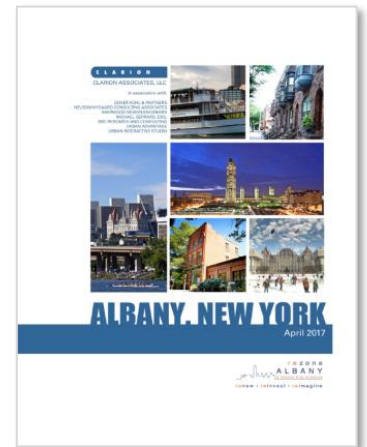
Clarion, in association with WRT, prepared a new zoning ordinance for this mature, built-out community of over 100,000 in the Hampton Roads area. The code, which primarily focuses on redevelopment issues and form over use, includes: new regulations for the downtown, primary corridors and regional activity centers; new infill development regulations; provisions that reduce current nonconformities (from over 50 percent of development to less than five percent) in ways that maintain desired form and character; a move away from single-use to mixed-use districts; standards that encourage more pedestrian-friendly development forms; and integration of sustainable development concepts through new green building incentives. The zoning ordinance was adopted in February of 2010, and completed on schedule. It received an Innovation Award in 2010 from the Virginia Chapter of the American Planning Association, and a Smart Growth Award from the US Environmental Protection Agency in 2012. Mr. Richardson served as the Project Director and Project Manager and performed much of the code drafting.

Albany, NY | Sustainable Development Ordinance| 2015-2017

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Founded in 1638, Albany, New York, has a storied role in the history of both New York state and the U.S. Situated on the Hudson River and the Erie Canal, and the seat of New York state government, the city boasts single-family neighborhoods, major universities and medical centers, and the Nelson Rockefeller-era state government complex. It also struggles with neighborhood disinvestment and with a low property tax base due to the high percentage of tax exempt property in the city. In 2014, Clarion was retained to lead a team of consultants that include Dover Kohl & Associates, Nelson\Nygaard, Arnold & Porter, and Sherwood Engineering, among others, to develop a new Sustainable Development Ordinance for the city. The project, which began in early 2015, resulted in the integration of over 20 city ordinances related to zoning, subdivision, environmental protection, signs, and specific use regulations, woven together to maximize sustainable redevelopment and promote new opportunities for economic development in Albany. The new code was adopted in 2017.

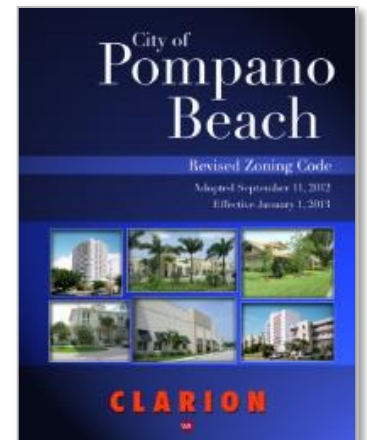


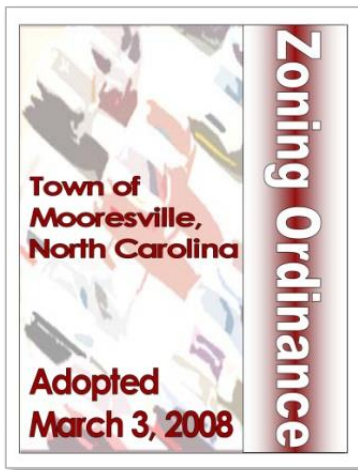
Pompano Beach, FL | Zoning Code | 2009-2012

Robin Bird
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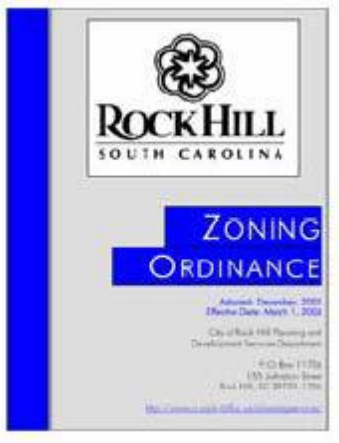
Pompano Beach, a city of 103,000 people on Florida's southeast coast, retained Clarion Associates to develop a comprehensive zoning code that updated its zoning regulations and reflected the City's plans for redevelopment and improved development quality. Besides making the code user-friendly, streamlining review procedures, and modernizing zoning districts and uses, the new zoning code maintains Pompano Beach's existing character through regulations that encourage mixed-use redevelopment along the city's commercial corridors, enhances building design, and emphasizes protecting established neighborhoods from higher-intensity development along the commercial corridors and beachfront. The code was adopted in August, 2012, and was selected for the Florida Planning and Zoning Association's Outstanding Zoning Code award in 2014.





Mooresville, North Carolina | Zoning Ordinance | 2007-2008

Mooresville is a fast-growing community in Iredell County on the shores of Lake Norman in the Charlotte metro area. It is served by its own school district and has a diversified economy, including several NASCAR racing teams and the headquarters of Lowe's Home Improvement Warehouse. The Town retained Clarion Associates to assist staff to prepare a new zoning ordinance that was adopted on March 3, 2008. The zoning ordinance modernized and streamlined the Town's existing development standards while integrating an innovative approach to form-based regulations by combining new building form standards within a zoning district context. The zoning districts were also updated to address mixed uses, village centers, and form-based concepts. The code includes a generous use of user-friendly techniques such as graphics, illustrations, summary tables, and process diagrams. The Mooresville zoning ordinance received the Brian Benson Outstanding Planning Award, Implementation (Small Community), from the North Carolina Chapter of the American Planning Association in 2008.



Rock Hill, South Carolina | Land Development Ordinance | 2003-2005

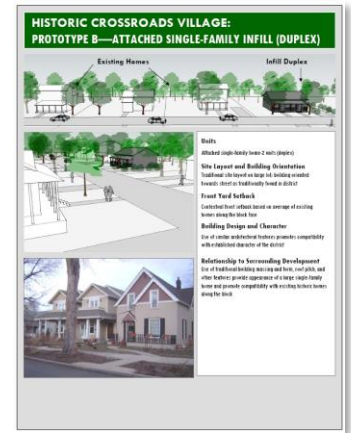
Clarion Associates, in association with the Walker Collaborative, drafted a new Land Development Ordinance for the City of Rock Hill, South Carolina, which was adopted in December 2005. The focus of the effort was to implement the city's General Plan, which promotes a more livable future by encouraging appropriate infill and re-development of the "old town" area of the community; and protecting and enhancing older neighborhoods while encouraging more compact, dense, and sustainable growth in greenfield areas. Major issues that were addressed included: making the code more usable and "user friendly;" making the development review process more efficient and effective; modernizing the zone district and planned development regulations; encouraging new infill development that is compatible with its context; and establishing minimum development and design standards.

Morrisville, North Carolina | Town Center Code | 2007-2008

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Clarion Associates was retained by the Town of Morrisville to prepare a highly graphic code to help implement its recently adopted Town Center Plan. A diagnosis of the town's existing Zoning Ordinance and regulations was prepared to identify potential gaps and inconsistencies and to establish a framework for the new code. A design workshop was held with Town Center residents to confirm plan recommendations and solicit feedback on the proposed approach. Members of the development community, elected and appointed officials, and other interested parties provided their input using interactive keypad technology. The resulting code structure is closely tied to the vision established by the plan, providing tailored development standards for different character areas and types of development within the Town Center. The code was adopted in 2010



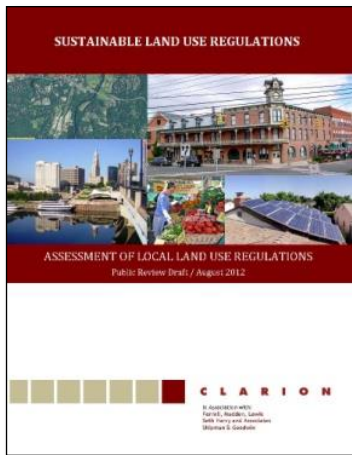
Prince George's County, MD | Zoning and Subdivision | 2014-present

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In early 2014, the Maryland-National Capital Park and Planning Commission's Prince George's County Planning Department retained Clarion Associates and a team of eight sub-consultants to undertake a rewrite of the county's 50 year old Zoning Ordinance and Subdivision Regulations, which are generally considered in serious need of an update. The overriding goals for the rewrite are to realize and implement land use rules for the 21st century that implement the recently adopted *Plan Prince George's 2035*, support desired types of economic development and walkable urbanism (in appropriate locations), and incorporate modern zoning best practices in the new regulations. After extensive public, stakeholder, review board, and elected official input at the beginning of the process to identify key themes and options for regulatory tools, Clarion completed the code diagnostic, *The Evaluation and Recommendations Report*. The report was then reviewed at multiple meetings by review boards, focus groups, the public, and the County Council. Clarion completed the comprehensive review draft of the regulations in late 2017, and they are now in the legislative process.



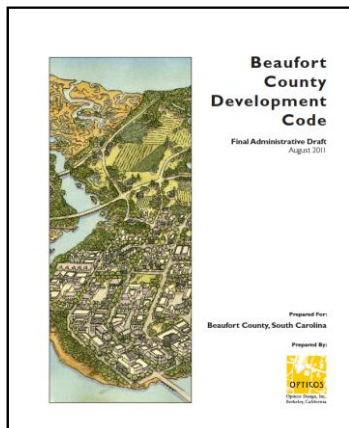


Connecticut Capitol Region Council of Governments (CRCOG) | Sustainable Model Code Provisions| 2012-2013

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Clarion Associates lead a team working with the Capitol Region Council of Governments (Hartford) on a groundbreaking regional sustainable code project. Working with CRCOG staff and 12 local municipalities, Clarion identified four key regional sustainability topics including alternative energy/energy conservation, housing affordability/diversity, mixed use/compact development, and food security. The firm then undertook a detailed assessment of the 12 communities' development codes to identify regulatory barriers to achieving regional sustainability goals as well as potential incentives and regulatory gaps that needed to be filled. Clarion then drafted a series of model code provisions addressing issues such as alternative energy facilities, solar access, community gardens, accessory dwelling units, mandatory affordable housing mitigation, and mixed-use and transit-oriented development that can be used by regional municipalities to implement their sustainability goals. The model code provisions were presented to the Council and local municipalities in Fall 2013.



