



**KANNAPOLIS CITY COUNCIL
MEETING AGENDA
Kannapolis City Hall
401 Laureate Way, Kannapolis NC
November 26, 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

FIRST READING

1. **TA-2018-08 - Text Amendment – Article 2, Board of Adjustment, Section 2.2.3.1** - Consider a text amendment to Section 2.2.3.1 of the Unified Development Ordinance amending the membership requirements for the appointment of alternate members to the Board of Adjustment (BOA). **FIRST READING**
2. **TA-2018-09 – Text Amendment – Board of Adjustment Approved Orders and Timeline** Consider a text amendment to Article 3 – Appeals and Variances, Section 3.7.2.5 – Procedures, of the Unified Development Ordinance amending the timeline for a Board of Adjustment (BOA) approved Order to be signed and considered a final decision. **FIRST READING**

APPROVAL/CORRECTION OF MINUTES

1. October 17, 2018 Special Meeting
2. October 22, 2018 Regular Meeting
3. November 12, 2018 Regular Meeting
4. Closed Session Minutes October 17, 2018
5. Closed Session Minutes October 22, 2018
6. Closed Session Minutes November 12, 2018

CONSENT AGENDA - Motion to Adopt Consent Agenda or make revisions

1. Request to consider withdrawal from dedication an unopened right-of-way known as Kenneth Street located south of Kimball Street and establish a Public Hearing date of January 14, 2019 (Wilmer Melton III, Director of Public Works)
2. Request to consider withdrawal from dedication an unopened right-of-way known as Mary Street located south of Kimball Street and set a Public Hearing date for January 14, 2019 (Wilmer Melton III, Director of Public Works).

3. Oakwood Avenue Sidewalk Project TIP # C-4916 C and Reimbursement Resolution (Wilmer Melton, III, Director of Public Works)

BUSINESS AGENDA

- A. Public Hearing for Voluntary Contiguous Annexation of Property at 3901 Shiloh Church Road (PIN 4672-69-4483- Voluntary contiguous annexation of property to be combined with previously annexed property to accommodate a proposed residential subdivision of approximately 190 homes (Zachary D. Gordon, AICP, Planning Director)
- B. Presentation of Fiscal Year 2018 Audit (Eric Davis, Finance Director)
- C. Discussion of Unified Development Ordinance (UDO) Update- Presentation by Clarion Associates (Zachary D. Gordon, AICP, Planning Director)
- D. Presentation and Discussion of Future Solid Waste Collection Services (Wilmer Melton, III, Director of Public Works)
- E. Interlocal Agreement with Rowan County related to Utility Extensions in southern Rowan County (Mike Legg, City Manager)
- F. Final high bid offer related to the Upset Bid Sale of City Owned Property Located at 610 Kansas Street (Mike Legg, City Manager)

CITY MANAGER REPORT

CITY COUNCIL COMMENTS

SPEAKERS FROM THE FLOOR

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

UPCOMING SCHEDULE

December 10, 2018 - One meeting in December
January 14, 2019

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
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: TA-2018-08 - Board of Adjustment Membership Requirements

A. Action Requested by City Council

First Reading of TA-2018-08 (No Action Required)

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

Article 2 of the UDO establishes the powers, duties and membership requirements for the Board of Adjustment (BOA) for the City of Kannapolis, pursuant to North Carolina General Statutes (NCGS) 160A-388. The BOA is charged with the authority to hear and decide appeals of decisions from the Administrator (i.e., Planning Director), hear and decide on applications for variances, conditional use permits and interpret the Official Zoning Map.

Staff is proposing to amend the requirement for alternate members comprising the BOA by eliminating the restriction on the maximum number of alternates (currently 2) in order to provide City Council more flexibility in assigning alternate members to the Board. There have been several recent meetings where cases needed to be postponed because of the absence of board members. The appointment of more than 2 alternate members should address this problem.

Section 2.2.3.1 of the UDO sets forth membership requirements for the BOA and states that City Council shall appoint seven (7) members pursuant to NCGS 160A-388. Section 2.2.3.1 of the UDO also states that City Council shall appoint two (2) alternate members to serve on the BOA. NCGS 160A-388, however, does not require alternate members to be appointed. Instead it allows for alternates to be appointed and states if alternates are appointed, they must be appointed in the same manner as regular members.

See language below from North Carolina General Statutes:

NCGS § 160A-388. Board of adjustment.

(a) Composition and Duties. - The zoning or unified development ordinance may provide for

the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the city council may appoint certain members for less than three years so that the terms of all members shall not expire at the same time. The council may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals.

D. Fiscal Considerations

None

E. Policy Issues

The proposed text amendment to the UDO is shown below as **additions and deletions**:

2.2.3. MEMBERSHIP.

2.2.3.1. The City Council shall appoint seven (7) persons to the Board of Adjustment as provided in NCGS § 160A-388. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160A-362. Included with the seven appointees, the City Council ~~shall appoint two (2) alternate members~~ **may appoint alternate members** to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

This is the first reading of proposed TA-2018-08. A public hearing will be held at the December 10, 2018 City Council meeting.

ATTACHMENTS:

File Name

- ☐ UDO_Text_Amendment_Application.pdf
- ☐ Proposed_Changes_to_UDO_Article_2.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 Owner: _____

Address: 401 Laureate Way Address: _____
Kannapolis, NC 28081

Telephone: 704.920.4355 Telephone: _____

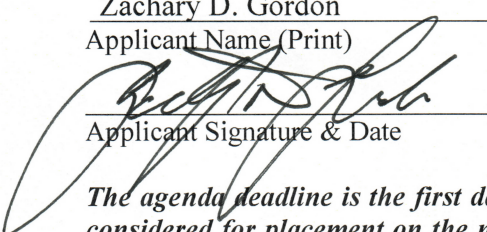
Email: zgordon@kannapolisnc.gov Email: _____

Legal relationship of applicant to property owner: N/A

Property Location/Address: N/A

Tax Parcel Number: N/A Zoning District: N/A Acreage of Site: N/A

Zachary D. Gordon _____
Applicant Name (Print) Property Owner Name (Print)

 10-26-18 _____
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:

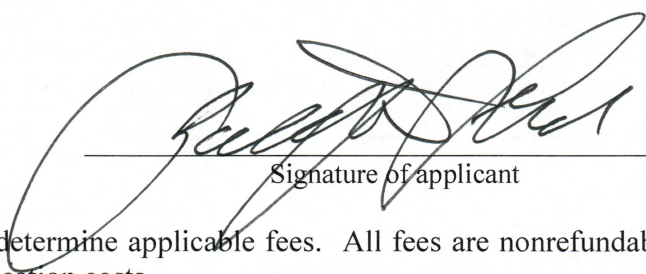
Article 2, Board of Adjustments, Section 2.2.3.

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.

2.2. BOARD OF ADJUSTMENT.

2.2.1. ESTABLISHMENT.

Pursuant to NCGS § 160A-388, there is hereby established the Board of Adjustment of the City of Kannapolis.

2.2.2. POWERS AND DUTIES.

2.2.2.1. Pursuant to NCGS § 160A-388, the Board of Adjustment shall have the following powers, duties and authority:

- To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (NCGS § 160A-388(b)).
- To hear and decide on applications for variances from the terms of the zoning ordinance pursuant to § 3.7 of this Ordinance and NCGS § 160A-388(d). The Board shall have the authority to place conditions, including time limits, on variances.
- To approve, approve with conditions, or deny applications for conditional use permits.
- To interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance (NCGS § 160A-388(c)).
- The Board of Adjustment shall exercise such other powers as may be granted by this Ordinance.

2.2.2.2. Quasi-judicial Procedures. The consideration of any appeal, variance, conditional use permit or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in § 3.1.7 and § 3.7 of this Ordinance.

2.2.2.3. Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the City shall only be considered by the Commission with the extra-territorial jurisdiction member present.

2.2.2.4. The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes.

2.2.2.5. Limitations of Board. The Board of Adjustment shall not have power, jurisdiction, or authority to consider any of the following:

- Make any changes in permitted uses on any zoning classification or zoning district.
- Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

2.2.3. MEMBERSHIP.

2.2.3.1. The City Council shall appoint seven (7) persons to the Board of Adjustment as provided in NCGS § 160A-388. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160A-362. Included with the seven appointees, the City Council ~~shall appoint two (2) alternate members~~ may appoint alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

2.2.3.2. Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the appointing Council or by intergovernmental agreement.

2.2.3.3. All members shall serve a term of three (3) years. Members may be reappointed as necessary by the City Council.

2.2.3.4. The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.

2.2.3.5. If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the commission within any three-month period, it will be sufficient grounds for termination of the member's appointment. The chair or the vice-chair, as the case may be, shall ~~immediately file a notification of such~~



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: TA-2018-09 – Text Amendment – Board of Adjustment Approved Orders and Timeline

A. Action Requested by City Council

First Reading of TA 2018-09 (No action required)

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

Article 3 of the UDO establishes appeals and variance procedures for the Board of Adjustment (BOA) for the City of Kannapolis. Section 3.7.2.5 Sets forth requirements for approving the final order for any BOA case. The BOA is charged with the authority to hear and decide appeals of decisions from the Administrator (i.e., Planning Director), hear and decide on applications for variances, conditional use permits and interpret the Official Zoning Map.

Staff is proposing to amend the UDO to allow for a BOA decision to be considered final after an order is signed by the chair person (which may occur at the meeting when a decision is rendered by the BOA) rather than after BOA approval of the meeting minutes pertaining to a case. Currently, an applicant must wait at least one month after their case has been heard and decided on by BOA before minutes are approved and an order signed. This amendment will result in better service to applicants and cut down on the timeline for a decision to be considered final by at least one month.

D. Fiscal Considerations

None

E. Policy Issues

The proposed text amendment is attached.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

This is the First Reading of proposed TA-2018-09. A public hearing will be held at the City Councils' December 10, 2018 meeting.

ATTACHMENTS:**File Name**

- ▣ UDO_Text_Amendment_Application.pdf
- ▣ Propoped_Text_Amendment_to_UDO_Article_3.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	_____

Zachary D. Gordon, AICP -
Applicant: 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: N/A

Property Location/Address: N/A

Tax Parcel Number: N/A Zoning District: N/A Acreage of Site: N/A

Zachary D. Gordon
Applicant Name (Print) _____ Property Owner Name (Print) _____

[Signature] 10-26-18
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

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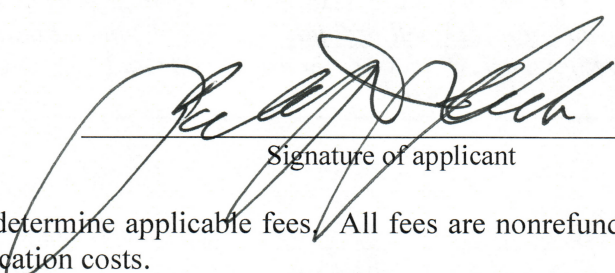
Article 3.7, Appeals and Variances, Section 3.7.2.5

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.

3.7. APPEALS AND VARIANCES.

3.7.1. APPLICATION.

The Board of Adjustment (BOA), may decide appeals of administrative interpretations and decisions and may grant variances from the requirements of this Ordinance. ⁽¹⁾The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

3.7.2. PROCEDURES. (See Figure 3.7-1)

3.7.2.1. The Board of Adjustment will review any appeal of a decision or interpretation of the Administrator and any application for a variance.

3.7.2.2. A notice of appeal of an administrative decision from a final decision relating to an application for development approval shall be submitted to the Administrator within thirty (30) days from receipt of the decision.

3.7.2.3. Any application request for a variance shall be filed with the Administrator for transmittal to the Board of Adjustment.

3.7.2.4. The Board of Adjustment shall conduct a hearing on the appeal pursuant to the procedures established in NCGS § 160A-388 and § 3.1.7 of this Ordinance.

3.7.2.5. Appeals from the Board of Adjustment shall be filed with the Clerk of the Cabarrus or Rowan County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered a final ~~decision~~ after the final order is signed by the Board chair person or appointee approves the official minutes containing such during an official meeting.

3.7.2.6. ⁽¹⁾The Board of Adjustment can attach conditions to the variance so long as the conditions are reasonably related to the condition or circumstances that gives rise to the variance.

3.7.3. APPROVAL CRITERIA.

3.7.3.1. APPEAL OF DECISION. In an appeal to the Board of Adjustment, regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determining whether the decision or interpretation by the Administrator was in accordance with the intent and requirements of this Ordinance, and accordingly, the Board will affirm or reverse the decision.

3.7.3.2 APPLICATION FOR VARIANCE. A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with the hardship criteria established in NCGS § 160A-388(d).

(1) TA-2018-03 – City Council approved 4/23/2018 which negates City Council approved 2/27/2006

**CITY OF KANNAPOLIS
COUNCIL MEETING MINUTES
October 17, 2018**

A special called meeting of the City Council of the City of Kannapolis, North Carolina was held on Wednesday, October 17, 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: Irene Sacks Eric Davis

Visitors Present: None

CALL TO ORDER AND WELCOME:

Mayor Hinnant called the special meeting to order and welcomed those in attendance.

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.

CLOSED SESSION:

Mayor Pro tem Berry made a motion to go into closed session pursuant to G.S. 143.318.11 (a) (3) for consulting with an attorney in order to preserve the attorney-client privilege, G.S. 143-318.11 (a) (6) for the purpose of discussing personnel matters and G.S. 143.318.11 (a) (4) for discussing matters related to the location or expansion of industries or businesses in the area. Motion was seconded by Council Member Dayvault and approved by unanimous vote.

1 Council went into closed session at 6:02 PM.

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

5
6 Council resumed regular session at 7:45 PM.

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

10
11 The meeting adjourned at 7:45 PM on Wednesday, October 17, 2018.