Beaufort County, SC | Form-Based Code | 2010-2014

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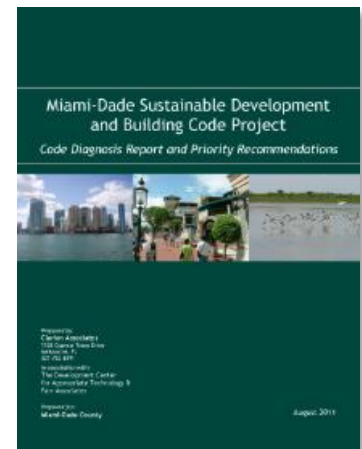
Clarion, working in conjunction with Opticos Design, assisted in the preparation of a county form-based code for Beaufort County SC. One of the overriding goals of the project was to maintain the low-country character of Beaufort County into the future and protect rural character in identified rural areas of the county. Clarion's primary roles in the project were to assist Opticos in re-structuring the community's current development code into a form-based code, revise the administration provisions, refine and integrate the uses for the transects/districts, revise the environmental standards, develop the sustainability standards for the transects/districts, and collaborate in the design of the rural protection standards. The draft of the code was completed in 2013, and the code was adopted in 2014. Work proceeded on a timely basis. The code received both a Driehaus Award and a Charter Award of Merit from the Congress of New Urbanism in 2015.

Miami-Dade County, Florida | Sustainable Development and Building Code Project | 2010-2011

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Clarion Associates worked with Miami-Dade County on a project that took the county to the next level in its sustainability efforts. Clarion undertook a full diagnosis of both the county's zoning and building codes along with comprehensive code amendment recommendations to encourage more sustainable and energy efficient land use development, building design, and construction. The project had a special emphasis on energy efficiency, greenhouse gas (GHG) emissions reduction, and the use of renewable energy. The work also included evaluating a host of other sustainability-focused topics such as mobility/connectivity, housing accessibility, water conservation, recycling/waste reduction, urban agriculture, and community health and safety.

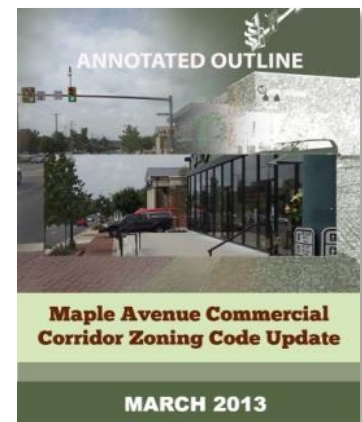


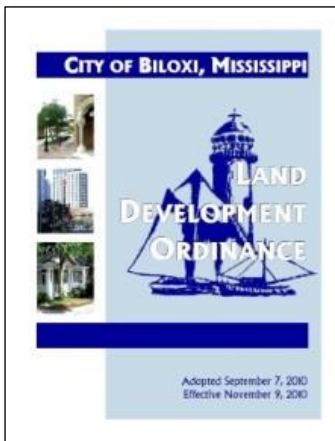
Vienna, Virginia | Maple Avenue Corridor Zoning Update | 2012-2013

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Vienna is a mature, built-out town on the western side of the Washington, DC metropolitan area, adjacent to Tysons Corner. It is bisected by Maple Avenue (State Road 123), which serves as the town's main street as well as a main route for commuters in the northern Virginia region as they travel to and from Washington, DC, and other parts of northern Virginia. Clarion Associates, in collaboration with Lardner Kline Design and Seth Harry Associates, assisted the Town in preparing a set of corridor regulations for Maple Avenue to ensure it remains a walkable and pedestrian-oriented main street that is consistent with Vienna's small town character—while at the same time recognizing it will continue to serve as a commuter route for northern Virginia. The regulations were adopted in 2014.





Biloxi, MS | Land Development Ordinance Update | 2008-2010

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In 2005, Hurricane Katrina devastated Biloxi, a Gulf Coast city of 45,000 people, destroying 24 percent of its homes and businesses, including most of its casinos, tourist facilities, and seafood industry. Working in association with WRT, who developed the post-Katrina comprehensive plan for the City, Clarion Associates updated the City's Land Development Ordinance (LDO) to (1) foster redevelopment of "Old Biloxi" into a mix of residential, tourist-oriented, and community-serving uses that complement the city's historic, natural, and scenic character, and (2) establish new regulations for development in the city's fast-growing inland areas. In addition to streamlining development review, making regulations user-friendly, and improving development quality, the updated LDO focuses on modernizing zoning districts to reflect new development patterns and encouraging redevelopment of Old Biloxi while mitigating the city's vulnerability to damage by future hurricanes and storms. It also incorporates incentives for sustainable development practices. The updated LDO was adopted in 2010.

Additional Project Experience

Client	Type of Project	Timeline
Village of Estero, FL	Land Development Code Update	2018-current
Tuscaloosa, AL	Zoning and Subdivision Ordinance Update	2018-current
State College, PA	Development Code Update	2017-current
Bloomington, IND	Development Code Update	2017-current
Rochester, MN	Development Code Update	2017-current
Syracuse, NY	Development Code Update	2016-current
Aurora, CO	Zoning Code Update	2014-current
Carbondale, CO	Zoning Code Update	2013-current
Frisco, CO	Zoning Code Update	2013-current
Albany, NY	Sustainable Development Code	2014-2017
Columbia, MO	Development Code Update	2013-2015
Indianapolis, IN	Development Code Update	2013-2015
Denton, TX	Zoning Code Update	2013-2015
High Point, NC	Development Ordinance	2011-2015
Brunswick, ME	Zoning Ordinance Update	2013-2015
Teton County, WY	LDR Update	2013-2015
Duluth, MN	Development Code Update	2012-2014
Boise, ID	Development Code Update	2012-2014
Fort Wayne, IN	Zoning Ordinance Update	2012-2014
North Las Vegas, NV	Development Code Update	2011-2014
Lake Oswego, OR	Zoning Code Update	2012-2013
Bainbridge Island, WA	Zoning Code Update	2012-2013
Youngstown, OH	Redevelopment Code	2011-2013
Tucson, AZ	Zoning Ordinance (Reorganization–user-Friendliness)	2011-2013
Morrisville, NC	Unified Development Ordinance	2010-2013
Currituck County, NC	Unified Development Ordinance	2010-2012
Philadelphia, PA	Zoning Code Update	2010-2012
Pompano Beach, FL	Development Code Update	2009-2012
San Antonio, TX	Historic Design Guidelines and Standards	2011-2012
Sparks, NV	Downtown and TOD Corridor Regulations	2011-2012
Rowlett, TX	Development Code Update	2010-2012
Henderson, NV	Comprehensive Zoning Ordinance Revisions	2010-2012
Fayetteville, NC	Unified Development Ordinance	2008-2012
Salt Lake City, UT	Sustainable Code Amendments	2010-2011
Mooreville, NC	Zoning Code	2005-2007
Palm Beach County, FL	Land Development Code	1994-1996

4. Approach

General Approach



We perceive our role in a development code update as collaborative—we serve as an extension of city staff. Our primary role is to educate about best practices, design and draft the code, help resolve regulatory issues between disparate views within the community, and provide advice and guidance on regulatory and implementation issues based on our experience.

Clarion has a proven approach to helping communities successfully complete development code updates, one that has been tested and refined over time. We are firm believers in establishing a **well-defined process** where everyone understands what to expect in terms of process and deliverables. Our work program approach establishes an iterative process that provides all involved “numerous bites at the apple”—or a number of opportunities to review and provide comments on the proposed structure and best practice concepts included in the unified development ordinance (UDO), as well as the specific ordinance language.

We prefer an approach that is **inclusive** of many points of view and use tools that communicate zoning concepts to as many interested parties as possible. We recognize that the process should not be top-down, but rather should reflect input from a broad cross-section of the community.

We are committed to drafting a UDO that is **clear, precise, and predictable**. To ensure the document meets this objective, we rely heavily on graphics, process flow charts, summary tables, simple page layouts, and intuitive document organization. We eliminate needless repetition and establish expedited review processes for preferred development types. We establish clear, measurable standards. Furthermore, we understand the opportunities and challenges of emerging concepts in zoning such as the development of character districts and “edge management” adjacent to mixed-use development, urban corridors, and major public institutions.

Finally, we believe in **incentive-based approaches** to preferred development. Applicants/developers are more likely to follow preferred development forms if they can see and understand the “upside” in doing so. Our development codes include incentives for preferred development forms, menu-based options for complying with development standards, and flexible techniques for achieving compliance with code requirements.

Proposed Work Plan

As requested in the RFQ, this section lays out a preliminary work plan for clearly identifying and accomplishing the objectives of the guiding principles, consistent with the general approach discussed above. We emphasize this is a preliminary work plan and we are flexible and willing to make refinements and adjustments to meet the City’s specific objectives for the project. The preliminary work plan consists of four tasks and one optional task, which are described on the following pages.

Task 1: Project Initiation

This task is designed to serve as a kick-off for the entire project, and will allow for the collection of background information that will lay a foundation for all future project-related work.

1.1 Public Engagement and Education

The Clarion team prides itself on a strong public involvement track record. We are excellent communicators, meeting facilitators, and educators who have experience building public support for changes in land-use regulations – even on controversial issues.

Regardless of the specific public input tools implemented in Kannapolis, the importance of effective public input and education cannot be overstated. With strong citizen and stakeholder involvement, adoption of significant revisions need not be a battle. Without such involvement, however, adoption can sometimes be challenging. Although public engagement and education is woven throughout our proposed work plan, we anticipate further discussion of this important issue and refinement of our public involvement strategy during the project orientation meetings described below in Task 1.4.

Public engagement related to the drafting of a UDO is unique. In contrast to comprehensive planning projects, UDO updates often involve detailed, sometimes technical discussions. It takes skill and timing to present such complex materials in an engaging and understandable way, and to avoid “technical topic burnout.” We have extensive experience preparing for and moderating these discussions using a wide range of interactive formats and media. The careful attention the Clarion team gives to focused public involvement will enable us to build momentum and create support throughout the project timeline.

At the beginning of the project, we will finalize and discuss a detailed public engagement and education plan with City staff. The plan will take full advantage of the various forums available to the City that we have found helpful in other code projects. In particular, the plan will emphasize public involvement, regular workshop meetings with an Advisory Committee (if the City so chooses), regular reports to elected officials, and public meetings at important milestones during the process.