12
13
14
15
16 _____
17 Milton D. Hinnant, Mayor

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

**CITY OF KANNAPOLIS
COUNCIL MEETING MINUTES
October 22, 2018**

A regular meeting of the City Council of the City of Kannapolis, North Carolina was held on Monday, October 22, 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:	Terry Clanton	Zac Gordon
	Irene Sacks	Annette Privette Keller
	Wilmer Melton	Jason May
	Trent Marlow	Donie Parker
	Gretchin Coperine	

Visitors Present:	Charles McKinnley	Richard Flowe
	Jack Kirkland	Sophia Wilkerson
	Gail Young	Wesley Flantos
	Jo Stephens	Roger Cook
	Brandon Farabee	Steve Schuster
	Mon Peng Yueh	Steve Morris
	Lester Sisk	Bobbie Hague
	John Tuttle	Lee Forrest
	Ashely Forrest	Bobby Connor
	Howard Boyd	

1
2 **CALL TO ORDER AND WELCOME:**

3 Mayor Hinnant called the meeting to order and welcomed those in attendance. A moment of silent
4 prayer and the Pledge of Allegiance was led by Council Member Dayvault.
5
6
7

8 **ADOPTION OF AGENDA:**

9 Mayor Hinnant noted a revised agenda adding as Business Agenda Item G. Update on Fishertown
10 Annexation. Council Member Haas made a motion to approve the revised agenda. Motion was
11 seconded by Council Member Kincaid and approved by unanimous vote.
12

13 **CONSENT AGENDA:**

14 Council Member Dayvault made a motion to approve the Consent Agenda. Motion was seconded
15 by Council Member Kincaid and approved by unanimous vote.
16

17 Personnel Policy 400.25 Fire Fighter Lateral Advancement Program (Tina Cline, Human Resource
18 Director and Ernie Hiers, Fire Chief) (Copy included as Exhibit A)
19

20 **ADOPTION/CORRECTION OF MINUTES:**

21 Council Member Kincaid made a motion to approve the September 24, 2018 regular meeting
22 minutes. Motion was seconded by Council Member Dayvault and approved by unanimous vote.
23

24 Council Member Dayvault made a motion to approve the October 08, 2018 regular meeting
25 minutes. Motion was seconded by Council Member Wilson and approved by unanimous vote.
26

27 Mayor Pro tem Berry made a motion to approve the September 24, 2018 closed session minutes.
28 Motion was seconded by Council Member Dayvault and approved by unanimous vote.
29

30 Council Member Kincaid made a motion to approve the October 08, 2018 closed session minutes.
31 Motion was seconded by Council Member Wilson and approved by unanimous vote.
32

33 **BUSINESS AGENDA:**
34

35 **Public Hearing CZ 2018-01 (267 N. Cannon Boulevard) - Rezone property located at 267 N.**
36 **Cannon Boulevard from C-2 (General Commercial) and RM-1 (Residential Medium**
37 **Density) to C-2-CZ, (General Commercial - Conditional Zoning (Gretchen Coperine, Senior**
38 **Planner) Copy included as Exhibit B)**

39 Senior Planner Gretchen Coperine gave a power point presentation regarding Case #CZ-2081-01
40 for a request to rezone property located at 267 N. Cannon Boulevard from C-2 (General
41 Commercial) and RM-1 (Residential Medium Density) to C-2-CZ, (General Commercial -
42 Conditional Zoning. The applicant is proposing to rezone the northwest portion of the subject
43 property from RM-1 (Residential Medium Density) to C-2-CZ (General Commercial Conditional
44 Zoning District). The applicant is also requesting rezoning of the C-2 (General Commercial)
45 portion of the property to C-2-CZ.

1
2 Within the area proposed to be rezoned, the applicant is proposing a restaurant (ice cream shop)
3 with drive-thru, and mini golf course with associated pavilion and clubhouse. The applicant has
4 previously removed a vacant structure on the property, which served as an office. The remaining
5 structure on the site was previously used for a Kentucky Fried Chicken restaurant and will be
6 remodeled for an ice cream shop. The applicant is proposing to rezone the northwest portion of
7 the subject property from RM-1 (Residential Medium Density) to C-2-CZ (General Commercial
8 Conditional Zoning District). The applicant is also requesting rezoning of the C-2 (General
9 Commercial) portion of the property to C-2-CZ.

10
11 The applicant's request was heard by the Planning and Zoning Commission at their September 5,
12 2018 meeting. At this meeting (see attached minutes) there was testimony expressing concern
13 about the impacts of the proposed commercial use on the adjoining Idlewood/Knollwood
14 neighborhood. The Planning and Zoning Commission voted unanimously approve the request for
15 rezoning, subject to conditions. An appeal of this decision was filed by residents from the
16 Idlewood/Knollwood neighborhood (see attached). Under the provisions of the UDO (Section
17 3.3.4.2), as a result of this appeal, the City Council has final decision making authority on this
18 request for rezoning.

19
20 Section 3.3.5 of the UDO states that the City Council may consider the following questions, at a
21 minimum, in reviewing an application for rezoning:

22
23 **1. The size of the tract in question.** The size of the subject tract is approximately 2 +/- acres.

24
25 **2. Does the proposal conform with and further the goals and policies of the Land Use**
26 **Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?** This
27 property is located in an "Urban Residential" Character Area as designated in the Move Kannapolis
28 Forward 2030 Comprehensive Plan, which consists of multiple uses within walking distance of
29 each other. The Urban Residential character area calls for primary uses of single- family detached
30 and attached residential and civic uses. Secondary uses are intended to be a mixture of multifamily
31 residential, small retail and office, and live-work units. The C-2-CZ conditional zoning district
32 with this rezoning proposes an ice cream shop, and miniature golf course with associated
33 clubhouse and pavilion, which fit with the secondary uses of the Urban Residential character
34 district.

35
36 **3. Is the proposed rezoning compatible with the surrounding area?** The subject property
37 is located at the entrance of the Idlewood/Knollwood neighborhood which includes approximately
38 90 residences, including 26 townhomes/condominiums, on approximately 80 acres. The requested
39 rezoning proposes a restaurant (ice cream shop) with drive-thru, and mini golf course with
40 associated pavilion and clubhouse of a scale that represents an appropriate transition between the
41 commercial uses on Cannon Boulevard and the residential area behind the subject property.

42
43 **4. Will there be adverse effects on the capacity or safety of the portion of street network**
44 **influenced by the rezoning?** The subject property is accessed from three curb cuts along Cannon
45 Boulevard (NCDOT road) and two curb cuts along Willow Drive (City road). The curb cuts were

1 installed for the former commercial uses on the property. Per discussions with NCDOT, the access
2 point on Cannon Boulevard closest to Willow Drive may be closed off, leaving one access point
3 along Cannon Boulevard in order to improve vehicular and pedestrian safety. Access on to Willow
4 would have to be approved by the City.

5
6 **5. Will there be parking problems?** The site plan submitted with this request for rezoning
7 includes adequate parking for the listed uses.
8

9 **6. Will there be environmental impacts that the new use will generate, such as excessive**
10 **storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other**
11 **nuisances?** There are no anticipated environmental impacts such as water, air, or noise pollution
12 issues associated with the rezoning request. In addition, all development will be required to
13 conform to all applicable local, state, and federal environmental regulations.
14

15 With regard to lighting, Staff recommends a condition that any new site lighting to be installed
16 shall be full cut-off fixtures with all lighting directed away from adjacent properties, including
17 properties along Willow Drive.
18

19 The required site plan will also be reviewed by City staff to ensure the development meets all
20 storm-water requirements.
21

22 **7. Has there been any change of character in the area due to installation of public**
23 **facilities, other zone changes, new growth trends, deterioration, and development?** The
24 former KFC on the site was closed and replaced by a new restaurant approximately $\frac{3}{4}$ of a mile
25 south on Cannon Boulevard. The character of the area in proximity to the proposed use has
26 remained relatively stable over the recent past.
27

28 **8. Is there compliance with the adequate public facilities criteria?** There are adequate
29 public facilities available to the property, including water, sewer and access to Cannon Boulevard
30 and Willow Drive. It is not anticipated that any new development would require additional public
31 facilities.
32

33 **9. What are the zoning districts and existing land uses of the surrounding properties?**
34 Property to the south is zoned C-2 (General Commercial) and includes retail uses. Property to the
35 north (across Willow Drive) is zoned RM-1 and is currently vacant woodland. Lady's Funeral
36 Home is located across Cannon Boulevard to the east, and is zoned O-I (Office Institutional).
37 Property to the west is zoned RM-1 and contains an existing single family detached residence.
38

39 **10. Is the subject property suitable for the uses to which it has been restricted under the**
40 **existing zoning classification?** The portion of the subject property that is being requested to be
41 rezoned is currently zoned RM-1. The RM-1 portion of the property would not be permitted to
42 include any C-2 uses. The C-2 portion of the site would allow all uses permitted by right in the C-
43 2 zoning district listed in Table 4.6-1 of the UDO. Most of the uses allowed by right within the C-
44 2 zone are more intense than the uses proposed by this rezoning request.
45

1 **11. Is the zoning compatible with the adjacent neighborhood, especially residential**
2 **neighborhood stability and character?** The proposed commercial uses are less intense than
3 others allowed in the C-2 zone and would therefore be more compatible with the adjacent
4 neighborhood.

5
6 **13. What length of time has the subject property remained vacant as zoned?** The subject
7 property is currently improved with an existing vacant structure (former Kentucky Fried Chicken
8 restaurant).

9
10 **14. Is there an adequate supply of land available in the subject area and the surrounding**
11 **community to accommodate the zoning and community needs?** Cannon Boulevard is
12 predominately a commercial corridor. There are vacant parcels as well as underused parcels along
13 Cannon Boulevard.

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

16
17 The City Council may choose to approve or deny the petition as presented.

18
19 Based on the request being consistent with the Move Kannapolis Forward 2030 Comprehensive
20 Plan, staff recommends approval of Zoning Map Amendment Case #CZ-2018-01, subject to the
21 following conditions:

22
23 The uses permitted with this rezoning shall only include restaurant (with drive-thru), and mini golf
24 course with associated club house and pavilion. A final Site Plan shall be submitted and approved
25 by City Staff prior to issuance of a Zoning Clearance Permit.

26
27 A minimum 21 foot undisturbed landscape buffer shall be provided along the western portion of
28 the subject property. Where necessary, supplemental plantings shall be installed to achieve a fully
29 opaque screening to the adjacent residential use along the western portion of the subject property.
30 Any lighting installed on the subject property shall be full cut-off fixtures with all lighting directed
31 downward and away from adjacent property on Willow Drive.

32
33 The business hours of operation shall not open before 8am Monday through Saturday and 2 pm
34 Sundays, and shall not extend beyond 11pm on any day of the week.

35
36 Driveway locations shall be approved by NCDOT and the City.

37
38 Driveways and parking lots shall comply with all Fire Codes and Auto turn (a traffic engineering
39 program which specifies the required turning radii for vehicles including delivery trucks and
40 emergency vehicles) shall be run for an SU-30 and Bus-45 (mimics ladder truck).

41
42 Streams and wetlands shall be identified by a qualified person and all buffers shown in accordance
43 with Article 4 of the Kannapolis UDO. Construction of buildings, roads, and other structures must
44 comply with RSOD Buffer requirements or be relocated.

1 A Storm-water Management Permit will be required for this Development in accordance with
2 Article 9 of the Kannapolis UDO. Easements, maintenance agreements and viable access shall be
3 provided for all storm-water structures and BMP's. Storm-water BMP's cannot be constructed in
4 the undisturbed buffer.

5
6 The applicant is responsible for verifying that the water meters, service lines and sanitary sewer
7 connections are adequately sized for the building.

8
9 Hydrants and fire protection shall comply with UDO Appendix C.3 and City adopted Fire Codes.

10
11 There being no questions, Mayor Hinnant opened the public hearing to those in attendance for an
12 opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

13
14 Bryan Freeman of 405 Shuping Mill Road, Salisbury, NC stated he is the applicant and owner of
15 the property. Mr. Freeman initially asked for C-2 zoning; however the City and neighbors opposed
16 the request. He then worked with the City and neighbors to come up with a comprehensive plan to
17 meet as many concerns as possible. At the September 5, 2018 Planning and Zoning Meeting, the
18 Commission unanimously approved the project. Afterwards, the neighbors appealed the decision.
19 He and the neighbors met again and came to a compromise. Tonight they are seeking City
20 Council's approval of the compromise which is slightly different than what Planning and Zoning
21 approved. He explained his plans of an ice cream and grill restaurant with food and ice cream with
22 a miniature golf course. It is not a themed golf course, but a landscape golf course adding a lot of
23 nature, water and rocks. There will be a club house and games for kids including a picnic pavilion.

24
25 He further explained they are asking to leave a triangle of property on RM-1. It is being proposed
26 a new C-2-CZ line with the standard 15 foot buffer (boarding the Hinson property), 35 foot buffer
27 boarding the McKinley property, a new 17 foot street year parallel to Willow Drive. The pavilion
28 is being moved to add an additional buffer to Willow Drive and Willow Woods Townhomes. In
29 addition to the buffers, adding a deed restriction of 50 years to the thatched areas to ensure that no
30 development to the neighborhood. There will be a free ice cream and mini golf social night. This
31 will be over a million dollar investment and will create over 30 jobs. Mostly the neighborhood is
32 now supporting the rezoning.

33
34 Mr. Kincaid asked what kind of lighting will there be on the miniature golf. Mr. Freeman
35 responded down lighting and is the same kind of lighting the miniature golf people recommend.

36
37 Mr. Haas asked since he will use the existing building, does he plan to keep the drive through. Mr.
38 Freeman responded yes.

39
40 Mr. Rowell said he read the neighbors were concerned about noise and how would it be addressed?
41 Mr. Freeman responded it would be noise generated from the people and would not be surround
42 sound or music. There is outdoor seating as well. He did add waterfalls at the back as a way to
43 buffer the noise.

1 Mr. Kincaid asked the hours of operations. Mr. Freeman stated the business hours of operation is
2 from 8:00 AM – 11:00 PM Monday through Saturday and 2:00 PM through 11:00 PM. Mr.
3 Freeman stated there would be no alcohol on site.

4
5 Richard Flowe of 315 N. Main Street, Suite 200, stated he is representing a group of the neighbors.
6 Mr. Flowe stated they do see the positives in the redevelopment of the site as Neighbors are thrilled
7 to be able to reach a compromise. Mr. Flowe then presented to the City Clerk a seven page petition
8 signed by a vast majority of property owners. **(Copy of petition included as Exhibit C).**

9
10 Neighbors feel that a lot has been achieved with this resolution. Mr. Flowe thanked everyone for
11 their hard work.

12
13 Charles McKinley of 705 Nance Street stated that his backyard boards Mr. Freeman's project. He
14 is looking forward to having a nice neighbor with nice landscaping. The sound of children at a
15 birthday party or miniature golf will not bother him, it may bother his dogs, but thinks it will be
16 charming and is looking forward to it.

17
18 Farrah Griggs of 213 Idlewood Drive appreciated this whole process and how it has come about.
19 Mr. Freeman has worked with the neighborhood and stated the developer gave as much as he could
20 give and will still get his project on the ground. He believes according to the letter of intent, the
21 concerns were mostly about Willow Woods Townhomes and how the entrance into Willow Woods
22 would be affected by the project. With the buffers that will be put in place, the down lighting and
23 relocation of the pavilion neighbors are in agreement. The neighbors were never against Mr.
24 Freeman, nor his project. They are just very protective of the quarter acre buffer that has served
25 them well for 35 years. They are looking forward to eating some ice cream.

26
27 Mayor Hinnant stated that Mr. Freeman had come to his office when they had the first vision of
28 what they wanted to do. He overwhelmingly suggested he thought it was a great idea and need
29 every family friendly environment we can get into our community. If the area had been left as C-
30 2 zoning, the neighbors behind would have no control over what would be allowed. He and Mr.
31 Freeman had been back and forth through emails and he is so glad that a compromise and that
32 everyone seems to be satisfied.

33
34 There being no further speakers, Mayor Hinnant closed the public hearing.

35
36 Mayor Hinnant asked City Attorney Safrit if the Statement of Consistency and Resolution to
37 Rezone need to be amended in accordance with the changes as proposed by Mr. Freeman.

38
39 Planning Director Zac Gordon explained that Staff has revised a Statement of Consistency and
40 Resolution to Rezone. Mayor Hinnant asked Mr. Gordon to read the Statement of Consistency.
41 Mr. Gordon stated the only change is with the fifth Whereas in the Statement of Consistency.

42
43 **WHEREAS**, on October 22, 2018, City Council conducted a public hearing to consider a request
44 to rezone property located at 267 North Cannon Boulevard from C-2 – General Commercial and
45 RM-1 – Residential Medium Density to C-2-CZ – General Commercial Conditional Zoning and

1 RM-1 on a portion of the subject property along the western property line abutting Cabarrus
2 County Parcel 5623-09-4716.

3
4 Council Member Dayvault made a motion to approve the amended Resolution adopting a
5 Statement of Consistency as stated by the Planning Director. Council Member Wilson seconded
6 the motion and it was approved by unanimous vote.

7
8 Ms. Coperine stated that a new site plan along with the modifications to the rezoning and
9 conditional use applications would be attached to the Resolution to Rezone.

10
11 City Attorney Safrit stated that he was asked to render an opinion if re- advertisement was required
12 and in his opinion, it does not have to be re-advertised.

13
14 Council Member Haas made a motion to approve a Resolution to Rezone as amended by the
15 Planning Director and attach a new site plan and conditional use applications. Mayor Pro tem Berry
16 seconded the motion and it was approved by unanimous vote.

17
18 **Public Hearing TA-2018-05 - Text amendments to Table 4.6-1 and Article 11.1 of the Unified**
19 **Development Ordinance (UDO) to allow Equipment Rental and Leasing (with outdoor**
20 **storage) in the CD Zoning District, subject to Outdoor Storage standards in Article 11.1 of**
21 **the UDO (Gretchin Coperine, Senior Planner) (Second Reading) (Copy included as Exhibit**
22 **D)**

23 Senior Planner Gretchen Coperine explained that the Planning staff was approached by a company
24 wanting to locate an Equipment Rental and Leasing business on a parcel in the CD district. The
25 business requires outdoor storage of machinery. Table 4.6-1 allows Equipment Rental and Leasing
26 in the CD district but does not allow outdoor storage.

27
28 The proposed amendment would allow Equipment Rental and Leasing with outdoor storage in the
29 CD zoning district, subject to Article 11.1 Outdoor Storage and Solid Waste Storage Standards.
30 Article 11.1 requires landscaping and screening of outdoor storage areas in non- residential zoning
31 districts.

32
33 Staff believes that the proposed amendment is consistent with the purpose statement of the CD
34 district in Article 4.3.15 of the UDO, because it provides flexibility in the internal arrangement of
35 uses within the district while achieving integration of the district into the surrounding area. For
36 reference, Articles 4.3.15 and 11.1 are attached.

37
38 The Planning and Zoning Commission voted unanimously at its September 5, 2018 meeting to
39 recommend City Council adoption of TA-2018-05. A First Reading of the proposed text
40 amendment occurred at City Council's September 24, 2018 meeting.

41
42 There being no questions, Mayor Hinnant opened the public hearing to those in attendance for an
43 opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

1 Council Member Haas made a motion to approve a Resolution adopting a Statement of
2 Consistency. Motion was seconded by Council Member Kincaid and approved by unanimous vote.

3
4 Council Member Dayvault made a motion to approve an Ordinance to Amend Article 4.14,
5 Appendix A and Appendix B.9 of the Unified Development Ordinance (UDO) to update the Flood
6 Protection Overlay District pursuant to North Carolina's Flood Damage Prevention Ordinance.
7 Motion was seconded by Mayor Pro tem Berry and approved by unanimous vote.

8
9 **Public Hearing TA-2018-07 - Text amendments to Article 4.14, Appendix A and Appendix**
10 **B.9 of the Unified Development Ordinance (UDO) to update the Flood Protection Overlay**
11 **District pursuant to North Carolina's Flood Damage Prevention Ordinance (Second**
12 **Reading) (Gretchin Coperine, Senior) (Copy included as Exhibit E)**

13 The City of Kannapolis is required, by North Carolina legislation (Part 6, Article 21, Chapter 143;
14 Parts 3, 5 and 8, Article 19, Chapter 160A; and Article 8, Chapter 160A), to adopt regulations
15 designed to promote the public health, safety and general welfare as it relates to flood damage
16 prevention. North Carolina State law requires an update to the FPOD and relevant Sections to
17 comply with the minimum criteria of the National Flood Insurance Program (NFIP) 44 CFR
18 60.3(d) and (e), and NC Session Law 2000-150, Senate Bill 1341 (NCGS 143-215.51-61).

19
20 The proposed amendment fulfills a statutory requirement to update Article 4.14 Floodplain
21 Protection Overlay District (FPOD) of the Unified Development Ordinance in order to continue
22 eligibility to obtain flood insurance for properties within the City of Kannapolis and the ETJ.
23 Changes are also proposed to Appendices A and B.9 as referenced in Article 4.14.

24
25 The proposed text changes are taken directly from the 2017 North Carolina Model Flood Damage
26 Prevention Ordinance released by the State of North Carolina. Staff recommends adopting the
27 proposed text amendment as presented.

28
29 There being no questions, Mayor Hinnant opened the public hearing to those in attendance for an
30 opportunity to speak. There being no speakers, Mayor Hinnant closed the public hearing.

31
32 Council Member Kincaid made a motion to approve a Resolution adopting a Statement of
33 Consistency. Motion was seconded by Council Member Haas and approved by unanimous vote.

34
35 Council Member Dayvault made a motion to approve an Ordinance to Amend Article 4.14,
36 Appendix A and Appendix B.9 of the Unified Development Ordinance (UDO) to update the Flood
37 Protection Overlay District pursuant to North Carolina's Flood Damage Prevention Ordinance.
38 Motion was seconded by Mayor Pro tem Berry and approved by unanimous vote.

39
40 **Gem Theatre Master Plan Overview (Irene Sacks, Director of Economic & Community**
41 **Development)**

42 The City has engaged an architect to assist with master planning of the Gem Theatre, with the
43 short-term goal of identifying suitable location options for handicap accessible restrooms, and a
44 long-term goal of understanding how the facility could be used in the future and what
45 improvements might be needed to address circulation and future growth. The short term issues

1 include the need for ADA accessible restrooms within the Gem Theater or adjacent to the theater.
2 Additionally look at long term goals as to how the theater could function more effectively, how it
3 could grow as the community grows, will it always be a movie theater, are there other opportunities
4 to consider other types of programming like performing arts.

5
6 Clearscapes is the selected architect and will provide an overview of their experience with historic
7 theatres and performing arts facilities, as well as what public input and their analysis of the current
8 facility have indicated. Steve Schuster and Mon Peng Yueh of Clearscapes shared background and
9 their history of renovating existing building and historic buildings in urban areas. They have
10 renovated over a dozen theaters and depicted to a showing of four theater projects they are
11 currently working on in addition to the Gem Theatre. The Paramount Theater in Burlington and
12 the Turnage Theater in Washington were renovated ten to 20 years ago. The client has invited
13 them back to implement the second phase of the master plan. The Appalachian Theater in Boone
14 and the Center Theater located in Monroe are currently under construction. Shown were floor plans
15 of the four buildings that started out as theaters and were renovated into a Performing Arts Center.

16
17 The Gem Theater has the capability of expanding to the front and has an adjacent building to
18 expand into. Within the first week of the one-line survey, over 3000 responses were received. At
19 the conclusion of the two week survey, there were over 4000 responses.

20
21 As part of the master planning process, they worked with Staff and created a core group of
22 members to help guide the design process and make decisions along the way. Citizens were asked
23 to complete a short survey on what they like the best about the Gem Theatre and what
24 improvements or additional types of programs and activities they would like to see incorporated
25 into the historical theatre. The online survey results showed:

26
27 Why do you come to gem theatre?

- 28 • Affordability – 92%
- 29 • Historic facility – 69%
- 30 • Family friendly movies – 63%

31
32 Desirable programs at gem theatre

- 33 • Movies – 72%
- 34 • Concerts – 55%
- 35 • Plays – 54%
- 36 • Children's Programming – 45%

37
38 Needed improvements at gem theatre

- 39 • Theater Seats – 40%
- 40 • Restrooms – 38%
- 41 • Concession Area – 29%
- 42 • Lobby – 29%
- 43 • Sound – 27%

- Lighting – 26%
- Ticket Window – 26%
- Movie Screen – 25%

Facility Rentals at Gem Theatre

- Private Gathering – 40%
- Dance Recitals – 35%
- Banquets – 33%
- Meetings – 32%
- Corporate Events – 32%

Don't Change at Gem Theatre

- Affordability of movies and concessions
- Historic character and ambiance

Demographics of Responders

- Customer – 86%
- Kannapolis resident – 53%
- Cabarrus county resident – 48%
- Rowan county resident – 37%
- History enthusiast – 33%
- Former resident – 18%
- Involved in Local Arts – 10%

Programming/Planning Schedule

- Project kick-off meeting in 6/2018
- Conducted Existing Conditions Analysis in 7/2018
- Core Group Visioning Session in 9/2018
- 1st City Council Presentation in 10/2018
- Final City Council Presentation in 11/2018

National Register of Historical Places Nomination Schedule

- Study List submitted in 9/2018
- NRAC review Study List in 10/2018 – Approved
- NRAC review draft application in 2/2019
- NRAC review application in 6/2019
- Final Nomination Application submission to Keeper of National Register in 7/2019
- Fall 2019 to receive notification of decision

1 Gem Theatre Improvements Goals – First improve for current uses - Now

- 2 • New concession area for better circulation and flow
- 3 • Provide larger lobby and event space
- 4 • Provide accessible restrooms
- 5 • Replace theater seating
- 6 • Upgrade movie screen
- 7 • Upgrade sound equipment
- 8 • Upgrade lighting

9
10 Second: Expand Programming – Future

- 11 • Renovate second floor spaces for additional program uses
- 12 • Add elevator for accessibility to second floor

13
14 Third: Build additions for Performing Arts use – Future

- 15 • Build additions to the rear and side of Gem Theatre to provide back-of-house
- 16 functions to support Performing Arts Programming
- 17 in the theater.

18
19 Two different proposals were presented to Council.

20 Diagram “A” Improvements without Elevator:

21 1st Floor First Phase Improvements:

- 22 • Cost opinion for design and construction of first floor improvements is \$1.5M to
- 23 \$1.5M for fiscal year 2020 construction. Does not include FF&E costs.

24
25 2nd Floor Future Phase Improvements:

- 26 • Cost opinion for design and construction of second floor improvements is \$1.0M
- 27 to \$1.2M for fiscal year 2020 construction. Does not include FF&E costs

28
29 Diagram “B” Improvements with Elevator – First Phase Improvements

30 1st Floor First Phase Improvements:

- 31 • Cost opinion for design and construction of first floor improvements is \$1.6M to
- 32 \$1.8M for fiscal year 2020 construction. Does not include FF&E costs.

33
34 2nd Floor Future Phase Improvements:

- 35 • Cost opinion for design and construction of second floor improvements is \$1.0M
- 36 to \$1.2M for fiscal year 2020 construction. Does not include FF&E costs

37
38 Gem Theatre Master Plan Timeline:

- 39 • Final City Council presentation - November 2018
- 40 • The National Register Advisory Committee (NRAC) to review a draft application
- 41 • Submit to the Keeper of National Register in July 2019.
- 42 • The City should receive a decision in the fall of 2019.

1 With Council input, Clearscapes will prepare final plan diagram and present to City Council and
2 request approval to proceed with the design phase.

3
4 If City Council decides to move forward on certain improvements, those will come with a cost
5 which will be a matter for a future discussion.

6
7 Mr. Wilson asked how long it would be to have the theatre back operational. Mr. Schuster
8 responded if the goal is to not impact the daily operations, would be an eight to nine month
9 construction period. If you go dark, would be quicker, but obviously would have some negative
10 implications.

11
12 Mr. Wilson asked about the upstairs space. Mr. Schuster explained the upstairs has unoccupied
13 spaces which could be used by other tenants thus generating income and reducing the cost of
14 construction. However, there has to be means of access by way of stairs or elevators.

15
16 Mr. Dayvault commented that as growing up in the community, has passion for the Gem Theatre.
17 He asked if kept the same as shown in Option A, then a sprinkler system is not needed because it
18 is still the original use of the space. Mr. Schuster said that given your assembly occupancy is on
19 the ground floor, would have to look at all the methods to ensure life safety because it is an existing
20 building and will be in the National Register. It just increases the opportunity to ensure life safety
21 and minimize cost. This is one of the issues they will study as they move forward.

22
23 Mr. Kincaid asked about the interior flooring, seating and screens inside the theater. Mon Peng
24 Yueh responded the diagrams only focus on the changes to the building infrastructure. However,
25 the inside esthetics is something that could be incorporated and they would need some direction
26 from Council.

27
28 Mr. Schuster added that it is time for some freshening up of the theatre and can be accomplished
29 by maintaining the character of the building. They could certainly look at those things.

30
31 Mr. Haas asked if the four theatres they have previously worked on, were privately or publicly
32 owned. Mr. Schuster responded it is a combination. The Paramount Theatre in Burlington is owned
33 by the City of Burlington. The Center Theatre is owned by the City of Monroe. The Appalachian
34 Theatre is privately owned, but a public-private partnership and the Turnage is privately owned by
35 the Arts Council, but the City is a major partner. Mr. Haas asked if there was any public
36 participation or event to raise funds. Mr. Schuster responded "every one of them" and is something
37 they are currently looking at. This is another issue that will be discussed is how to fund the project.

38
39 Mayor Hinnant said that the Paramount Theatre in Goldsboro has been renovated and is almost all
40 a performing arts center instead of a movie theatre. How many of these places you've done have
41 tended to go toward performing arts and gone away from the movie business? He was curious as
42 to what they are hearing in the industry about demands for small screen movies? Mr. Schuster said
43 what the film industry is struggling with is venues. Going to a theatre and watching a movie in a
44 crowd of people, is a different experience. You will get different points of view, depending on who

1 you ask. Mayor Hinnant asked if they considered shrinking down the seating and if so, how would
2 that effect a potential performing arts center.

3
4 Mr. Schuster said they are not going to shrink the seating, but make larger. It could be to a good
5 thing to reduce the size of the theatre, but then you get into the historic tax credits and how much
6 change you do before you are told, 'No, you aren't going to get the credits if you do that', all
7 becomes a negotiation. The first step is get the building into the register first, then there is a process
8 to have your design approved. To change it today before going to the register, may jeopardize it
9 being even put on the register.