Other issues the draft public engagement and education plan will address include, but are not be limited to:

- How technology will be used to keep stakeholders informed about project progress. While the key technological tool will be the project website, we also have experience using social media tools (e.g., Twitter, Instagram, Facebook) to supplement the website. These types of tools can sometimes be effective in reaching new audiences who may not attend zoning meetings.
- The overall schedule/timeline for public engagement activities throughout the duration of the project.
- If the City forms an Advisory Committee, the role of the committee in helping to educate and inform the public. Often, committee members can serve as trusted liaisons to keep various groups informed of project progress and to seek detailed input on targeted issues.

TASK 1: PROJECT INITIATION – RESPONSIBILITIES AND DELIVERABLES

CLARION TEAM

- Review current UDO, plan documents, other documents, and records
- Draft survey for staff and stakeholders
- Finalize scope and public engagement plan
- Conduct interviews with staff
- Conduct interviews with City Council, Planning and Zoning Commission, stakeholders and others, as appropriate
- Tour city, with staff
- Set up or coordinate set up of project website
- Facilitate and conduct public forum

CITY STAFF

- Send copies of plans, regulations, and other relevant documents to Clarion (including editable digital version of current UDO)
- Circulate survey to staff (as appropriate)
- Organize and accompany Clarion on tour
- Organize kick-off meetings and interviews
- Participate in meetings and interviews with Clarion
- Provide feedback on website design and content

TRIPS

- One, two-day trip to city to interview staff and stakeholders, tour City, and hold public forum

SCHEDULE

- Completed: One and one-half months after project start

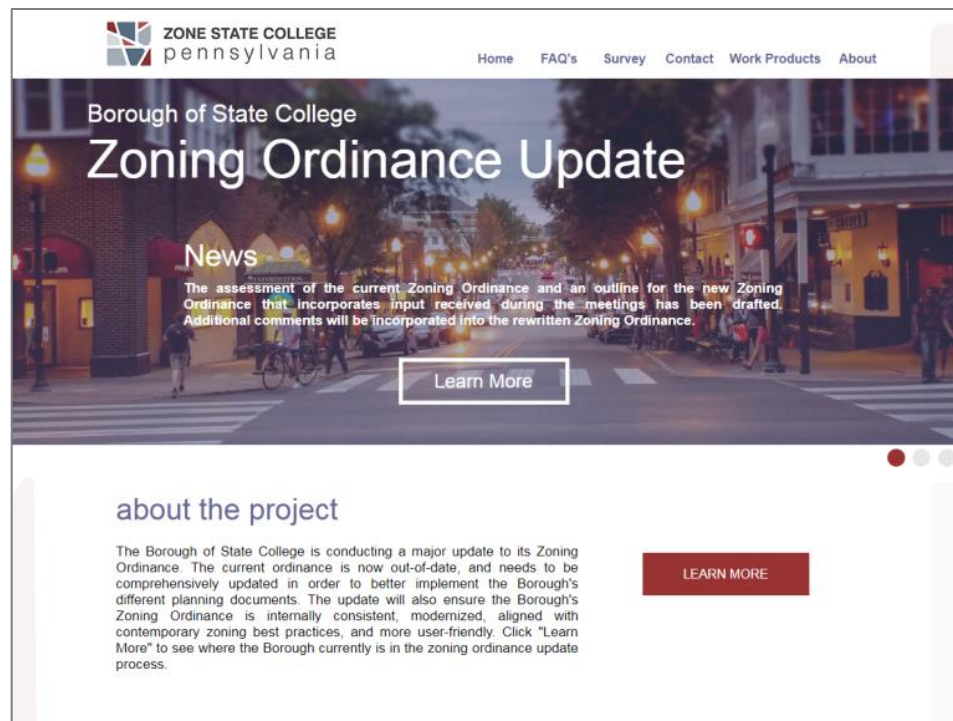
The plan will be developed prior to the project orientation meeting. Following discussion at that meeting, we will prepare a final version for implementation throughout the duration of the project. We emphasize that we are open to exploring new forms of public engagement with staff to reach as broad a cross-section of the community as possible, given constraints on time and budget.

1.2 Review of Background Documents

Clarion team members will review in greater detail the current UDO and zoning map, the *Move Kannapolis Forward* comprehensive plan, other relevant City ordinances and regulations, relevant administrative rules and interpretations, and other documents identified by staff as relevant to the project. This background review will form the basis for the initial meetings described below.

1.3 Project Website

The Clarion team will collaborate with the City to set up a project website. Clarion is able to develop and host the website in-house, or, if the City prefers another arrangement, the Clarion team will help with site design and content as needed. The website is an important resource for communicating information about the project and its schedule. New work products prepared during the update will be placed on the website when they are available for public review. The website will also serve as a tool for the public to submit comments on the process and on work products as they are completed, to sign up to receive project updates by email, and to participate in online project surveys (as appropriate, based on the public engagement plan). An example project website that Clarion created is shown below.



1.4 Project Orientation Meeting and Tour

On an initial two-day project kick-off trip, the team will hold a project orientation meeting with staff to discuss overall project goals and to finalize the project work plan and schedule. The team will also discuss and finalize a detailed public engagement process, as described above in Task 1.1. The team will tour Kannapolis with staff so the team can gain an understanding of how key substantive issues are playing out in practice, looking at, for example, instances of relatively desirable and less desirable recent projects.

1.5 Staff and Stakeholder Discussions

During the project kick-off trip, the team will conduct discussions, on a one-on-one or small group basis, with staff, key stakeholders (community members that represent different perspectives), members of the City Council and Planning and Zoning Commission (if appropriate), and neighborhood and business representatives (if appropriate). The purpose of the discussions is to identify issues they consider most important and changes they believe need to be made to the UDO to make it more user-friendly and implement plan policies and other important goals. Additionally, and before the trip, the team will develop a survey to be circulated among staff and stakeholders that will help organize their thinking about the strengths and weaknesses of the existing UDO.

1.6 Initial Meeting with Advisory Committee

In our work updating development codes, we have found advisory committees very helpful in identifying issues of concern to users and providing feedback and advice about the direction of the project, particularly because of the breadth of the process of updating codes and the highly-technical nature of zoning regulations. If the City decides to form an advisory committee, the Clarion team will meet with the committee during the kick-off trip to provide an introduction to the project work plan and schedule, and facilitate a discussion with committee members to explore ideas to generate meaningful stakeholder involvement, to learn about any concerns committee members have with respect to the existing UDO, and to better understand their overall goals for the project.

1.7 Initial Public Forum

The team will also work with the City's project manager to arrange a kick-off public forum to be held during the kick-off trip. The public forum will be publicized and open to the public. The purpose of the public forum will be to provide an introduction to the project work plan and schedule and hold a discussion about the public's concerns with the existing UDO and their overall goals for the project.

TASK 2: UDO ASSESSMENT – RESPONSIBILITIES AND DELIVERABLES

CLARION TEAM

- Prepare staff review draft of Assessment
- Prepare public review draft of Assessment
- Conduct meetings on Assessment, as outlined in Task 2
- Receive direction

CITY STAFF

- Review and provide consolidated written comments on draft Assessment; teleconference with Clarion to mutually agree on revisions
- Distribute Assessment
- Organize meetings

TRIPS

- One, two-day trip to conduct meetings outlined in Task 2

SCHEDULE

- Completed: Three and one-half months after completion of Task 1

Task 2: UDO Assessment

2.1 UDO Assessment - Staff Review Draft

Based on information gathered in Task 1, the Clarion team will prepare a UDO Assessment in Task 2. The Assessment will include two main sections: 1) an evaluation of the current UDO and 2) an annotated outline for the updated UDO.

The evaluation section provides an opportunity for Clarion and the community to identify key goals for the UDO update and to explore innovative approaches to achieve the key goals.

Key goals for the UDO update will be identified based on the following input, in conjunction with the Clarion team's own independent evaluation:

- Input from City staff and the community about what in the current regulations is working, what is not working, and what needs to be included;
- The broad policy changes that are identified in the *Move Knapolis Forward* comprehensive plan and other plans and policy documents that need to be addressed in the UDO;
- Other goals the community identified for the project in Task 1; and
- Any changes to state or federal laws that need to be addressed in the updated UDO.

The evaluation section will include discussion under each key goal that will:

- Explain why the identified goal is important (e.g., it might be based on policy direction in *Move Knapolis Forward*);
- Summarize how the current UDO addresses the key goal and identify implementation gaps; and
- Recommend how the updated UDO can address the goal, based on the team's professional experience and national best practices.

If there are different options available for addressing key goals, they will also be discussed, with an emphasis on the most appropriate regulatory framework for addressing the combination of key goals. Regulatory approaches that might be explored in this context include (among others):

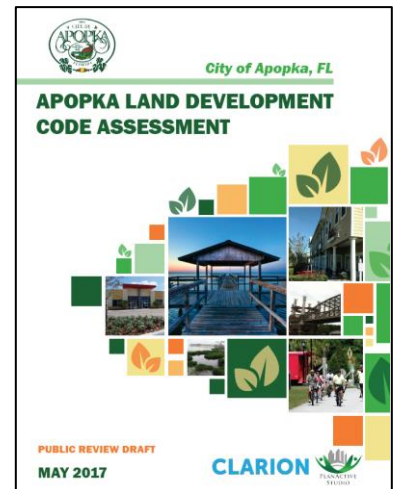
- Form-based standards that would apply in targeted areas of the City;
- Community form standards that would ensure a minimum level of connectivity (internal and external) and walkability in new residential developments;
- Green building incentives;
- Neighborhood compatibility standards to ensure that development on the periphery of established neighborhoods is compatible with their residential character;
- Contextual development standards that distinguish between different areas in the City (e.g., downtown, corridors and activity centers, other areas);
- Conservation subdivision procedures and standards;
- Enhanced landscaping and tree protection standards; and
- Form standards for large retail (big box) development.

The annotated outline section follows the evaluation section in the UDO Assessment. It provides the community an opportunity to review the overall structure and revisions proposed for the updated UDO before the actual drafting begins. It will consist of an article-by-article outline of the updated UDO, drafted to address the key goals identified in the evaluation as recommended. Within the outline, an explanation of the purpose and nature of each article and major section will be provided in layperson's language.