10
11 Mr. Legg interjected from a revenue standpoint, do have some resources targeted for whatever
12 improvements are made. He also said there is some competing interest for some of the revenues.
13 Expected land sales from downtown could equal a couple million dollars. Also there is a million
14 dollars held out from the original downtown purchase. The first phase could be doable, however,
15 if we are committed to preserving block one (the block surrounding the theatre), some of the money
16 may have to be used for stabilization of the buildings, like repairing roofs. If preserving the entire
17 block, could compete for those funds as well. He feels that if there is ever a project in Kannapolis
18 worthy of fundraising, this is it. There isn't another one like it where the community would actually
19 contribute to make this preservation happen. In his opinion that is a high priority to hire fundraisers
20 to get out the word professionally and try to generate funds. He feels the community at large will
21 be engaged. He also agrees with Mr. Kincaid's comments about seating, etc. We have to start
22 paying attention to those things within the context of historic preservation.

23
24 This presentation was for information only. No action required.

25
26 **Clarion Associates Contract to update the City of Kannapolis Unified Development**
27 **Ordinance (UDO) (Zachary D. Gordon, AICP Planning Director)**

28 A Request for Qualifications (RFQ) was issued on June 6, 2018 for Update of the City of
29 Kannapolis Unified Development Ordinance (UDO) (see attached).

30
31 The City received three (3) responses to the RFQ and interviewed the following consulting firms:
32 Clarion Associates; Stewart and McAdams. After conducting interviews, a review committee
33 consisting of Planning Staff, City Attorney and the City Engineer unanimously agreed that Clarion
34 Associates was the most qualified firm to complete the UDO update. Clarion has significant North
35 Carolina (Mooresville, Cary, Highpoint and Fayetteville UDOs), southeastern and national
36 experience updating development codes, having completed over 150 comprehensive code updates.
37 Clarion is recognized as a national leader in zoning best practices and code development and has
38 been the recipient of a number of awards, including most recently receiving the 2018 Resilient
39 Virginia Community of the Year Award for the Norfolk Zoning Ordinance.

40
41 Clarion prepared the Move Forward Kannapolis 2030 Comprehensive Plan, recently adopted by
42 the City Council. The selection of Clarion to prepare the UDO update will allow for a seamless
43 implementation of the vision and policies contained in the 2030 Plan.

1 The UDO update will be overseen by the Planning Department, with stakeholder input provided
2 by City staff, developers, engineers, architects, attorneys and residents, along with input by City
3 Council, Planning and Zoning Commission and Board of Adjustment.

4
5 Clarion intends to begin work on the UDO update in November and complete the update by the
6 spring of 2020. The contract fee for the UDO update totals \$199,305. \$200,000 is included in the
7 adopted FY 2019 City of Kannapolis Budget to cover the cost of the UDO update.

8
9 Following general discussion, Council Member Dayvault made a motion to authorize the City
10 Manager to execute the contract with Clarion Associates for the update of Unified Development
11 Ordinance. Motion was seconded by Council Member Rowell and approved by unanimous vote.

12
13 **Voting Delegates to the National League of Cities (NLC) Annual Business Meeting (Mike**
14 **Legg, City Manager)**

15 The City of Kannapolis is a member of the National League of Cities (NLC) and under the by-
16 laws of the NLC, each member is entitled to one voting delegate and one alternate voting delegates
17 at the Annual Business Meeting. In order to be eligible to cast the City's vote, City Council must
18 designate one voting and one alternate voting delegates. This year the conference will be held in
19 Los Angeles, CA on November 7 through 11, 2018.

20
21 Council Member Haas made a motion to appoint Mayor Hinnant as the voting delegate to the
22 National League of Cities annual business meeting and Councilmember Kincaid as the alternate
23 voting delegate. Motion was seconded by Council Member Wilson and approved by unanimous
24 vote.

25
26 **Update on Fishertown Annexation (Mike Legg, City Manager) (Copy included as Exhibit F)**

27 At the October 4, 2018 Fishertown Annexation public information session, some residents in the
28 proposed area expressed concerns about being included in the proposed area. Some of the concerns
29 included not identifying historically with the Fishertown community; owning large vacant tracts
30 not needing City services; being disconnected from the core parts of Fishertown via access; and a
31 general desire not to be included in the proceedings. Staff has received additional calls and emails
32 expressing these same concerns. It is clear there is much more support for this effort in the area
33 west of Charlie Walker Road, south of Bahama Drive.

34
35 After holding two public informational meetings and listening to input from residents, the City has
36 adjusted the annexation area to only include the property which is historically known as
37 Fishertown, eliminated large vacant tracts that do not need City services, removed properties
38 disconnected from the core parts of Fishertown via street access, and properties located in a more
39 rural environment.

40
41 The revised area still meets all the statutory requirements for annexation (subject to the petition
42 results). Further supporting the staff recommended change, it is important to remember that this
43 particular annexation proceeding was designed by the General Assembly to assist lower
44 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 no 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.

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

Following general discussion, Council Member Wilson made a motion to approve the reduced proposed Fishertown Annexation area. Motion was seconded by Council Member Haas and approved by unanimous vote.

CITY MANAGER REPORT: None

CITY COUNCIL COMMENTS: Council Member Kincaid expressed his appreciation to Mrs. Sherry Gordon, Community Development Program Administrator and Mrs. Irene Sacks, Director of Economic & Community Development on their efforts for improving the Carver community and providing Council with an update. He said it is good to see these areas being revitalized.

SPEAKERS FROM THE FLOOR: No Speakers

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 Kincaid and was approved by unanimous vote.

Council went into closed session at 7:50 PM.

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 9:05 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 9:05 PM on Monday, October 22, 2018.

10
11
12
13
14 _____
Milton D. Hinnant, Mayor

15
16
17 _____
18 Bridgette Bell, MMC, NCCMC
19 City Clerk
20

**CITY OF KANNAPOLIS
COUNCIL MEETING MINUTES
November 12, 2018**

A regular meeting of the City Council of the City of Kannapolis, North Carolina was held on Monday, November 12, 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: Donie Parker Terry Clanton
Melissa Loveless David Hancock
Gretchin Coperine Ernie Hiers
Eric Davis Irene Sacks

Visitors Present: Shelby Whitney Kay Nixon
Mary Rigby Nathan Payne
Alda Payne Diana Shipe
Suzanne Irvin C. Donnell Dixon
Sam McAllister Michele Sorrell
Gerry Depken Adael Shinn
Michael Drye Don Gray
Paula Dixon Kris Moose
Chris Fisher Tim Payne
Tyler Karriker Wilfred Bailey
Valerie Crayton Joe Untz
Heather Driskell Bobbi Hague

1 **CALL TO ORDER AND WELCOME:**

2 Mayor Hinnant called the meeting to order and welcomed those in attendance. A moment of silent
3 prayer and the Pledge of Allegiance was led by Council Member Wilson.
4

5 **ADOPTION OF AGENDA:**

6 Council Member Wilson made a motion to approve the agenda. Motion was seconded by Council
7 Member
8 Kincaid and approved by unanimous vote.
9

10 Mayor Hinnant read a proclamation recognizing November 12, 2018 as Veterans Day.
11

12 **RECOGNITIONS:** Kannapolis 101 Participates:

13 Twelve employees have completed the Employee session of Kannapolis 101. Kannapolis 101 is
14 held once a year and focuses on educating new employees about the City and its services. For
15 eight weeks, participants visit each of the City departments such as police, fire, planning, public
16 works, etc., and are able to hear firsthand how each department meets the needs of residents.
17 Those participants recognized:
18

Adael Shinn	Alberto Luevano	Anita Parker
Brenda McCombs	Christopher Dooley	Diana Shipe
Donnell Dixon	Gerry Depken	Heather Driskell
Kay Nixon	Mara Oyaneder	Mary Rigby
Michael Drye	Mike Whitney	Nathan Payne
Sam McAllister	Suzanne Irvin	Valerie Crayton
Wilfred Bailey		

19
20 Completing the Employee Academy class this fall were: Andy Yoos, Bonnie Clay, Chris Fisher,
21 Don Gray, Elizabeth Hassenfritz, George Richardson, Gretchen Coperine, Jamie Pope, Kris
22 Moose, Michele Sorrette, Normal Hill, and Tyler Karriker.

23 The coveted prestigious Peacock award was given to the Fire Department. At the end of the eight
24 week session, participants vote on the Department that gave the best presentation.

25 **BUSINESS AGENDA**

26 **Voluntary Annexation of Property - 3901 Shiloh Church Road) Gretchen Coperine (Copy**
27 **included as Exhibit A)**

28 The owner of the subject property, Terri Gardner Sides, has submitted a petition for the voluntary
29 annexation of property located at 3901 Shiloh Church Road. The property is currently located in
30 an unincorporated portion of Cabarrus County in an area identified as the "Western Planning Area"
31 of the County's long-range plan. The parcel is currently vacant and has a Cabarrus County zoning
32 designation of CR - Countryside Residential. This annexation will allow for the property to be
33 developed as part of a residential subdivision to be located on adjoining property that was recently
34 annexed by the City. The petition is for a contiguous annexation. (See attached Vicinity Map).
35

1 As is required by the North Carolina General Statutes, an initial City of Kannapolis zoning
2 designation must be applied to the property by the Planning and Zoning Commission within 60
3 days of the effective date of the annexation. The Planning and Zoning Commission will be
4 reviewing a request for a conditional rezoning for a residential subdivision, which includes this
5 property, at their December 5, 2018 meeting

6
7 The subject property is located in an unincorporated area of Cabarrus County that is currently
8 zoned CR, with a 2 acre required minimum lot size. While this property is located outside of the
9 City's corporate limits, it is within an area designated as "Proposed Kannapolis Growth Area", in
10 an "Annexation Agreement" between the City of Kannapolis and City of Concord (see attached).
11 The City has recently completed the extension of utilities in this area to facilitate future
12 development. According to the City's current long range planning document - Move Kannapolis
13 Forward 2030 Comprehensive Plan - this property is located in a designated "Primary Service
14 Area". A Primary Service Area is "land where provision of services is preferred. These are areas
15 to encourage development within the planning horizon. Annexation is also envisioned as a part of
16 the agreement to provide services."

17 Prior to considering the Annexation Ordinance, pursuant to NCGS 160A-31, the City Council must
18 first direct the City Clerk to investigate the sufficiency of the petition. City Council must also adopt
19 a Resolution of Intent to Annex and fix a public hearing date for consideration of the petition. It is
20 requested that the public hearing date be set for November 26, 2018.

21
22 Council Member Dayvault made a motion to adopt a Resolution directing the Clerk to
23 investigate the sufficiency of the petition and prepare a Certificate of Sufficiency. Motion was
24 seconded by Council Member Wilson and approved by unanimous vote.

25 The City Clerk provided a Certificate of Sufficiency.

26 Council Member Hass made a motion to approve a Resolution of Intent to annex property
27 located at 3901 Shiloh Church Road - Property Identification Number (PIN) 4672-69-4483 and
28 Fix the Date of a public hearing on Question of Annexation for November 26, 2018. Motion was
29 seconded by Mayor Pro tem Berry and approved by unanimous vote.

30
31 **Sale of City Owned Property Located on Kansas Street (Mike Legg, City Manager) (Copy**
32 **included as Exhibit B)**

33 In July, Staff received a written offer from Matthew C. Erich to purchase approximately 0.24
34 acres of City owned land known as "610 Kansas Street" for \$45,000. The current tax value for
35 the property is as follows:

- 36 • Building, \$21,260
37 • Other Buildings & Extra Features \$6,210
38 • Land \$51,260
39 Total Tax Value \$78,730

1 City Council approved a Resolution at its July 14, 2018 meeting authorizing the upset bid
2 process for selling of the property. The property is located on Kansas Street and was then used
3 by the Public Works Department, but no longer needed.

4 After the completion of five (5) rounds of upset bids, Staff has received a final bid for the 0.24
5 acre. After the close of the last ten (10) day upset bid period, the \$56,103.20 offer by BPH
6 Property Management, LLC stands as the final high offer. The original offer made by Matthew
7 C. Erich was \$45,000.

8 If approved, Staff would complete the transaction of selling the 0.25 acre parcel at 610 Kansas
9 Street to BPH Property Management, LLC. The revenue generated would be deposited into the
10 General Fund increasing overall fund balance.

11 While the final offer is lower than the total tax value, the prevailing thought is that the buildings
12 are of little value and would be removed. By taking that off the tax rolls and adding in the cost of
13 demolition, it appears that the final offer actually would exceed the tax/market value.

14 The North Carolina General Statute § 160A-269 permits the City to sell property by upset bid, after
15 receipt of an offer for the property.

16 Council Members inquired as to the Zoning Classification and what uses are planned for the property.
17 City Manager Legg explained it is not known at this time, however if Council wishes to defer action
18 to the next meeting, Staff will provide more information.

19 Council Member Dayvault made a motion defer taking action to the next City Council regular
20 meeting. Motion was seconded by Council Member Wilson and approved by a 4-3 vote. Council
21 Members Berry, Mayor Hinnant and Haas voting no.

22 **CITY MANAGER REPORT:** None.

23
24 **CITY COUNCIL COMMENTS:** No Comments.

25
26 **CLOSED SESSION:**

27 Mayor Pro tem Berry made a motion to go into closed session pursuant to G.S. 143.318.11 (a) (3)
28 for consulting with an attorney in order to preserve the attorney-client privilege and G.S.
29 143.318.11 (a) (4) for discussing matters related to the location or expansion of industries or
30 businesses in the area. Motion was seconded by Council Member Dayvault and approved by
31 unanimous vote.

32
33 Council went into closed session at 6:39 PM.

34
35 Council Member Wilson made a motion to come out closed session. Motion was seconded by
36 Council Member Dayvault and approved by unanimous vote.

37
38 Council resumed regular session at 8:12 PM.

39
40 There being no further business, Council Member Haas made a motion to adjourn. Motion was
41 seconded by Council Member Kincaid and approved by unanimous vote.

1 The meeting adjourned at 8:12 PM on Monday, November 12, 2018.
2
3
4

5
6 _____
Milton D. Hinnant, Mayor
7

8
9 _____
Bridgette Bell, MMC, NCCMC
10 City Clerk

DRAFT - NOT APPROVED BY COUNCIL



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Wilmer Melton, III - Director of Public Works
TITLE: Petition to close unopened R-O-W Kenneth Street

A. Action Requested by City Council

Motion to approve the Resolution stating the intent of the City to consider withdrawal from dedication an unopened right-of-way known as Kenneth Street located south of Kimball Street and establish the Public Hearing date of January 14, 2019.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The property owner has requested the closure of an unopened R-O-W known as Kenneth Street located south of Kimball Street. All necessary documents have been received. Staff has reviewed all documents and finds no reason to deny the request for closure.

D. Fiscal Considerations

None

E. Policy Issues

The approval of this recommendation is in keeping with the practice of City Council of vacating easements that are no longer necessary for public use, returning the land to private ownership.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation
--

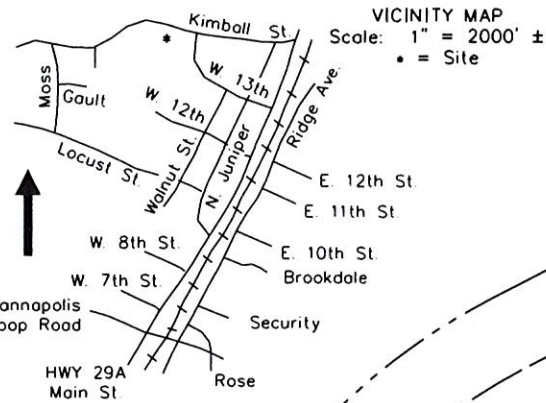
1. **Approve the Resolution stating the intent of the City to consider withdrawal from dedication an unopened right-of-way known as Kenneth Street located south of Kimball Street and establish the Public Hearing date on January 14, 19 (Recommended)**
2. Take no action.
3. Table action to a future meeting.

ATTACHMENTS:

File Name

- ❑ Petition_for_closure_of_unopened_R-O-W_for_Kenneth_Street_on_the_south_side_of_Kimball_Street.pdf
- ❑ Kenneth_Street_Survey_Plat.pdf
- ❑ Resolution_of_Intent_to_Close_unopened_portion_of_Kenneth_Street_south_of_Kimball_St.pdf
- ❑ Checklist_for_Street_Closing_Kenneth_St_ROW.pdf

PETITION FOR STREET OR ALLEY CLOSURE



**A RESOLUTION STATING THE INTENT OF THE CITY OF KANNAPOLIS
TO CONSIDER CLOSING AN UNOPENED R-O-W KNOWN AS KENNETH STREET
LOCATED SOUTH OF KIMBALL STREET AS DESCRIBED HEREIN
AND ESTABLISHING THE DATE OF PUBLIC HEARING ON
THE QUESTION OF SUCH CLOSING**

BE IT RESOLVED by the City Council of the City of Kannapolis:

Section 1. That it is the intent of the City Council of the City of Kannapolis to consider closing an unopened R-O-W known as Kenneth Street located south of Kimball Street as a described Public Street or alley pursuant to Section 160A-299 of the General Statutes of North Carolina.

LEGAL DESCRIPTION

Beginning at a computed point on the south right-of-way (R/W) of Kimball Street, a 40' public R/W, said point being 2 calls along said R/W from an existing ½" iron rod at the SW Intersection of Kimball Street and W. 13th Street;

- 1) N 83°06'06" W, 561.18", to a computed point and
- 2) 36.88' along a curve to the left of radius 180.00", a chord bearing and distance of N 88°58'12" W, 36.81'; thence from said point of beginning, 3 calls of metes and bounds encompassing Kenneth Street,
- 3) S 9°05'51" W, 265.47', to a computed point; thence
- 4) N 80°54'09" W, 30.00', to a computed point; thence
- 5) N 9°05'51" E, 255.14', to a computed point on the south R/W of Kimball Street; thence 31.77' along a curve to the right of radius 180.00', a chord bearing and distance of N 80°05'15" E, 31.73', to the point of beginning containing 0.180 acres (7,823 Sq. Ft.), more or less.

Section 2. That a Public Hearing on the question of such closing the above described right-of-way will be held at 401 Laureate Way, Kannapolis, North Carolina, at 6:00 o'clock p.m. on the 14th of January 2019, which time plans for such closing will be explained and all persons will be given an opportunity to be heard.

Section 3. That notice of said closing and Public Hearing shall be given by publication, mailing and posting as required by law.

Adopted this 26th day of November 2018.

Milton D. Hinnant, Mayor

Bridgette Bell, MMC, NCCMC
City Clerk

**CHECK LIST FOR
STREETS AND ALLEYS
PROCEDURE FOR
CLOSING (G.S. 160A-299)
Unopened R-O-W Kenneth Street**

PROCEDURE

RESPONSIBILITY

- | | | | |
|----|--|------------------|-----------------|
| 1. | Submission of request to City must include: | Property Owners: | |
| | (a) Letter of request (petition) signed by all property owners abutting street or alley. | (a) | <u>10/23/18</u> |
| | (b) Copy of recorded plat showing original layout or dedication of street or alley. | (b) | <u>10/23/18</u> |
| | (c) Registered land surveyors plat of recent survey of portion of street to be closed on legal size drawing, suitable for recording. | (c) | <u>10/23/18</u> |
| | d) Non-refundable application fee of \$300.00 | (d) Public Works | <u>10/23/18</u> |
| 2. | Review and recommendation to City Manager by Legal, Planning and Public Works. | City Staff | <u>11/5/18</u> |
| 3. | Recommendation to City Council | Public Works | <u>11/26/18</u> |
| 4. | Adopt Resolution of Intent | City Council | <u>11/26/18</u> |
| 5. | Public Notice | | |
| | (a) Publish Newspaper (one per week, four consecutive weeks) | City Clerk | _____ |
| | (b) Posted notices (two signs on street) | Public Works | _____ |
| | (c) Mail copy of Resolution of Intent to all adjoining property owners by Registered or Certified Mail | City Clerk | _____ |
| 6. | Public Hearing | City Council | _____ |
| 7. | Order of Closing | City Council | _____ |
| 8. | Record closing order with Register of Deeds Office | City Attorney | _____ |



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Wilmer Melton, III - Director of Public Works
TITLE: Petition to close unopened R-O-W Mary Street

A. Action Requested by City Council

Motion to approve a Resolution stating the intent of the City to consider withdrawal from dedication an unopened right-of-way known as Mary Street located south of Kimball Street and establish a Public Hearing date for January 14, 2019.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The property owner has requested the closure of an unopened R-O-W known as Mary Street located south of Kimball Street. All necessary documents have been received. Staff has reviewed all documents and finds no reason to deny the request for closure.

D. Fiscal Considerations

None

E. Policy Issues

The approval of this recommendation is in keeping with the practice of City Council of vacating easements that are no longer necessary for public use, returning the land to private ownership.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation
--

1. **Approve the Resolution stating the intent of the City to consider withdrawal from dedication an unopened right-of-way known as Mary Street located south of Kimball Street and establish the Public Hearing date on January 14, 2019. (Recommended)**
2. Take no action
3. Table action to a future meeting.

ATTACHMENTS:

File Name

- ☐ Petition_for_closure_of_unopened_R-O-W_for_Mary_Street_on_the_south_side_of_Kimball_Street.pdf
- ☐ Mary_Street_Survey_Plat.pdf
- ☐ Resolution_of_Intent_to_Close_unopened_portion_of_Mary_Street_south_of_Kimball_St.pdf
- ☐ Checklist_for_Street_Closing_Mary_St_ROW.pdf



**A RESOLUTION STATING THE INTENT OF HE CITY OF KANNAPOLIS
TO CONSIDER CLOSING AN UNOPENED R-O-W KNOWN AS MARY STREET
LOCATED SOUTH OF KIMBALL STREET AS DESCRIBED HEREIN
AND ESTABLISHING THE DATE OF PUBLIC HEARING ON
THE QUESTION OF SUCH CLOSING**

BE IT RESOLVED by the City Council of the City of Kannapolis:

Section 1. That it is the intent of the City Council of the City of Kannapolis to consider closing an unopened R-O-W known as Mary Street located south of Kimball Street as a described Public Street or alley pursuant to Section 160A-299 of the General Statutes of North Carolina.

LEGAL DESCRIPTION

Beginning at a computed point on the south right-of-way (R/W) of Kimball Street, a 40' public R/W, said point being N 83°07'06" W, 267.41', along said R/W, from an existing ½" iron rod at the SW intersection of Kimball Street and W 13th Street; thence from said point of beginning, 3 calls of metes and bounds encompassing Mary Street,

- 1) S 9°05'51" W, 282.01', to a computed point; thence
- 2) N 80°54'09" W, 30.00', to a computed point; thence
- 3) N 9°05'51" E, 280.85', to a computed point on the south R/W of Kimball Street; thence with said R/W, S 83°07'06" E, 30.02' to the point of beginning containing 0.194 acres (8,443 Sq. Ft.), more or less.

Section 2. That a Public Hearing on the question of such closing the above described right-of-way will be held at 401 Laureate Way, Kannapolis, North Carolina, at 6:00 o'clock p.m. on the 14th of January 2019, at which time plans for such closing will be explained and all persons will be given an opportunity to be heard.

Section 3. That notice of said closing and Public Hearing shall be given by publication, mailing and posting as required by law.

Adopted this 26th day of November 2018.

Milton D. Hinnant, Mayor

Bridgette Bell, MMC, NCCMC
City Clerk

**CHECK LIST FOR
STREETS AND ALLEYS PROCEDURE FOR
CLOSING (G.S. 160A-299)
Unopened R-O-W Mary Street**

<u>PROCEDURE</u>	<u>RESPONSIBILITY</u>	
1. Submission of request to City must include:	Property Owners:	
(a) Letter of request (petition) signed by all property owners abutting street or alley.	(a) <u>10/23/18</u>	
(b) Copy of recorded plat showing original layout or dedication of street or alley.	(b) <u>10/23/18</u>	
(c) Registered land surveyors plat of recent survey of portion of street to be closed on legal size drawing, suitable for recording.	(c) <u>10/23/18</u>	
d) Non-refundable application fee of \$300.00	(d) Public Works	<u>10/23/18</u>
2. Review and recommendation to City Manager by Legal, Planning and Public Works.	City Staff	<u>11/5/18</u>
3. Recommendation to City Council	Public Works	<u>11/26/18</u>
4. Adopt Resolution of Intent	City Council	(11-26-2018)
5. Public Notice		
(a) Publish Newspaper (one per week, four consecutive weeks)	City Clerk	_____
(b) Posted notices (two signs on street)	Public Works	_____
(c) Mail copy of Resolution of Intent to all adjoining property owners by Registered or Certified Mail	City Clerk	_____
6. Public Hearing	City Council	_____
7. Order of Closing	City Council	_____
8. Record closing order with Register of Deeds Office	City Attorney	_____



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Wilmer Melton, III - Director of Public Works
TITLE: Oakwood Avenue Sidewalk Project TIP # C-4916 C

A. Action Requested by City Council

(1) Motion to award the Oakwood Avenue Sidewalk Project TIP # C-4916 C contract to the lowest responsible bidder, Performance Managed Construction, Inc., in the amount of \$1,695,215.50 and authorize the City Manager execute contract, contingent upon NCDOT concurrence of award. (2) Motion to approve the Reimbursement Resolution.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The project consists of the construction of 7,000 linear feet of sidewalk, minor storm drainage, and grading along the western margin of Oakwood Avenue from the existing sidewalk north of Windsor Drive up to Rogers Lake Road.

Formal bids for the project were obtained from three local contractors. Bids were publically opened on November 13, 2018. Bid results of the three bids received are as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Carolina Siteworks, Inc.	\$1,743,398.47
Pedulla Trucking, Excavating & Grading	\$1,733,050.00
Performance Managed Construction, Inc.	\$1,695,215.50

The Contractor is awaiting notice to proceed on the project to begin work. The contract time for completion of the work is 180 days from the notice to proceed.

D. Fiscal Considerations

The total project allocation is \$2,536,000; CMAQ Funding \$2,028,800; City's Local Match \$507,200. Any cost exceeding the CMAQ Funding of \$2,028,800 is the responsibility of the City of Kannapolis and will be funded through Bond proceeds.

E. Policy Issues

None

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation
--

1. **Approve the project award to the low bidder, Performance Managed Construction, Inc., in the amount of \$1,695,215.50 and authorize the City Manager execute the Contract contingent upon NCDOT concurrence of award. Approve Reimbursement Resolution (Recommended)**
2. Reject the bid and delay the project. The City could lose CMAQ funding for this Project based on the current deadlines in the Municipal Agreement with NCDOT.
3. Table action to a future meeting

ATTACHMENTS:

File Name

- ☐ Oakwood_Avenue_Sidewalk_Project_Certified_Bid_Tab_TIP_#_C-4916_C.pdf
- ☐ Oakwood_Avenue_Sidewalk_11-26-18.pdf

PROJECT: OAKWOOD AVENUE SIDEWALK PROJECT
NCDOT TIP C-4916 C

OWNER: CITY OF KANNAPOLIS

ALLEY, WILLIAMS, CARMEN AND KING, INC.
CONSULTING ENGINEERS

120 SOUTH MAIN STREET
KANNAPOLIS, NC 28081
704-938-1515



ENGINEER'S CERTIFIED BID TABULATION

BID DATE: NOVEMBER 13, 2018 AT 2 PM

PAGE 1 OF 3

DESCRIPTION: CONSTRUCTION OF 7,000 LF OF SIDEWALK, MINOR STORM DRAINAGE, AND GRADING ALONG THE WESTERN MARGIN OF OAKWOOD AVENUE FROM THE EXISTING SIDEWALK NORTH OF WINDSOR DRIVE TO ROGERS LAKE RD