The first draft of the UDO Assessment will be for internal staff review only. That review allows staff to provide the Clarion team with substantive feedback and identify any factual errors or major issues that should be adjusted in the document prior to public review.

2.2 UDO Assessment - Public Review Draft and Meetings

After receiving one set of written consolidated comments from staff, the Clarion team and staff will reach consensus about revisions, and Clarion will make the agreed-upon changes. The UDO Assessment will then be made available to the public. The Clarion team will then make one, two-day trip to the City to meet with the Advisory Committee (if established), conduct work sessions with the City Council and Planning and Zoning Commission (if appropriate), and hold a public forum on the UDO Assessment. At these meetings, the Clarion team will provide an overview of the Assessment, answer questions, and look for input and ultimately direction on the Assessment, including any changes that need to be made. In our experience, obtaining early consensus on issues contained in the Assessment is a crucial step toward ensuring that the remainder of the process proceeds smoothly.



Task 3: Draft UDO

TASK 3: DRAFT UDO – RESPONSIBILITIES AND DELIVERABLES

CLARION TEAM

- Prepare staff review draft of UDO (in two modules)
- Prepare public review draft of UDO (in two modules)
- Conduct two days of meetings on each module, as outlined in Task 3

CITY STAFF

- Review and provide written consolidated comments on modules
- Distribute modules to public
- Organize meetings

TRIPS

- Two, two-day trips to conduct meetings outlined in Task 3

SCHEDULE

- Completed: Twelve months after completion of Task 2

3.1 Draft UDO - Staff Review Draft

Based on the UDO Assessment and the public input and direction in Task 2, the Clarion team will begin drafting the updated UDO based on the agreed-upon structure. The draft will follow the structure and elements proposed in the UDO Assessment's annotated outline (as modified based on City direction in Task 2). The updated UDO will be clear, concise, and drafted with the goal of efficient administration. It will emphasize the use of graphics, tables, and charts to explain zoning, subdivision, and land use concepts. It will include footnotes where necessary to explain changes from current practice and the rationale behind new provisions.

Because the updated UDO will likely include a sizeable amount of new information, it will be difficult for any review body or the public to digest in a single review or meeting. While we do not recommend phased adoption of the UDO as referenced in the RFQ, we do propose drafting the UDO in two installments, or modules. Each module will consist of related provisions, mutually agreed to with staff. For example, we might propose dividing the work as follows: 1) procedures, administration, districts, and uses; and 2) development and subdivision standards. (The exact composition and schedule will be determined in consultation with staff following the completion of the UDO Assessment.)

For each module, a staff review draft will be created and circulated for review by staff to check the factual accuracy (e.g., to ensure any procedures to be carried forward are described correctly) and the feasibility of recommended changes. Staff will provide a written set of consolidated comments on each module. While staff is reviewing the first module, the Clarion team will begin drafting the second module. This schedule is designed to ensure that drafting and staff review proceeds in an efficient manner that maintains momentum.

3.2 Draft UDO - Public Review Draft and Meetings

After receiving one set of written consolidated comments from staff on each module, the Clarion team and staff will reach consensus about revisions, and Clarion will make the agreed-upon changes to create a public review draft of each module. After release of the public review draft of each module, the Clarion team will conduct meetings on the installment with the Advisory Committee (if established), the City Council and Planning and Zoning Commission (if appropriate), and any stakeholder groups. The Clarion team will also conduct a public forum on the draft after the second installment is completed. The purpose of these meetings and forum is to overview the drafts and receive input and direction.

Task 4: Public Hearing Draft UDO

4.1 Public Hearing Draft

Based on input and direction from the City on changes that need to be made to the public review drafts in the Task 3, the Clarion team will make revisions and deliver a public hearing draft of the updated UDO. It will be produced in a common word processing format and include a table of contents and the search and linking capabilities associated with the software platform. Depending on the City's goals and available resources for making the UDO available on the internet, the online version of the UDO may take any of several formats. The Clarion team is happy to discuss a range of options, from advanced PDFs to highly interactive searchable websites (which we have created for some clients). We are very flexible in this regard and want the City to find its best option for making the UDO available online.

4.2 Public Hearings and Work Sessions, and Revisions

Once the public hearing draft of the UDO is made available, the Clarion team will attend an agreed upon number of work sessions or public hearings with the City Council and Planning and Zoning Commission to present the public hearing draft of the UDO and answer questions. The Clarion team will also be available to make any revisions to the public hearing draft of the UDO as it goes through the public hearing process, on a time and materials basis.

Task 5: Procedures Manual (Optional Task)

After adoption of the UDO, and as an optional task, the Clarion team will prepare a manual to serve as a "users' guide" supplement to the UDO that will explain provisions and how the ordinance works in practice. Since the manual is not part of the adopted UDO, it may be updated without public hearings and re-codification. The manual will include details about application review procedures and schedules, application submittal requirements, and additional contact information for those with more detailed questions. It will also include new application forms that are consistent with UDO requirements and national best practices in terms of submittal information. The application forms will be produced in a digital format, suitable for placement on the City's website.

The manual will be structured to appear as a companion document to the UDO in terms of page layout, colors, and fonts, and will include illustrations and diagrams (as appropriate). City staff will review the staff draft of the manual and provide one set of consolidated, consensus comments. Following review of staff comments, the team will conduct a conference call with staff to discuss the comments, make agreed-upon changes to the manual, and deliver both a hard copy and web-ready digital copy to the City.

TASK 4: PUBLIC HEARING DRAFT UDO – RESPONSIBILITIES AND DELIVERABLES

CLARION TEAM

- Prepare public hearing draft of UDO
- Prepare executive summary of updated UDO
- Attend agreed upon public hearing(s)/work session(s) on public hearing draft UDO

CITY STAFF

- Distribute public hearing draft of UDO and executive summary
- Organize public hearing(s)/work session(s)

TRIPS

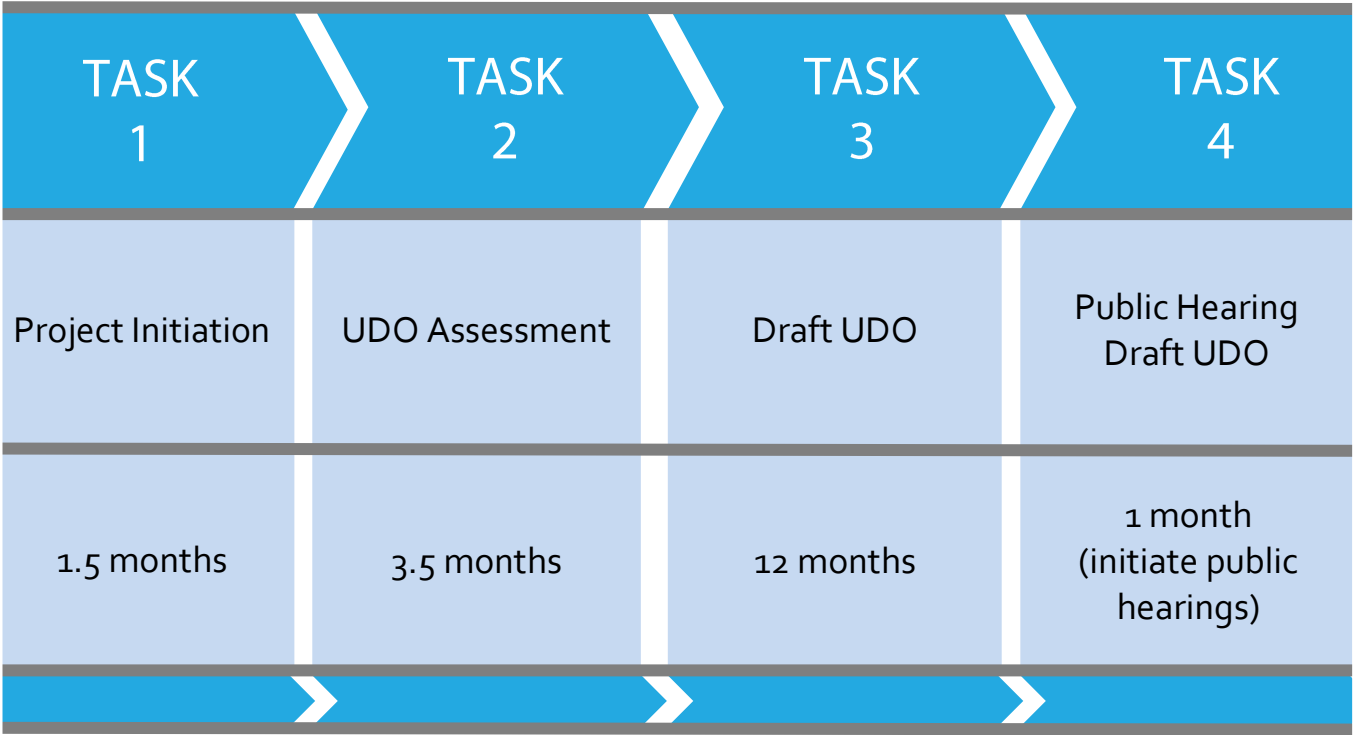
- To be agreed upon

SCHEDULE

- Completed: One month after completion of Task 3

5. Timeline

We outline a project schedule that results in completion of the updated UDO in 18 months, consistent with the preliminary project schedule in the RFQ. Based on our experience, this is a reasonable timeline to complete the project, as long as City staff review of the work products is completed within a reasonable time, and the public review of the draft documents does not get delayed. The schedule is outlined below.



STATE OF NORTH CAROLINA

CITY OF KANNAPOLIS

**SERVICES CONTRACT
(Professional)**

This Contract (the "Contract") is made and entered into as of the ____ day of October, 2018, by the City of Kannapolis ("City") and Clarion Associates, LLC ("Contractor").

Sec. 1. Contractor Authority. The Contractor is a firm licensed to do business in the State of North Carolina.

Sec. 2. Services and Scope to be Performed. The Contractor shall perform the services ("Scope of Services") set forth in Exhibit "A" attached hereto and incorporated herein (the "Project"). Contractor's performance of services in accordance with Exhibit "A" shall be contingent upon City's performance of its responsibilities identified in Exhibit "A". In this Contract, "services" means the services that the Contractor is required to perform pursuant to this Contract and all of the Contractor's duties to the City that arise out of this Contract. Any amendments, corrections, or change orders by either party must be made in writing signed in the same manner as the original. Contractor must perform all services required of it under this Agreement with that degree of skill, care and diligence normally shown by a consultant performing services of a scope and purpose and magnitude comparable with the nature of the services to be provided under this Agreement.