				ENGINEER'S ESTIMATE		CAROLINA SITEWORKS, INC 300 WADE DRIVE CHINA GROVE, NC 28023		PEDULLA TRUCKING, EXCAVATING & GRADING 1275 SHINN FARM RD. MOORESVILLE, NC 28115		PERFORMANCE MANAGED CONSTRUCTION PO BOX 501 CONCORD, NC 28026	
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1	MOBILIZATION	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 48,533.00	\$ 48,533.00	\$ 138,353.00	\$ 138,353.00	\$ 80,000.00	\$ 80,000.00
2	CONSTRUCTION SURVEYING	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 29,420.00	\$ 29,420.00	\$ 20,000.00	\$ 20,000.00
3	SUPPLEMENTARY CLEARING & GRUBBING	0.3	AC	\$ 20,000.00	\$ 6,000.00	\$ 25,000.00	\$ 7,500.00	\$ 19,000.00	\$ 5,700.00	\$ 100.00	\$ 30.00
4	COMPREHENSIVE GRADING	1	LS	\$ 350,000.00	\$ 350,000.00	\$ 340,000.00	\$ 340,000.00	\$ 263,000.00	\$ 263,000.00	\$ 490,000.00	\$ 490,000.00
5	FOUNDATION COND. MATERIAL, MINOR STR	220	TN	\$ 40.00	\$ 8,800.00	\$ 40.00	\$ 8,800.00	\$ 50.00	\$ 11,000.00	\$ 20.00	\$ 4,400.00
6	15" RCP, CLASS III	264	LF	\$ 65.00	\$ 17,160.00	\$ 66.50	\$ 17,556.00	\$ 104.00	\$ 27,456.00	\$ 40.00	\$ 10,560.00
7	18" RCP, CLASS III	1184	LF	\$ 75.00	\$ 88,800.00	\$ 73.00	\$ 86,432.00	\$ 115.00	\$ 136,160.00	\$ 50.00	\$ 59,200.00
8	24" RCP, CLASS III	748	LF	\$ 85.00	\$ 63,580.00	\$ 84.00	\$ 62,832.00	\$ 120.00	\$ 89,760.00	\$ 65.00	\$ 48,620.00
9	PIPE REMOVAL	554	LF	\$ 20.00	\$ 11,080.00	\$ 20.00	\$ 11,080.00	\$ 25.00	\$ 13,850.00	\$ 15.00	\$ 8,310.00
10	INCIDENTAL STONE BASE	200	TN	\$ 45.00	\$ 9,000.00	\$ 50.00	\$ 10,000.00	\$ 45.00	\$ 9,000.00	\$ 40.00	\$ 8,000.00
11	MILLING ASPHALT PAVEMENT, 1.5" DEPTH	1750	SY	\$ 9.00	\$ 15,750.00	\$ 8.90	\$ 15,575.00	\$ 15.00	\$ 26,250.00	\$ 7.50	\$ 13,125.00
12	ASPHALT CONC BASE COURSE, TYPE B25.0C	560	TN	\$ 105.00	\$ 58,800.00	\$ 102.00	\$ 57,120.00	\$ 125.00	\$ 70,000.00	\$ 75.00	\$ 42,000.00
13	ASPHALT CONC INT COURSE, TYPE I19.0C	280	TN	\$ 105.00	\$ 29,400.00	\$ 102.00	\$ 28,560.00	\$ 130.00	\$ 36,400.00	\$ 85.00	\$ 23,800.00
14	ASPHALT CONC SURFACE COURSE, TYPE S9.5C	220	TN	\$ 105.00	\$ 23,100.00	\$ 106.00	\$ 23,320.00	\$ 150.00	\$ 33,000.00	\$ 95.00	\$ 20,900.00
15	ASPHALT BINDER FOR PLANT MIX	55	TN	\$ 800.00	\$ 44,000.00	\$ 780.00	\$ 42,900.00	\$ 1.00	\$ 55.00	\$ 600.00	\$ 33,000.00
16	ASPHALT PLANT MIX, PAVEMENT REPAIR	100	TN	\$ 250.00	\$ 25,000.00	\$ 250.00	\$ 25,000.00	\$ 235.00	\$ 23,500.00	\$ 200.00	\$ 20,000.00
17	PIPE PLUG, STD 840.71	0.2	CY	\$ 4,000.00	\$ 800.00	\$ 4,000.00	\$ 800.00	\$ 695.00	\$ 139.00	\$ 3,000.00	\$ 600.00
18	MASONRY DRAINAGE STRUCTURES	28	EA	\$ 2,200.00	\$ 61,600.00	\$ 1,800.00	\$ 50,400.00	\$ 2,815.00	\$ 78,820.00	\$ 2,000.00	\$ 56,000.00
19	MASONRY DRAINAGE STRUCTURES	2.3	LF	\$ 500.00	\$ 1,150.00	\$ 500.00	\$ 1,150.00	\$ 545.00	\$ 1,253.50	\$ 500.00	\$ 1,150.00
20	OFFSET CATCH BASIN	3	EA	\$ 3,500.00	\$ 10,500.00	\$ 3,000.00	\$ 9,000.00	\$ 6,005.00	\$ 18,015.00	\$ 4,000.00	\$ 12,000.00
21	FRAME WITH GRATE & HOOD, 840.03, TYPE E	1	EA	\$ 750.00	\$ 750.00	\$ 750.00	\$ 750.00	\$ 555.00	\$ 555.00	\$ 500.00	\$ 500.00
22	FRAME WITH GRATE & HOOD, 840.03, TYPE F	13	EA	\$ 750.00	\$ 9,750.00	\$ 750.00	\$ 9,750.00	\$ 555.00	\$ 7,215.00	\$ 500.00	\$ 6,500.00
23	FRAME WITH GRATE & HOOD, 840.03, TYPE G	7	EA	\$ 750.00	\$ 5,250.00	\$ 750.00	\$ 5,250.00	\$ 555.00	\$ 3,885.00	\$ 500.00	\$ 3,500.00
24	FRAME WITH COVER, STD 840.54	5	EA	\$ 600.00	\$ 3,000.00	\$ 600.00	\$ 3,000.00	\$ 555.00	\$ 2,775.00	\$ 500.00	\$ 2,500.00
25	FRAME WITH 2 GRATES, STD 840.37	4	EA	\$ 3,000.00	\$ 12,000.00	\$ 2,500.00	\$ 10,000.00	\$ 555.00	\$ 2,220.00	\$ 500.00	\$ 2,000.00
26	8" X 18" CURB AND GUTTER	175	LF	\$ 40.00	\$ 7,000.00	\$ 36.80	\$ 6,440.00	\$ 19.50	\$ 3,412.50	\$ 30.00	\$ 5,250.00
27	2'-6" CONCRETE CURB AND GUTTER	3032	LF	\$ 30.00	\$ 90,960.00	\$ 25.00	\$ 75,800.00	\$ 30.00	\$ 90,960.00	\$ 29.00	\$ 87,928.00
28	4" CONCRETE SIDEWALK	2870	SY	\$ 55.00	\$ 157,850.00	\$ 53.00	\$ 152,110.00	\$ 50.00	\$ 143,500.00	\$ 40.00	\$ 114,800.00
29	CONCRETE CURB RAMPS	28	EA	\$ 2,800.00	\$ 78,400.00	\$ 2,625.00	\$ 73,500.00	\$ 240.00	\$ 6,720.00	\$ 1,200.00	\$ 33,600.00
30	6" CONCRETE DRIVEWAY	1220	SY	\$ 90.00	\$ 109,800.00	\$ 85.00	\$ 103,700.00	\$ 53.00	\$ 64,660.00	\$ 90.00	\$ 109,800.00
31	5" MONOLITHIC CONCRETE ISLAND (SURFACE MOUNTED)	55	SY	\$ 90.00	\$ 4,950.00	\$ 92.50	\$ 5,087.50	\$ 61.00	\$ 3,355.00	\$ 90.00	\$ 4,950.00

PROJECT: OAKWOOD AVENUE SIDEWALK PROJECT
NCDOT TIP C-4916 C

ALLEY, WILLIAMS, CARMEN AND KING, INC.
CONSULTING ENGINEERS



OWNER: CITY OF KANNAPOLIS

120 SOUTH MAIN STREET
KANNAPOLIS, NC 28081
704-938-1515

ENGINEER'S CERTIFIED BID TABULATION

BID DATE: NOVEMBER 13, 2018 AT 2 PM

PAGE 2 OF 3

DESCRIPTION: CONSTRUCTION OF 7,000 LF OF SIDEWALK, MINOR STORM DRAINAGE, AND GRADING ALONG THE
WESTERN MARGIN OF OAKWOOD AVENUE FROM THE EXISTING SIDEWALK NORTH OF WINDSOR DRIVE TO ROGERS LAKE RD

				ENGINEER'S ESTIMATE		CAROLINA SITEWORKS, INC 300 WADE DRIVE CHINA GROVE, NC 28023		PEDULLA TRUCKING, EXCAVATING & GRADING 1275 SHINN FARM RD. MOORESVILLE, NC 28115		PERFORMANCE MANAGED CONSTRUCTION PO BOX 501 CONCORD, NC 28026	
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
32	ASPHALT DRIVEWAY REPAIR (LIGHT DUTY)	140	SY	\$ 40.00	\$ 5,600.00	\$ 40.00	\$ 5,600.00	\$ 41.00	\$ 5,740.00	\$ 40.00	\$ 5,600.00
33	ASPHALT DRIVEWAY REPAIR (HEAVY DUTY)	120	SY	\$ 80.00	\$ 9,600.00	\$ 73.50	\$ 8,820.00	\$ 65.00	\$ 7,800.00	\$ 50.00	\$ 6,000.00
34	ADJUSTMENT OF MANHOLES	6	EA	\$ 1,200.00	\$ 7,200.00	\$ 1,190.00	\$ 7,140.00	\$ 1,195.00	\$ 7,170.00	\$ 750.00	\$ 4,500.00
35	ADJUSTMENT OF METER BOXES OR VALVE BOXES	18	EA	\$ 1,000.00	\$ 18,000.00	\$ 900.00	\$ 16,200.00	\$ 1,050.00	\$ 18,900.00	\$ 350.00	\$ 6,300.00
36	RIP RAP, CLASS B	15	TN	\$ 45.00	\$ 675.00	\$ 50.00	\$ 750.00	\$ 55.00	\$ 825.00	\$ 60.00	\$ 900.00
37	GEOTEXTILES FOR DRAINAGE	982	SY	\$ 3.00	\$ 2,946.00	\$ 3.00	\$ 2,946.00	\$ 2.50	\$ 2,455.00	\$ 1.00	\$ 982.00
38	TRAFFIC CONTROL	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 87,857.00	\$ 87,857.00	\$ 81,685.00	\$ 81,685.00	\$ 55,000.00	\$ 55,000.00
39	THERMOPLASTIC PAVEMENT MARKING LINES (4", 120 MILS)	92	LF	\$ 5.00	\$ 460.00	\$ 4.00	\$ 368.00	\$ 4.00	\$ 368.00	\$ 25.00	\$ 2,300.00
40	THERMOPLASTIC PAVEMENT MARKING LINES (8", 90 MILS)	16	LF	\$ 7.00	\$ 112.00	\$ 6.70	\$ 107.20	\$ 7.00	\$ 112.00	\$ 75.00	\$ 1,200.00
41	THERMOPLASTIC PAVEMENT MARKING LINES (24", 120 MILS)	112	LF	\$ 8.00	\$ 896.00	\$ 8.00	\$ 896.00	\$ 8.00	\$ 896.00	\$ 90.00	\$ 10,080.00
42	THERMOPLASTIC PAVEMENT MARKING SYMBOL 90 MIL	4	EA	\$ 200.00	\$ 800.00	\$ 200.00	\$ 800.00	\$ 255.00	\$ 1,020.00	\$ 450.00	\$ 1,800.00
43	PAINT PAVEMENT MARKING 4"	220	LF	\$ 2.00	\$ 440.00	\$ 1.50	\$ 330.00	\$ 2.00	\$ 440.00	\$ 6.00	\$ 1,320.00
44	PAINT PAVEMENT SYMBOL	2	EA	\$ 150.00	\$ 300.00	\$ 135.00	\$ 270.00	\$ 130.00	\$ 260.00	\$ 500.00	\$ 1,000.00
45	REMOVAL OF PAVEMENT MARKING LINES, 4" WIDE	250	LF	\$ 5.00	\$ 1,250.00	\$ 5.30	\$ 1,325.00	\$ 5.00	\$ 1,250.00	\$ 5.00	\$ 1,250.00
46	24" THERMOPLASTIC YIELD SYMBOL	14	EA	\$ 250.00	\$ 3,500.00	\$ 200.00	\$ 2,800.00	\$ 255.00	\$ 3,570.00	\$ 400.00	\$ 5,600.00
47	ADJUST SEWER CLEAN-OUTS	1	EA	\$ 500.00	\$ 500.00	\$ 400.00	\$ 400.00	\$ 1,505.00	\$ 1,505.00	\$ 700.00	\$ 700.00
48	RELOCATE WATER METER (CONTINGENCY ITEM)	2	EA	\$ 1,000.00	\$ 2,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,015.00	\$ 4,030.00	\$ 1,000.00	\$ 2,000.00
49	RELOCATE SANITARY SEWER CLEAN-OUT (CONTINGENCY ITEM)	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,165.00	\$ 1,165.00	\$ 1,000.00	\$ 1,000.00
50	TEMPORARY SILT FENCE	5800	LF	\$ 5.00	\$ 29,000.00	\$ 4.70	\$ 27,260.00	\$ 2.00	\$ 11,600.00	\$ 3.50	\$ 20,300.00
51	STONE FOR EROSION CONTROL, CLASS A	50	TN	\$ 50.00	\$ 2,500.00	\$ 50.00	\$ 2,500.00	\$ 55.00	\$ 2,750.00	\$ 50.00	\$ 2,500.00
52	STONE FOR EROSION CONTROL, CLASS B	50	TN	\$ 50.00	\$ 2,500.00	\$ 50.00	\$ 2,500.00	\$ 55.00	\$ 2,750.00	\$ 50.00	\$ 2,500.00
53	SEDIMENT CONTROL STONE	100	TN	\$ 50.00	\$ 5,000.00	\$ 48.00	\$ 4,800.00	\$ 55.00	\$ 5,500.00	\$ 40.00	\$ 4,000.00
54	TEMPORARY MULCHING	1.5	AC	\$ 1,500.00	\$ 2,250.00	\$ 1,500.00	\$ 2,250.00	\$ 1,300.00	\$ 1,950.00	\$ 1,750.00	\$ 2,625.00
55	SEED FOR TEMPORARY SEEDING	100	LB	\$ 6.00	\$ 600.00	\$ 6.00	\$ 600.00	\$ 5.00	\$ 500.00	\$ 4.00	\$ 400.00
56	FERTILIZER FOR TEMPORARY SEEDING	1.5	TN	\$ 1,500.00	\$ 2,250.00	\$ 1,400.00	\$ 2,100.00	\$ 1,650.00	\$ 2,475.00	\$ 1,100.00	\$ 1,650.00
57	SILT EXCAVATION	100	CY	\$ 20.00	\$ 2,000.00	\$ 25.00	\$ 2,500.00	\$ 20.00	\$ 2,000.00	\$ 12.00	\$ 1,200.00
58	MATting FOR EROSION CONTROL	5000	SY	\$ 3.00	\$ 15,000.00	\$ 3.50	\$ 17,500.00	\$ 2.25	\$ 11,250.00	\$ 2.00	\$ 10,000.00
59	1/4" HARDWARE CLOTH	1065	LF	\$ 5.00	\$ 5,325.00	\$ 5.00	\$ 5,325.00	\$ 6.00	\$ 6,390.00	\$ 5.00	\$ 5,325.00
60	WATTLE	450	LF	\$ 15.00	\$ 6,750.00	\$ 15.00	\$ 6,750.00	\$ 7.00	\$ 3,150.00	\$ 15.00	\$ 6,750.00

PROJECT: OAKWOOD AVENUE SIDEWALK PROJECT
NCDOT TIP C-4916 C

OWNER: CITY OF KANNAPOLIS

ALLEY, WILLIAMS, CARMEN AND KING, INC.
CONSULTING ENGINEERS

120 SOUTH MAIN STREET
KANNAPOLIS, NC 28081
704-938-1515



ENGINEER'S CERTIFIED BID TABULATION

BID DATE: NOVEMBER 13, 2018 AT 2 PM

PAGE 3 OF 3

DESCRIPTION: CONSTRUCTION OF 7,000 LF OF SIDEWALK, MINOR STORM DRAINAGE, AND GRADING ALONG THE
WESTERN MARGIN OF OAKWOOD AVENUE FROM THE EXISTING SIDEWALK NORTH OF WINDSOR DRIVE TO ROGERS LAKE RD