Sec. 3. Complete Work without Extra Cost. Unless otherwise provided, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary related to the Project.

Sec. 4. Compensation. The City shall pay the Contractor for the services in Exhibit "A". Any additional services needed beyond regularly scheduled services may require additional charges. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section or authorized by a duly approved amendment or change order. The City agrees to pay the Contractor \$199,305 over two fiscal years to complete the services in Exhibit "A" in accordance with the compensation schedule set out in Exhibit "B" (Compensation Schedule for Scope of Services).

Sec. 5. Term. This Contract shall begin upon execution of contract by all parties (the "Commencement Date") and end upon completion in accordance with the Project Schedule in Exhibit "A", (the "Term"), unless extended by mutual agreement of the parties hereto.

Sec. 6. Contractor's Billings to City. Payments will be made in accordance with either this Section or in Exhibit "A". Contractor shall submit an invoice to the City of Kannapolis' Finance Department on a monthly basis for the percent of work completed on each phase of work listed in Exhibit "A." Upon receipt of the pay request the City will verify the amounts and if correct, will authorize payment. Final payment shall be made to the Contractor within thirty (30) days after submittal by Contractor. Should a discrepancy arise, the City shall notify the Contractor within sixty (60) days after invoice submittal.

Sec. 7. Insurance.

A. Insurance Coverage

Contractor shall obtain insurance to satisfy the requirements hereunder. The policies shall be with companies authorized to do business in North Carolina and rated "A" or above by A.M. Best Company. Contractor shall satisfy the following requirements and provide the following coverages:

(a) General Requirements.

1. Contractor shall name the City as an additional insured under the automobile, commercial and umbrella liability policies required by this section.
2. Contractor's insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from Contractor's operations under this Agreement. Contractor shall and does waive all rights of subrogation against the City.

3. City shall be exempt from, and in no way liable for any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Contractor.
4. Prior to execution of this Contract by City, Contractor shall provide the certificates of insurance and endorsements documenting that the insurance requirements-set forth in this paragraph have been met, and that the City be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. Contractor shall further provide such certificates of insurance to the City at any time requested by the City after the execution of this Agreement, and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of Contractor shall not relieve Contractor of its obligation to meet the insurance requirements set forth in this Agreement.
5. Should any or all of the required insurance coverage be self-funded/self-insured, Contractor shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.

(b) Types of Insurance.

1. Automobile Liability. Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combines single limit-bodily injury and property damage.
 2. Commercial General Liability. Bodily injury and property damage liability as shall protect Contractor from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by Contractor or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Agreement.
 3. Workers' Compensation Insurance. Contractor shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.
 4. Umbrella. Umbrella liability coverage of no less than \$2,000,000.
 5. Professional errors and omissions ("E & O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000), combined single limits per occurrence and aggregate.
- (c) Certificates of all required insurance and endorsements shall be furnished to the City and shall contain the provision that the City will be given thirty (30) days advance written notice of any intent to amend or terminate by either the insurance or the insuring company.
- (d) Failure to maintain the insurance coverage required in this paragraph is a material default subject to termination of this Agreement.

B. Notice of Cancellation

Contractor shall notify the City, in writing, as required in Sec. 9, immediately upon learning of cancellation or reduction of the insurance afforded by its policy.

Sec. 8. Attachments. The following attachments (whether or not executed) are made a part of this Contract and incorporated herein by reference. In the event an interpretation conflict exists between the principal contract terms and the terms of any attachment, the terms, conditions and provisions of the principal contract shall prevail: Exhibit “A” and Exhibit “B”.

Sec. 9. Notice. All notices that may be proper or necessary to be served or made hereunder shall be in writing and will be deemed delivered when: (a) Actually received with verifiable evidence thereof; (b) Upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the Party; (c) Upon proof of delivery by a nationwide provider of next-day delivery services and addressed to the respective other Party at the address set forth in this Agreement or such other address as the Party may have designated by notice or Agreement amendment to the other Party. Consequences to be borne due to failure to receive a notice due to improper notification by the intended receiving Party of a new address will be borne by the intended receiving Party. A change of address, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Contract shall be deemed given at the time of actual delivery, if it is personally delivered. The addressee of the Parties to this Agreement are as follows:

To the City:

City Manager
City of Kannapolis
401 Laureate Way
Kannapolis, North Carolina 28081
Telephone: 704-920-4300

To the Contractor:

Craig Richardson, Director
Tim Richards, Senior Associate
Clarion Associates
101 Market Street, Suite D
Chapel Hill, North Carolina 27516
Telephone: 919-967-9188

Sec. 10. Indemnification. The Contractor shall defend, indemnify, and save harmless the City, its agents, officers, and employees, from and against all charges that arise in any manner from, in connection with, or out of this Contract as a result of the negligent acts or omissions of the Contractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable except for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Contractor shall at its sole expense defend the City, its agents, officers, and employees with legal counsel. As used in this subsection – “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney’s fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. This section shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor.

Sec. 11. Non-appropriation Clause. If this Contract is for multiple years or is automatically renewed for additional years, Contractor acknowledges that the City is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of City’s obligations under this contract, then this contract shall automatically expire without penalty to the City, thirty (30) days after written notice to Contractor advising of the unavailability and non-appropriation of public funds. It is expressly agreed that the City shall not activate this non-appropriation provision for its convenience or to circumvent.

Sec. 12. Termination For Cause. If the Contractor shall fail to fulfill in a timely, professional and proper manner all obligations under this contract, or should the Contractor violate any of the covenants, agreements, or stipulations of this contract, the City shall have the right to terminate this contract immediately by giving written notice to the Contractor of such termination and specifying the effective date thereof at least twenty-one (21) days before the effective date of such termination. In a like manner, if the City shall fail to fulfill in a timely, professional and proper manner all obligations under this contract, or should the City violate any of the covenants, agreements, or stipulations of this contract, the Contractor shall have the right to terminate this contract immediately by giving written notice to the City of such termination and specifying the effective date thereof at least twenty-one (21) days before the effective date of such termination. In such event, Contractor shall be entitled to receive just and equitable compensation for any

work satisfactorily completed pursuant to this contract. However, the City shall not be obligated to pay any remaining charges for work satisfactorily completed where there exists a right in favor of the City for refund, reimbursement or offset in connection with any obligations arising from the Contractor to the City.

Sec. 13. Miscellaneous.

- (a) Choice of Law and Forum. This Contract shall be deemed made in Cabarrus County, North Carolina. This Contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the appropriate division of the North Carolina General Court of Justice, in Cabarrus County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.
- (b) Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out this Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.
- (c) Performance of Government Functions. Nothing contained in this Contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.
- (d) Severability. If any provision of this Contract shall be unenforceable, the remainder of this Contract shall be enforceable to the extent permitted by law.
- (e) Assignment, Successors and Assigns. Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out this Contract. Unless the City otherwise agrees in writing, the Contractor and all assigns shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this Contract and all of the City's claims that arise out of this Contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this Contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.
- (f) Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law.
- (g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.
- (h) EEO Provisions. During the performance of this Contract the Contractor agrees as follows:

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment, notices setting forth these EEO provisions. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.
- (i) No Third Party Right Created, Independent Contractor. This Contract is intended for the benefit of the City and the Contractor and not any other person. This Contract is not intended to and does not constitute, create, give, rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Contractor and the City. The rights and

the obligations of the parties are only those set forth in this Contract. Contractor must perform under this Contract as an independent contractor and not as a representative, employee, agent, or partner of the City.

- (j) Principles of Interpretation. In this Contract, unless the context requires otherwise the singular includes the plural and the plural the singular. The pronouns “it” and “its” include the masculine and feminine. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The word “person” includes natural persons, firms, companies associations, partnerships, trusts, corporations, governmental agencies and units, and any other legal entities. TIME IS OF THE ESSENCE AS TO ALL PROVISIONS OF THIS CONTRACT.
- (k) Modifications, Entire Agreement. A modification of this Contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or other duly authorized official signs it for the City. This Contract contains the entire agreement between the parties pertaining to the subject matter of this Contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Contract.
- (l) Dispute Resolution. All disputes arising between Contractor and City pursuant to performance of this Contract shall be resolved or attempted to be resolved before proceeding with litigation through the City’s “Rules Implementing Mediated Settlement Conferences”.
- (m) Confidentiality. Employees of Contractor in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Contractor covenants that all data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without written authorization by City. City shall grant such authorization if disclosure is required by law. Contractor’s covenant under this section shall survive the termination of this Agreement.
- (n) Ownership of Documents. Drawings, illustrations, and other documents prepared by Contractor in connection with this Contract shall be property of the City. However, Contractor shall have the right to utilize such documents in the course of its marketing, professional presentations, and for other business purposes.
- (o) Use of Work. Contractor assigns to City the right to: (1) reproduce the work prepared under this Contract; (2) distribute copies to the public; and (3) display the work publicly. Contractor shall have the right to use materials produced in the course of this Contract for marketing purposes and professional presentations, articles, speeches and other business purposes.
- (p) W-9 Form. Contractor shall provide a completed W-9 form to the City upon execution of this Contract.
- (q) E-Verify. For agreements that include construction or services, employers and their subcontractors with 25 or more employees in North Carolina as defined in Article 2 of Chapter 64 of the NC General Statutes must comply with E-Verify requirements to contract with the City. E-Verify is a Federal program operated by the US Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. By executing this Contract, Contractor certifies that Contractor complies with the requirements of the E-Verify program.

IN WITNESS WHEREOF, the City of Kannapolis and the Contractor have caused this Contract to be executed under seal by their respective duly authorized agents or officers.

CITY OF KANNAPOLIS:

CONTRACTOR:

By: _____
Michael B. Legg, City Manager

By: _____
Title: Craig Richardson, Director

APPROVED AS TO FORM:

Attorney for the City of Kannapolis

APPROVAL BY CITY FINANCE OFFICER

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Eric Davis

EXHIBIT 'A'

SCOPE OF SERVICES

(attach original copy)

EXHIBIT 'B'

COMPENSATION SCHEDULE FOR SCOPE OF SERVICES

TASK	FEE
Task 1: Project Initiation	\$18,935
Task 2: UDO Assessment	\$43,835
Task 3: Draft UDO	\$110,130
Task 4: Public Hearing Draft UDO	\$14,405
Project Website	\$5,000
Graphics	\$7,000
TOTAL	\$199,305
<i>Task 5: Additional Meetings (Optional) (Fee in addition to total above)</i>	<i>\$3,325 per trip (Director and Senior Associate)</i> <i>\$2,075 per trip (Senior Associate and Associate)</i>
<i>Task 6: Procedures Manual (Optional) (Fee in addition to total above)</i>	<i>To be mutually agreed to by City and Contractor</i>

Exhibit A: Scope of Services

Task 1: Project Initiation

1.1 Public Engagement

Contractor will draft a plan for public engagement. The plan will emphasize public involvement, regular workshop meetings with an Advisory Committee (if the City so chooses), regular reports to elected officials, public meetings at important milestones during the process, and the use of the project website. The draft plan will be developed prior to the project orientation meeting. Following discussion at that meeting, Contractor will prepare a final version for implementation throughout the duration of the project.

1.2 Review of Background Documents

Contractor will review the current UDO and zoning map, the *Move Kannapolis Forward* comprehensive plan, other relevant City ordinances and regulations, relevant administrative rules and interpretations, and other documents identified by City staff as relevant to the project. This background review will form the basis for the initial meetings described below.

1.3 Project Website

Contractor will collaborate with the City to set up a project website. Contractor will develop and host the website in-house, or, if the City prefers another arrangement, Contractor will help with site design and content as needed. New work products prepared during the update will be placed on the website when they are available for public review. The website will also serve as a tool for the public to submit comments on the process and on work products as they are completed, to sign up to receive project updates by email, and to participate in online project surveys (as appropriate, based on the public engagement plan).

1.4 Project Orientation Meeting and Tour

On an initial two-day project kick-off trip, Contractor will hold a project orientation meeting with City staff to discuss overall project goals and to finalize the project work plan and schedule. Contractor will also discuss and finalize a public engagement plan, as described above in Task 1.1. City staff will lead Contractor on a reconnaissance of the City so Contractor can gain an understanding of how key substantive issues are playing out in practice, looking at, for example, instances of exemplary development projects approved by the City and projects that highlight concerns.

1.5 Staff and Stakeholder Discussions

During the project kick-off trip, Contractor will conduct discussions, on a one-on-one or small group basis, with City staff, key stakeholders (community members that represent different perspectives), members of the City Council and Planning and Zoning Commission (if appropriate), and neighborhood and business representatives (if appropriate). The purpose of the discussions is to identify issues they consider most important and changes they believe need to be made to the UDO to make it more user-friendly and implement plan policies and other important goals. Additionally, and before the trip, Contractor will develop a survey to be circulated among staff and stakeholders that will help organize their thinking about the strengths and weaknesses of the existing UDO.

TASK 1: PROJECT INITIATION – RESPONSIBILITIES AND DELIVERABLES

CONTRACTOR

- Review current UDO, plan documents, other documents, and records
- Draft survey for staff and stakeholders
- Finalize scope and public engagement plan
- Conduct interviews with staff
- Conduct interviews with City Council, Planning and Zoning Commission, stakeholders and others, as appropriate
- Tour City, with staff
- Set up or coordinate set up of project website
- Facilitate and conduct public forum

CITY STAFF

- Send copies of plans, regulations, and other relevant documents to Contractor (including editable digital version of current UDO)
- Circulate survey to staff (as appropriate)
- Organize and accompany Contractor on tour of City
- Organize kick-off meetings and interviews
- Participate in meetings and interviews with Contractor
- Provide feedback on website design and content

TRIPS

- One, two-day trip to City to interview staff and stakeholders, tour City, and hold public forum

SCHEDULE

- Completed: One and one-half months after project start

1.6 Initial Meeting with Advisory Committee

If the City decides to form an advisory committee, Contractor will meet with the committee during the kick-off trip to provide an introduction to the project work plan and schedule, and facilitate a discussion with committee members to explore ideas to generate meaningful stakeholder involvement, to learn about any concerns committee members have with respect to the existing UDO, and to better understand their overall goals for the project.

1.7 Initial Public Forum

Contractor will also work with the City's project manager to arrange a kick-off public forum to be held during the kick-off trip. The public forum will be publicized and open to the public. The purpose of the public forum will be to provide an introduction to the project work plan and schedule and hold a discussion about the public's concerns with the existing UDO and their overall goals for the project.

Task 2: UDO Assessment

2.1 UDO Assessment - Staff Review Draft

Based on information gathered in Task 1, Contractor will prepare a UDO Assessment in Task 2. The Assessment will include two main sections: 1) an evaluation of the current UDO and 2) an annotated outline for the updated UDO.

The evaluation section will identify key goals for the UDO update and to explore approaches to achieve the key goals. The evaluation section will build on:

- Input from City staff and the community about what in the current regulations is working, what is not working, and what needs to be included;
- The broad policy changes that are identified in the *Move Knapolis Forward* comprehensive plan and other plans and policy documents that need to be addressed in the UDO;
- Other goals the community identified for the project in Task 1; and
- Any changes to state or federal laws that need to be addressed in the updated UDO.

The evaluation section will include discussion under each key goal that will:

- Explain why the identified goal is important (e.g., it might be based on policy direction in *Move Knapolis Forward*);
- Summarize how the current UDO addresses the key goal and identify implementation gaps; and
- Recommend how the updated UDO can address the goal, based on Contractor's professional experience and national best practices.

If there are different options available for addressing key goals, they will also be discussed. As part of the discussion of the goals, the most appropriate regulatory framework to address the combination of key goals will also be discussed.

The annotated outline section will provide the community an opportunity to review the overall structure and revisions proposed for the updated UDO before the actual drafting begins. It will consist of an article-by-article outline of the updated UDO, drafted to address the key goals identified in the evaluation as recommended. Within the outline, an explanation of the purpose and nature of each article and major section will be provided in layperson's language.

The first draft of the UDO Assessment will be for internal staff review only. That review allows staff to provide Contractor with substantive feedback and identify any factual errors or major issues that should be adjusted in the document prior to public review.

2.2 UDO Assessment - Public Review Draft and Meetings

After receiving one set of written consolidated comments from staff, Contractor and City staff will reach consensus about revisions, and Contractor will make the agreed-upon changes. The UDO Assessment will then be made available to the public by City Staff. Contractor will then make one, two-day trip to the City to meet with the Advisory Committee (if established), conduct work sessions with the City Council and Planning and Zoning Commission (if appropriate), and hold a public forum on the UDO Assessment. At these meetings, Contractor will provide an overview of the Assessment, answer questions, and look for input and ultimately direction on the Assessment, including any changes that need to be made.

TASK 2: UDO ASSESSMENT – RESPONSIBILITIES AND DELIVERABLES

CONTRACTOR

- Prepare staff review draft of Assessment
- Prepare public review draft of Assessment
- Conduct meetings on Assessment, as outlined in Task 2
- Receive direction

CITY STAFF

- Review and provide consolidated written comments on draft Assessment; teleconference with Contractor to mutually agree on revisions
- Distribute Assessment
- Organize meetings

TRIPS

- One, two-day trip to conduct meetings outlined in Task 2

SCHEDULE

- Completed: Three and one-half months after completion of Task 1

Task 3: Draft UDO

TASK 3: DRAFT UDO – RESPONSIBILITIES AND DELIVERABLES

CONTRACTOR

- Prepare staff review draft of UDO (in two modules)
- Prepare public review draft of UDO (in two modules)
- Conduct two days of meetings on each module, as outlined in Task 3

CITY STAFF

- Review and provide written consolidated comments on modules
- Distribute modules to public
- Organize meetings

TRIPS

- Two, two-day trips to conduct meetings outlined in Task 3

SCHEDULE

- Completed: Twelve months after completion of Task 2

3.1 Draft UDO - Staff Review Draft

Based on the UDO Assessment and the public input and direction in Task 2, Contractor will prepare a draft of the updated UDO based on the agreed-upon structure. The draft will follow the structure and elements proposed in the UDO Assessment's annotated outline (as modified based on City direction in Task 2). The updated UDO will be clear, concise, and drafted with the goal of efficient administration. It will emphasize the use of graphics, tables, and charts to explain zoning, subdivision, and land use concepts. It will include footnotes where necessary to explain changes from current practice and the rationale behind new provisions.

Because the updated UDO will likely include a sizeable amount of new information, it will be difficult for any review body or the public to digest in a single review or meeting. Consequently, drafting of the UDO will be divided in two installments, or modules. Each module will consist of related provisions, mutually agreed to by Contractor and City staff. For example, Contractor might propose dividing the work as follows: 1) procedures, administration, districts, and uses; and 2) development and subdivision standards. (The exact composition and schedule will be determined in consultation with City staff following the completion of the UDO Assessment.)

For each module, a staff review draft will be created and circulated for review by City staff to check the factual accuracy (e.g., to ensure any procedures to be carried forward are described correctly) and the feasibility of recommended changes. City staff will provide a written set of consolidated comments on each module.

3.2 Draft UDO - Public Review Draft and Meetings

After receiving one set of written consolidated comments from staff on each module, Consultant and City staff will reach consensus about revisions, and Consultant will make the agreed-upon changes to create a public review draft of each module. The public review draft will be made available to the public by City staff, after which Contractor will conduct meetings on the installment with the Advisory Committee (if established), the City Council and Planning and Zoning Commission (if appropriate), and any stakeholder groups. Contractor will also conduct a public forum on the draft after the second installment is completed. The purpose of these meetings and forum is to overview the drafts and receive input and direction.

Task 4: Public Hearing Draft UDO

4.1 Public Hearing Draft

Based on input and direction from the City on changes that need to be made to the public review drafts in the Task 3, Contractor will make revisions and deliver a public hearing draft of the updated UDO. It will be produced in a common word processing format (Microsoft Word) and include a table of contents and the search and linking capabilities associated with the software platform, and be web-ready. Contractor will provide recommendations on long-term document management and codification maintenance.

4.2 Public Hearings and Work Sessions, and Revisions

Once the public hearing draft of the UDO is made available, Contractor will attend a public hearing and/or work session with the City Council and/or Planning and Zoning Commission during one, one-and-one-half-day trip to present the public hearing draft of the UDO and answer questions.