				ENGINEER'S ESTIMATE		CAROLINA SITEWORKS, INC 300 WADE DRIVE CHINA GROVE, NC 28023		PEDULLA TRUCKING, EXCAVATING & GRADING 1275 SHINN FARM RD. MOORESVILLE, NC 28115		PERFORMANCE MANAGED CONSTRUCTION PO BOX 501 CONCORD, NC 28026	
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
61	POLYACRYLAMIDE (PAM)	50	LB	\$ 30.00	\$ 1,500.00	\$ 25.00	\$ 1,250.00	\$ 14.00	\$ 700.00	\$ 20.00	\$ 1,000.00
62	SEEDING AND MULCHING	3	AC	\$ 4,500.00	\$ 13,500.00	\$ 4,356.00	\$ 13,068.00	\$ 2,560.00	\$ 7,680.00	\$ 3,500.00	\$ 10,500.00
63	SEED FOR REPAIR SEEDING	150	LB	\$ 10.00	\$ 1,500.00	\$ 10.00	\$ 1,500.00	\$ 5.50	\$ 825.00	\$ 8.00	\$ 1,200.00
64	FERTILIZER FOR REPAIR SEEDING	0.75	TN	\$ 1,000.00	\$ 750.00	\$ 1,400.00	\$ 1,050.00	\$ 1,650.00	\$ 1,237.50	\$ 1,500.00	\$ 1,125.00
65	SEED FOR SUPPLEMENTAL SEEDING	150	LB	\$ 10.00	\$ 1,500.00	\$ 10.00	\$ 1,500.00	\$ 5.50	\$ 825.00	\$ 10.00	\$ 1,500.00
66	FERTILIZER TOPDRESSING	2.25	TN	\$ 1,250.00	\$ 2,812.50	\$ 1,400.00	\$ 3,150.00	\$ 1,650.00	\$ 3,712.50	\$ 1,500.00	\$ 3,375.00
67	RESPONSE FOR EROSION CONTROL	12	EA	\$ 1,000.00	\$ 12,000.00	\$ 1,000.00	\$ 12,000.00	\$ 300.00	\$ 3,600.00	\$ 800.00	\$ 9,600.00
68	PEDESTRIAN ACTIVATED FLASHER ASSEMBLY	1	EA	\$ 30,000.00	\$ 30,000.00	\$ 30,750.00	\$ 30,750.00	\$ 27,025.00	\$ 27,025.00	\$ 25,000.00	\$ 25,000.00
				TOTAL BASE BID	\$ 1,611,246.50				\$ 1,584,907.70		\$ 1,541,105.00
				10% CONTINGENCY	\$ 161,124.65				\$ 158,490.77		\$ 154,110.50
				TOTAL	\$ 1,772,371.15				\$ 1,743,398.47		\$ 1,695,215.50
				VARIANCE FROM ENGINEER'S ESTIMATE					-1.63%		-4.35%
									-2.22%		

I HEREBY CERTIFY THIS BID TAB TO BE A TRUE
AND ACCURATE COPY OF THE BIDS RECEIVED:



**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KANNAPOLIS
DECLARING THE INTENT OF THE CITY OF KANNAPOLIS TO REIMBURSE
ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH
THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE ISSUED.**

WHEREAS, the City Council of the City of Kannapolis (the "*City*") has determined that it is in the best interest of the City to construct a Sidewalk along Oakwood Avenue (the "*Project*");

WHEREAS, the City presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with the proceeds of tax-exempt obligations (the "*Bonds*") to finance, or to reimburse the City for, all or a portion of the costs of the Project; and

WHEREAS, the City desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of issuance of the Bonds (the "*Original Expenditures*"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Bonds, and the City intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Bonds to be issued at a date occurring after the dates of such Original Expenditures;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kannapolis as follows:

Section 1. ***Official Declaration of Intent.*** The City presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the City on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Bonds. The City reasonably expects to issue the Bonds to finance all or a portion of the costs of the Project and the maximum principal amount of Bonds expected to be issued by the City to pay for all or a portion of the costs of the Project is \$2,536,000.

Section 2. ***Compliance with Regulations.*** The City adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the City's intent to reimburse the City for the Original Expenditures from proceeds of the Bonds.

Section 3. ***Itemization of Capital Expenditures.*** The Finance Director of the City, with advice from bond counsel, is hereby authorized, directed and designated to act on behalf of the City in determining and itemizing all of the Original Expenditures incurred and paid by the City in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of issuance of the Bonds.

Section 4. ***Effective Date.*** This Resolution shall become effective immediately upon the date of its adoption.

Adopted this 26th day of November, 2018.

Milton D. Hinnant, Mayor

Attest:

Bridgette Bell, MMC, NCCMC
City Clerk



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: A 2018-05 - Public Hearing Voluntary Annexation of Property - 3901 Shiloh Church Road

A. Action Requested by City Council

1. Conduct a Public Hearing on proposed annexation of property located at 3901 Shiloh Church Road - Property Identification Number (PIN) 4672-69-4483
2. Consider a motion to adopt an Ordinance to Annex approximately 12.079 +/- acres of property located at 3901 Shiloh Church Road - (PIN) 4672-69-4483

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The owner of the subject property, Terri Gardner Sides, has submitted a petition for the voluntary annexation of property located at 3901 Shiloh Church Road. The property is currently located in an unincorporated portion of Cabarrus County in an area identified as the "Western Planning Area" of the County's long-range plan. The parcel is currently vacant and has a Cabarrus County zoning designation of CR - Countryside Residential. This annexation will allow for the property to be developed as part of a residential subdivision to be located on adjoining property that was recently annexed by the City. The petition is for a contiguous annexation. (See attached Vicinity Map).

As is required by the North Carolina General Statutes, an initial City of Kannapolis zoning designation must be applied to the property by the Planning and Zoning Commission within 60 days of the effective date of the annexation. The Planning and Zoning Commission will be reviewing a request for a conditional rezoning for a residential subdivision, which includes this property, at their December 5, 2018 meeting. Under the terms of the Annexation Agreement between Kannapolis and Concord, the proposed annexation of property is located within the area where Kannapolis may annex (see attached Annexation Agreement and map). Per this agreement, the City of Concord was notified of the petition for annexation (see attached letter).

D. Fiscal Considerations

None

E. Policy Issues

The subject property is located in an unincorporated area of Cabarrus County that is currently zoned CR, with a 2 acre required minimum lot size. While this property is located outside of the City's corporate limits, it is within an area designated as "Proposed Kannapolis Growth Area", in an "Annexation Agreement" between the City of Kannapolis and City of Concord (see attached). The City has recently completed the extension of utilities in this area to facilitate future development. According to the City's current long range planning document - Move Kannapolis Forward 2030 Comprehensive Plan - this property is located in a designated "Primary Service Area". A Primary Service Area is "land where provision of services is preferred. These are areas to encourage development within the planning horizon. Annexation is also envisioned as a part of the agreement to provide services".

F. Legal Issues

Prior to considering the Annexation Ordinance, pursuant to NCGS 160A-31, the City Council must first direct the City Clerk to investigate the sufficiency of the petition to annex. City Council must also adopt a Resolution of Intent to Annex and fix a public hearing date for consideration of the petition.

The City Clerk has signed a Certificate of Sufficiency for the proposed annexation, dated November 12, 2018 (see attached), and the City Council, at its November 12, 2018 meeting, adopted a Resolution of Intent to Annex and fix Date of Public Hearing for November 26, 2018 (see attached) to consider this petition for annexation. Public notice for this public hearing was provided on November 16th and 23rd (see attached notice).

G. Alternative Courses of Action and Recommendation

1. **Motion to adopt An Ordinance to Extend the Corporate Limits of the City of Kannapolis to include approximately 12.079+/- acres of property located at 3901Shiloh Church Road (Cabarrus County PIN (PIN) 4672-69-4483 (Recommended)**
2. Do not approve Ordinance
3. Table action to a future meeting

ATTACHMENTS:

File Name

- ❑ A-2018-05_Annexation_Request.pdf
- ❑ Vicinity_A_2018_05.pdf
- ❑ Legal_Gardner.pdf
- ❑ Gardner_division_draft_10-10-2018_(003).pdf
- ❑ Annexation_Ordinance_-_Gamer_Annexation.pdf
- ❑ Legal_Gardner.pdf
- ❑ City_of_Concord-Annex_Agreement_-_without_metes_and_bounds_attachments.pdf
- ❑ Non-Annexation_Map_for_A-2018-03.pdf

- ▢ Concord_Notice_-_Gamer_Annexation.pdf
- ▢ Signed_Resolution_Directing_Clerk_to_Investigate.pdf
- ▢ Signed_Resolution_of_Intent_to_Annex.pdf
- ▢ Signed_Certificate_of_Sufficiency.pdf
- ▢ Nov_26_CC_Public_Notice_Ad_Final.pdf

KANNAPOLIS



PETITION REQUESTING A CONTIGUOUS ANNEXATION

DATE: October 5, 2018


To the City Council of the City of Kannapolis, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the City of Kannapolis, North Carolina.
2. The area to be annexed is contiguous to the primary limits of the City of Kannapolis, North Carolina and the boundaries of such territory are as follows:

See Attached **Survey Map** and **Metes and Bounds Description**

3. This petition is signed by all property owners of the area to be annexed.
4. _____ The undersigned owners acknowledge that the following City service(s) is (are) not presently available for immediate taps upon annexation: water _____ sewer _____; and, subsequently agree that the City shall not provide water and sewer service to the area to be annexed except in accordance with the City's standard water and sewer policy.
5. _____ The undersigned owners declare that zoning vested rights have been established on the area to be annexed under G.S. 160A-385.1 or G.S. 153A-344.1, and provide proof of such rights by attachment hereto.

 X The undersigned owners hereby declare that no such vested rights have been established and that any vested rights previously acquired are hereby terminated.

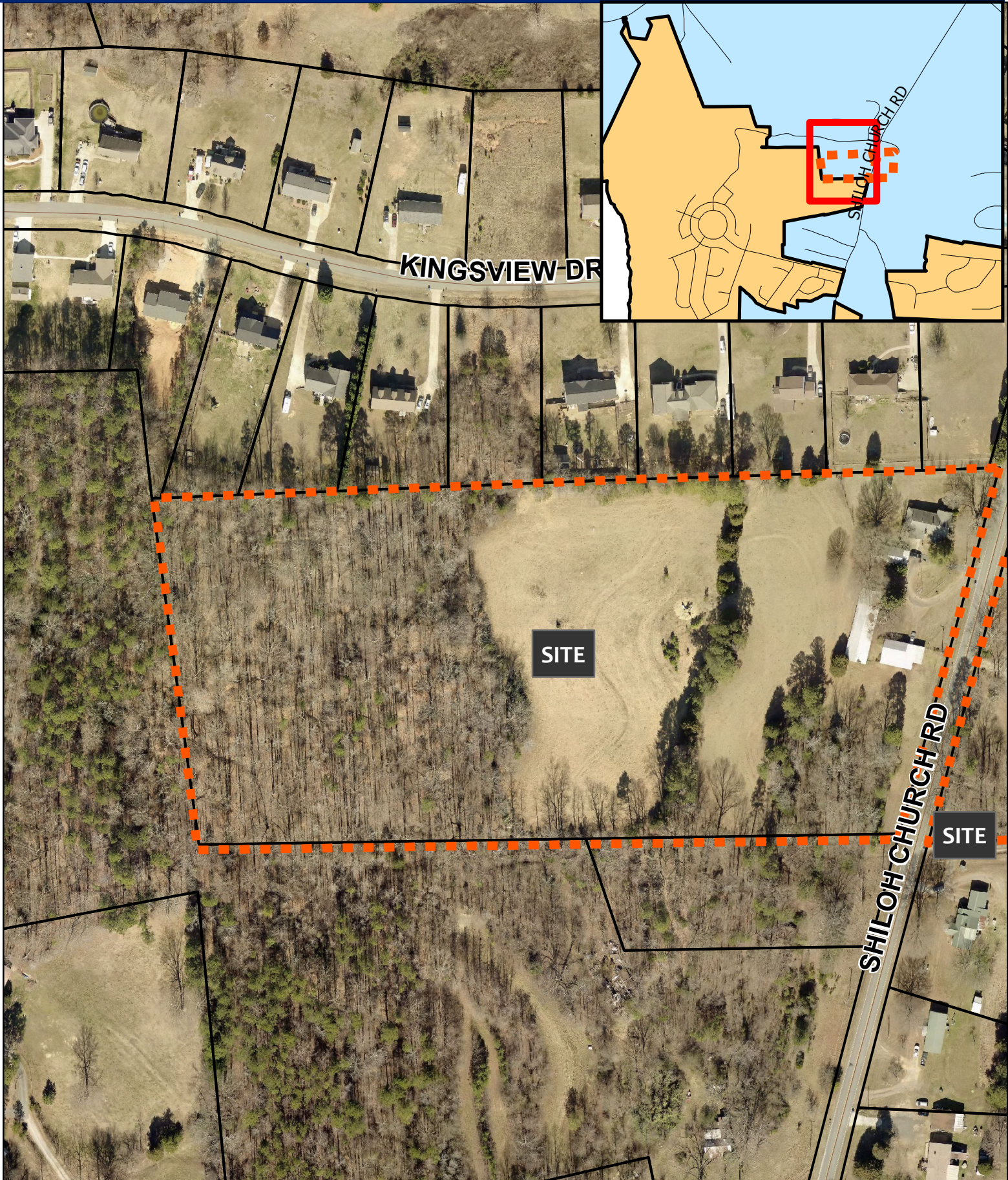
<u>Name</u> (print or type)	<u>Address</u>	<u>Signature*</u>
1. Terri Gardner Sides	130 Elysian Drive Mooresville, NC 28117	
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

*Family members (e.g., husbands and wives) need to sign separately. Signatures for corporations, institutions, etc., are by those with the authority to sign legal documents.



Vicinity Map

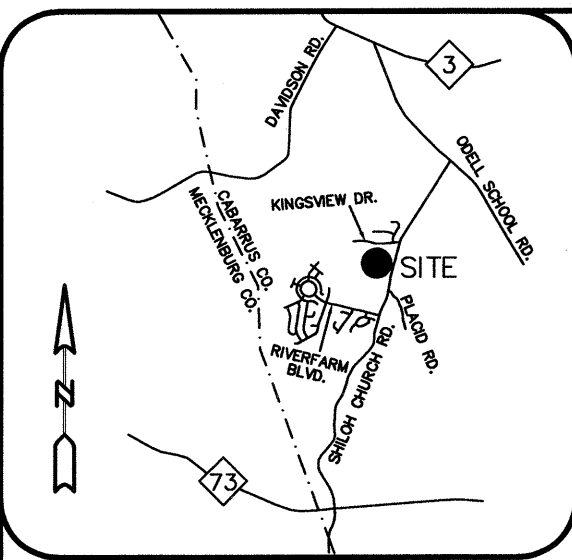
Case Number: A-2018-05
Applicant: Shiloh Church Development Group
3901 Shiloh Church Rd.