Task 5: Additional Meetings (Optional)

Contractor will make additional trips to the City as mutually agreed to by the City's project manager and Contractor. Compensation to Contractor for each trip will be in addition to compensation under the initial agreement, as follows:

- One-day trip, Director and Senior Associate: \$3,325 (this includes preparation, full day of meetings, and travel expenses)
- One-day trip, Senior Associate and Associate: \$2,075 (this includes preparation, full day of meetings, and travel expenses)

Task 6: Procedures Manual (Optional)

As an optional task to be negotiated and agreed to separately from the initial agreement and for additional compensation, the City and Contractor may enter into an agreement for Contractor to prepare a manual to serve as a "users' guide" supplement to the UDO that would explain provisions and how the ordinance works in practice. The manual would include details about application review procedures and schedules, application submittal requirements, and additional contact information for those with more detailed questions. It would also include new application forms that would be consistent with UDO requirements and national best practices in terms of submittal information. The application forms would be produced in a digital format, suitable for placement on the City's website.

The manual would be structured to appear as a companion document to the UDO in terms of page layout, colors, and fonts, and would include illustrations and diagrams (as appropriate). City staff would review the staff draft of the manual and provide one set of written, consolidated, consensus comments. Following review of staff comments, Contractor would conduct a conference call with staff to discuss the comments, make agreed-upon changes to the manual, and deliver both a hard copy and web-ready digital copy to the City.

TASK 4: PUBLIC HEARING DRAFT UDO – RESPONSIBILITIES AND DELIVERABLES

CONTRACTOR

- Prepare public hearing draft of UDO
- Prepare executive summary of updated UDO
- Attend agreed upon public hearing(s)/work session(s) on public hearing draft UDO

CITY STAFF

- Distribute public hearing draft of UDO and executive summary
- Organize public hearing(s)/work session(s)

TRIPS

- One, one-and-one-half-day trip

SCHEDULE

- Completed: One month after completion of Task 3



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE: NLC Voting Delegates

A. Action Requested by City Council

Motion to appoint Mayor Hinnant as the voting delegate to the National League of Cities annual business meeting and Councilmember Kincaid as the alternate voting delegate.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The City of Kannapolis is a member of the National League of Cities (NLC) and under the by-laws of the NLC, each member is entitled to one voting delegate and one alternate voting delegates at the Annual Business Meeting. In order to be eligible to cast the City's vote, City Council must designate one voting and one alternate voting delegates.

This year the conference will be held in Los Angeles, CA on November 7 through 11, 2018

D. Fiscal Considerations

None

E. Policy Issues

None

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

- 1. Motion to appoint a Mayor Hinnant as the voting delegate to the NLC Conference and Councilmember Kincaid as the alternate voting alternate (Recommended)**
- 2. Do not appoint voting delegates**

ATTACHMENTS:

File Name

No Attachments Available



**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE: Update on Fishertown Annexation

A. Action Requested by City Council

Motion to approve the reduced proposed Fishertown Annexation area.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

At the October 4, 2018 Fishertown Annexation public information session, some residents in the proposed area expressed concerns about being included in the proposed area. Some of the concerns included not identifying historically with the Fishertown community; owning large vacant tracts not needing City services; being disconnected from the core parts of Fishertown via access; and a general desire not to be included in the proceedings. Staff has received additional calls and emails expressing these same concerns.

It is clear there is much more support for this effort in the area west of Charlie Walker Road, south of Bahama Drive.

As a result of this initial public input, staff recommends a revised proposed annexation area be established which would focus more directly on the area of highest population concentration. This is the area from which the majority of the supporters of this process live. The attached maps show the original area (with utility services noted) and the proposed smaller area.

The revised area still meets all the statutory requirements for annexation (subject to the petition results).

Further supporting the staff recommended change, it is important to remember that this particular annexation proceeding was designed by the General Assembly to assist lower income/higher poverty areas with a stronger voice (and economic assistance) in extending water, sewer and other City services to such neighborhoods. This smaller Fishertown area focuses more directly on those areas that meet that general criteria.

This change would also result in less cost to the City for utilities (\$7.7 million, down from \$11.4 million). The change also likely give the annexation a greater chance of passing via the petition process.

As for those property owners in the excluded area, they would have the option to request single property voluntary annexation at any time in the future should they choose to request it. However, as part of that kind of voluntary annexation the City would not be required to extend utilities to those properties.

If the change in area is approved by City Council, two notices to property owners and residents will be delivered. The first will be for the excluded area and will describe that they are not longer part of these proceedings. IT will also provide the voluntary annexation process should they desire to proceed with such requests in the future. The second letter will go to the smaller (and final) Fishertown annexation area. It will describe the decision regarding the excluded area and will also provide details for the upcoming petition process.

D. Fiscal Considerations

Note the reduction in utility extension costs to the City described above.

E. Policy Issues

None.

F. Legal Issues

None.

G. Alternative Courses of Action and Recommendation

1. **Motion to approve the reduced proposed Fishertown Annexation area (recommended).**
2. Take no action (the existing area would remain in place for the petition process).

ATTACHMENTS:

File Name

- ❑ Revised_Fishertown_Annexation_Analysis.pdf
- ❑ RevisedFTMap.pdf
- ❑ Fishertown_Parcels_-_Orginal_area.pdf
- ❑ New_and_Original_Annexation_Area.pdf

General Statistical Information for Revised Fishertown Annexation Area

- Total Area of Revised Fishertown – 150 acres (was 290)
- Number of Parcels – 361 parcels (was 507)
- Number of Parcels with structures – 259 (was 383)
- Number of Parcels without structures – 102 (was 124)
- Number of Households – 259 (was 328)
- Total area population (2.51 persons per household) – 650 (was 823)
- Total Area Assessed Value - \$19,442,770 - would increase city-wide tax base by 0.0008% (was \$32,073.220)
- Total Miles of Streets – 3 miles (was 5)
- Total NC DOT Streets – 3 miles (was 4.8)






Revised City-Wide Financial Impact

Potential Revenue/Expenditure	First Year	Subsequent Years
General Fund Revenues	\$148,546	\$148,546
General Fund Revenue Lost	-\$19,443	-\$19,443
General Fund Expenditures	-\$294,446	-\$150,926
Water & Sewer Revenues	\$83,163	\$83,163
Water & Sewer Revenue Lost	-\$16,459	-\$16,459
Water & Sewer Expenses	-\$751,326	-\$751,326
Stormwater Revenues	\$22,533	\$22,533
Stormwater Expenses	\$0	\$0
Environmental Revenues	\$48,485	\$48,485
Environmental Expenses	-\$150,857	-\$124,517
Total of All Funds	-\$929,804	-\$759,943

Major Changes with the smaller area

- \$75,531 reduction in Property Tax Revenue
- \$3,767,056 reduction in Water & Sewer Capital Cost
- \$313,560 reduction in Debt Service payments
- **\$246,723 reduction in cost across all funds for First Year from initial annexation map**
- **\$239,706 reduction in cost across all funds for Subsequent Years from initial annexation map**

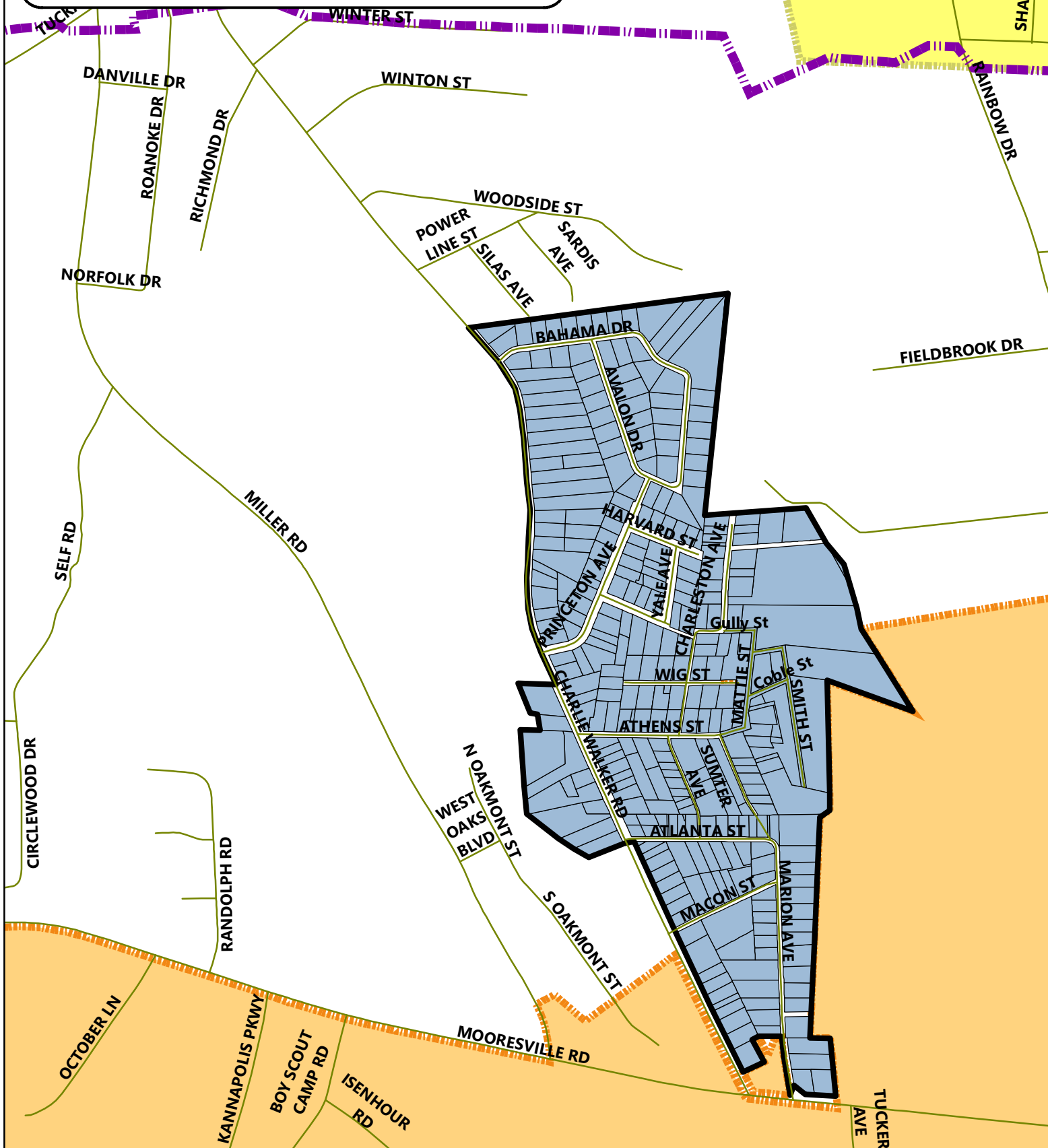
Proposed Fishertown Annexation (Revised)

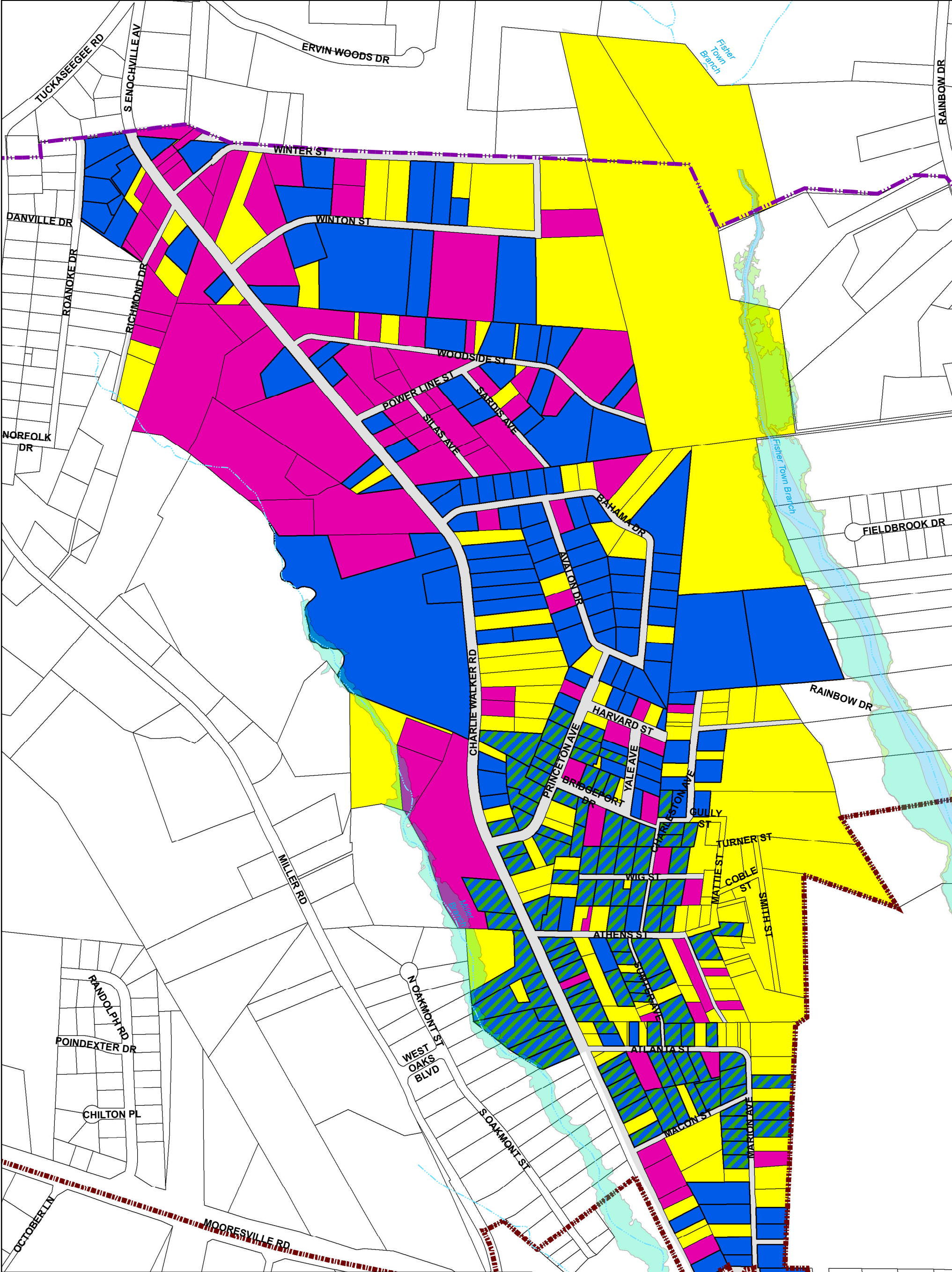
-  County Line
-  Streets
-  Proposed Fishertown Annexation Area
-  City of Kannapolis Limits
-  Extra Territorial Jurisdiction



0 500 1,000 Feet

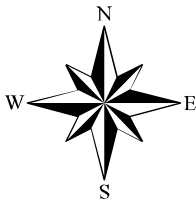
Created By: City of Kannapolis Planning Dept.
Date: 10/17/2018





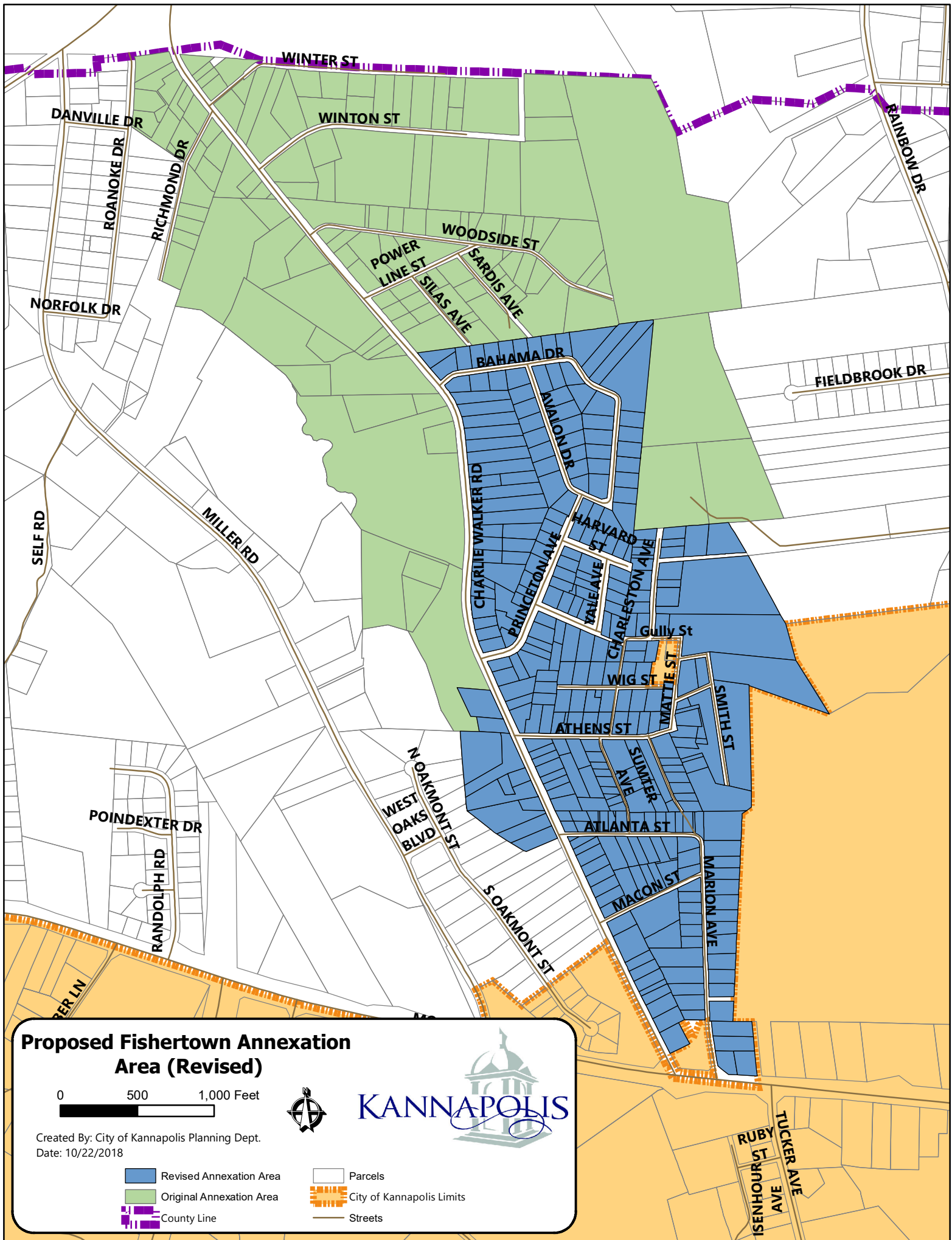
DISCLAIMER: This map is prepared from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data from various federal, state, and local agencies. Maps and associated information must be accepted and used by the recipient with the understanding that the primary information sources should be consulted for verification of the information contained on these maps. As such, the City of Kannapolis provides no warranties, expressed or implied, concerning the accuracy, completeness or reliability, or suitability of this data. Furthermore, the City of Kannapolis assumes no liability whatsoever associated with the use or misuse of such data.

S:\GIS\PublicWorks\Fishtown\Area Maps\
Proposed Utilities.mxd (MML) 11-28-17



1 inch = 500 feet

- | | |
|------------------------|--|
| Kannapolis City Limits | Fishtown Area |
| Streams | Parcels With Water-Sewer Accounts (Approximately 105 Parcels) |
| Floodway | Parcels With Water Accounts (Approximately 132 Parcels) |
| 100 Year | Parcels With Structures But No Accounts (Approximately 91 Parcels) |
| 500 Year | Parcels With No Structures And No Accounts (Approximately 140 Parcels) |
| County Line | |





**City of Kannapolis
City Council Meeting
October 22, 2018
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE: Closed Session

A. Action Requested by City Council

GS. 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney client privilege and G.S. 143.318.11 (a) (4) for discussing matters relating to the location or expansion of industries or businesses in the area (Mayor Pro tem Berry)

Motion to Adjourn Meeting

B. Required Votes to Pass Required Action

C. Background

D. Fiscal Considerations

E. Policy Issues

F. Legal Issues

G. Alternative Courses of Action and Recommendation

ATTACHMENTS:

File Name

No Attachments Available