Legal Description

Lying and being in Number 3 Township, Cabarrus County, North Carolina, and lying on the western side of Shiloh Church Road (public maintenance right of way), and being a portion of the property of C.B. Gardner and wife Lois R. Gardner (Deed Book 180 at Page 92), and being more particularly described as follows:

Beginning at an existing #5 rebar on the western side of Shiloh Church Road (public maintenance right of way), said existing #5 rebar being the northeast corner of Kenneth Mack Irvin (Deed Book 443 at Page 668); thence from the POINT OF BEGINNING with the northern line of said Kenneth Mack Irvin S 88°53'36" W (passing an existing #5 rebar 0.62 feet north of line at 337.19 feet) a total distance of 424.48 feet to an existing axle, said axle being the northwest corner of said Kenneth Mack Irvin; thence with the property of Shiloh Church Development Group, LLC (Tract One, Deed Book 13213 at Page 276) the following two courses and distances: 1) S 89°09'16" W 520.39 feet to an existing stone; and 2) N 07°04'44" W 481.86 feet to an existing axle beside stone; thence with the southern line of Lots 10 through 1 of Map Book 30 at Page 47 N 87°33'44" E (passing existing #4 rebars on line at 16.65 feet and 121.99 feet, and passing existing ½" rods on line at 254.42 feet, 403.13 feet, 531.33 feet, 659.21 feet, 787.21 feet, 915.21 feet and 1043.28 feet, and passing an existing #5 rebar on line at 1133.81 feet) a total distance of 1164.21 feet to a point in the centerline of Shiloh Church Road (public maintenance right of way); thence with the centerline of Shiloh Church Road S 15°00'37" W 529.51 feet to a point in the centerline of Shiloh Church Road; thence S 89°00'17" W 21.91 feet to the POINT OF BEGINNING containing 12.079 acres.



VICINITY MAP
NOT TO SCALE

REFERENCES:

1. ALL DEEDS AND MAPS SHOWN HEREON.
2. MAP TITLED "FINAL PLAT: SUNSET RIDGE PHASE I" BY KING ENGINEERING OF CONCORD, INC.; DATED NOVEMBER 14, 1996; MB. 30 PG. 47.
3. MAP TITLED "MUNICIPAL UTILITY EASEMENT OF WESTERN CABARRUS WATER IMPROVEMENTS" BY ALLEY, WILLIAMS, CARMEN, & KING, INC.; DATED DECEMBER 2, 2008; MB. 57 PGS. 5 & 6.
4. MAP TITLED "FINAL PLAT - MINOR SUBDIVISION MARIPOSA" BY SUMMIT LAND SURVEYING COMPANY; DATED JANUARY 7, 2008; MB. 55 PG. 54.

NOTES:

1. TRAVERSE ADJUSTED BY THE LEAST SQUARES ADJUSTMENT METHOD.
2. AREAS DETERMINED BY COORDINATE COMPUTATIONS.
3. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
4. NC GRID NAD 83 (2011) EPOCH 2010.00 BASIS OF BEARING DERIVED FROM NCGS NETWORK RTK BETWEEN 01-11-2018 AND 01-19-2018 (HORIZONTAL POSITIONAL ACCURACY = 0.09') USING GEOID MODEL GEOID12B. PROJECT LOCALIZED HOLDING CONTROL PT. HV-6 (N=628,750.64', E=1,475,534.41'), AND USING A COMBINED GRID FACTOR OF 0.99984971. UNITS ARE US SURVEY FEET.
5. SOURCE FOR UNDERGROUND UTILITY LOCATIONS IS ALLIED ASSOCIATES, P.A. CESI IS ONLY RESPONSIBLE FOR THE LOCATION OF ALLIED ASSOCIATES, P.A. MARKINGS AND NOT THE ACTUAL LOCATION OF UTILITIES BEING MARKED. THERE MAY BE OTHER UNDERGROUND UTILITIES ON THIS SITE OTHER THAN THOSE SHOWN. BEFORE DOING ANY DIGGING, CALL NC ONE-CALL (1-800-632-4949).
6. SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN; AREAS OUTSIDE FUTURE CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN) AS SCALED FROM FLOOD INSURANCE RATE MAP NUMBER 3710467200K; MAP REVISED MARCH 2, 2009.

SITE CALCULATIONS	
TOTAL AREA	16.497 ACRES
NUMBER OF PARCELS BEFORE SUBDIVISION	1
NUMBER OF PARCELS IN SUBDIVISION	2
AREA IN LOTS	16.497 ACRES

SHILOH CHURCH DEVELOPMENT GROUP, LLC
TRACT ONE, DB. 13213 PG. 276
4672-68-0812

BRETT L. FOWLER and wife,
STEWART VAN EVERY FOWLER
DB. 1621 PG. 251
4672-58-5733

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

I, _____, REVIEW OFFICER OF
CABARRUS COUNTY, CERTIFY THAT THE MAP OR PLAT
TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL
STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

DATE

SUBJECT PROPERTY IS ZONED CR
(PER CABARRUS COUNTY GIS)

THE FOLLOWING DATA FOR ZONE CR WAS TAKEN FROM
THE CABARRUS COUNTY DEVELOPMENT ORDINANCE
SECTION 5-5 CONVENTIONAL SUBDIVISION STANDARDS

PRINCIPAL (MINIMUM FEET)

FRONT YARD (MINOR COLLECTOR)	= 75
FRONT YARD (LOCAL ROAD)	= 50
SIDE YARD (SINGLE)	= 20
SIDE YARD (TOTAL)	= 40
REAR YARD	= 30

- LEGEND
- | | | | |
|---|------------------------------|---|--------------|
| ● | EXISTING CORNER AS DESCRIBED | ○ | WATER VALVE |
| ○ | SET #5 REBAR WITH CAP | ○ | HYDRANT |
| ⊗ | NO POINT SET | ○ | UTILITY POLE |

- | | |
|-----|-------------------------|
| --- | BOUNDARY AS SURVEYED |
| --- | TIE LINE |
| --- | BOUNDARY BY DEED OR MAP |
| --- | EASEMENT |
| --- | OVERHEAD UTILITY LINE |
| --- | STREAM OR BRANCH |
| --- | FENCE |
| --- | WATER LINE |
| --- | GAS LINE |

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

I, DAVID L. HAYWOOD, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION
FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED RECORDED IN DEED BOOK
180, PAGE 92); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM
DEEDS OR MAPS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS
1:16,200; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED;
AND THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A
COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 10th DAY OF OCTOBER, A.D., 2018.

PROFESSIONAL LAND SURVEYOR

LICENSE NO. L-4822

MINOR SUBDIVISION SURVEY FOR PROPERTY OF:

C.B. Gardner and wife Lois R. Gardner

NUMBER 3 TOWNSHIP, CABARRUS COUNTY, NC

OWNER:	FOR:
TERRI GARDNER SIDES	SHERWOOD DEVELOPMENT GROUP
1151 ELYSIAN DR.	1151 ELYSIAN DR.
MOORESVILLE, NC 28117	CONCORD, NC 28027

DATE: 10-08-2018	COMPUTED BY: RAP
SCALE: 1" = 100'	DRAWN BY: RAP
JOB NO.: 180212.000	CHECKED BY: DLH
ACAD FILE: Gardner Division.dwg	

SCALE IN FEET

0 100 200 300

Civil - Geotechnical - Surveying

45 SPRING STREET SW CONCORD (704) 786-5404
CONCORD, NC 28025 FAX (704) 786-7454
N.C. FIRM LICENSE NO. C-0263
© CESI 2018

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF KANNAPOLIS, NORTH CAROLINA**

WHEREAS, pursuant to NCGS 160A-31 the City Council has stated its intent to annex property contiguous to the City's boundary as described below; and

WHEREAS, the City Council has by resolution set a public hearing on the question of this annexation at Kannapolis City Hall, located at 401 Laureate Way at 6:00 PM on the 26th day of November, 2018 after due notice by the Independent Tribune newspaper on the 16th day of November and 23rd day of November, 2018;

WHEREAS, the City Council further finds that the public health, safety and welfare of the City of Kannapolis, North Carolina and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Kannapolis, North Carolina that:

Section 1. By virtue of the authority granted pursuant to N.C.G.S. Chapter 160A, Article 4A, Part 1, Section 160A-31 the following described territory is hereby annexed and made part of the City of Kannapolis, North Carolina as of the 26th day of November, 2018, and being more particularly described as Cabarrus County PIN 4672-69-4483, as follows:

SEE EXHIBIT A – METES AND BOUNDS DESCRIPTION

Section 2. Upon and after the 26th day of November 2018, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Kannapolis, North Carolina and shall be entitled to the same privileges and benefits as other parts of the City of Kannapolis, North Carolina. Said territory shall be subject to municipal taxes according to G.S. 160A-31(e).

Section 3. The Mayor of the City of Kannapolis, North Carolina shall cause to be recorded in the office of the Register of Deeds of Cabarrus County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Board of Elections, as required by G.S. 163-288.1.

Adopted this 26th day of November, 2018.

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk

Milton D. Hinnant, Mayor

APPROVED AS TO FORM:

Walter M. Safrit, II, City Attorney

EXHIBIT A
Legal Description

Lying and being in Number 3 Township, Cabarrus County, North Carolina, and lying on the western side of Shiloh Church Road (public maintenance right of way), and being a portion of the property of C.B. Gardner and wife Lois R. Gardner (Deed Book 180 at Page 92), and being more particularly described as follows:

Beginning at an existing #5 rebar on the western side of Shiloh Church Road (public maintenance right of way), said existing #5 rebar being the northeast corner of Kenneth Mack Irvin (Deed Book 443 at Page 668); thence from the POINT OF BEGINNING with the northern line of said Kenneth Mack Irvin S 88°53'36" W (passing an existing #5 rebar 0.62 feet north of line at 337.19 feet) a total distance of 424.48 feet to an existing axle, said axle being the northwest corner of said Kenneth Mack Irvin; thence with the property of Shiloh Church Development Group, LLC (Tract One, Deed Book 13213 at Page 276) the following two courses and distances: 1) S 89°09'16" W 520.39 feet to an existing stone; and 2) N 07°04'44" W 481.86 feet to an existing axle beside stone; thence with the southern line of Lots 10 through 1 of Map Book 30 at Page 47 N 87°33'44" E (passing existing #4 rebars on line at 16.65 feet and 121.99 feet, and passing existing ½" rods on line at 254.42 feet, 403.13 feet, 531.33 feet, 659.21 feet, 787.21 feet, 915.21 feet and 1043.28 feet, and passing an existing #5 rebar on line at 1133.81 feet) a total distance of 1164.21 feet to a point in the centerline of Shiloh Church Road (public maintenance right of way); thence with the centerline of Shiloh Church Road S 15°00'37" W 529.51 feet to a point in the centerline of Shiloh Church Road; thence S 89°00'17" W 21.91 feet to the POINT OF BEGINNING containing 12.079 acres.

STATE OF NORTH CAROLINA

ANNEXATION AGREEMENT

COUNTY OF CABARRUS

WHEREAS, the City of Kannapolis, a North Carolina municipal corporation, (hereinafter "Kannapolis") and the City of Concord, a North Carolina municipal corporation, (hereinafter "Concord") have undertaken a joint planning effort to encourage the orderly development of the unincorporated areas adjacent to the two municipalities; and

WHEREAS, Kannapolis and Concord desire to reduce uncertainty among residents and property owners in the potential growth areas of the municipalities which will improve planning by both public and private interests in such areas; and

WHEREAS, the General Statutes of North Carolina, Chapter 160A, Section 58.21 et seq. authorized municipalities to enter into binding agreements relating to future annexations and designating areas which are not subject to annexation by each participating municipality; and

NOW, THEREFORE upon the premises contained herein the parties hereto agree as follows:

1. This Agreement is executed pursuant to the authority of Article 4A, Part 6 of G.S. Chapter 160A of the North Carolina General Statutes (the "Act").
2. Subject to the provisions hereinafter stated, Kannapolis shall not annex the following area(s) shown on Exhibit "B.1" and "B.2" which are incorporated herein as a part of this Agreement.
3. Subject to the provisions hereinafter stated, Concord shall not annex the following area(s) shown on Exhibit "A.1," "A.2," "A.3," "A.4," and "A.5" which are incorporated herein as a part of this Agreement.
4. The effective date of this Agreement is December 11, 2003, or the date of adoption of an ordinance approving this Agreement by the last participating city to do so, whichever is later, and shall terminate at 12:01 am on the tenth anniversary following the effective date, or as otherwise terminated as provided herein.
5. This Agreement shall not be effective unless and until each participating city has held a public hearing on this Agreement, or the participating cities have held a joint public hearing, prior to adopting the ordinance approving this Agreement. Until such time as the required public hearings are held and the respective approving ordinances are adopted, this Agreement shall be considered a proposed agreement.

6. At least sixty (60) days prior to the adoption of any annexation ordinance affecting geographical area which is subject to this Agreement, the participating city proposing such annexation shall give written notice to the other participating city of the proposed annexation. Such notice shall describe the area to be annexed by a legible map, clearly and accurately showing the boundaries of the area to be annexed in relation to this Agreement delineated by roads, streams and any other prominent geographical features. Such notice shall not be effective for more than 180 days.
7. This Agreement may be modified or terminated only by a subsequent amending agreement adopted and executed by each participating cities. Any amending agreement shall be adopted by ordinance after public hearings as provided in G.S. 160A-31(c).
8. This Agreement shall not be binding beyond three miles of the primary corporate limits of a participating city unless approved by the Cabarrus County Board of County Commissioners. Provided, however, that any area where this Agreement is not binding because of failure of the Board of County Commissioners to approve it, shall become subject to this Agreement if a subsequent annexation brings it within three miles. The approval of a Board of County Commissioners shall be evidenced by a resolution adopted after a public hearing as provided in G.S. 160A-58.24(c) and (e) and 160A-31(c).
9. This Agreement may be terminated by a participating city, by repealing the ordinance which approved this Agreement and providing a five year advance written notice to the other participating city. Upon the expiration of the five-year notice period, this Agreement shall terminate.
10. From and after the effective date of this Agreement, no participating city may adopt an annexation ordinance as to all or any portion of an area in breach of this Agreement:
11. Nothing in this Agreement shall be construed to authorize the annexation of any area which is not otherwise subject to annexation under applicable law.
12. This Agreement contains the entire agreement between the participating cities.

IN WITNESS WHEREOF, the Mayors of the participating cities execute this Agreement in duplicate, to become effective as provided in paragraph 4 hereinabove, this the _____ day of December, 2003.

CITY OF KANNAPOLIS

By: O. Ray Moss
O. Ray Moss, Mayor

ATTEST:

Bridgette Bell
Bridgette Bell, CMC, City Clerk

APPROVED AS TO FORM:

Walter M. Safrit, II
Walter M. Safrit, II, City Attorney



CITY OF CONCORD

By: Scott Padgett
Scott Padgett, Mayor

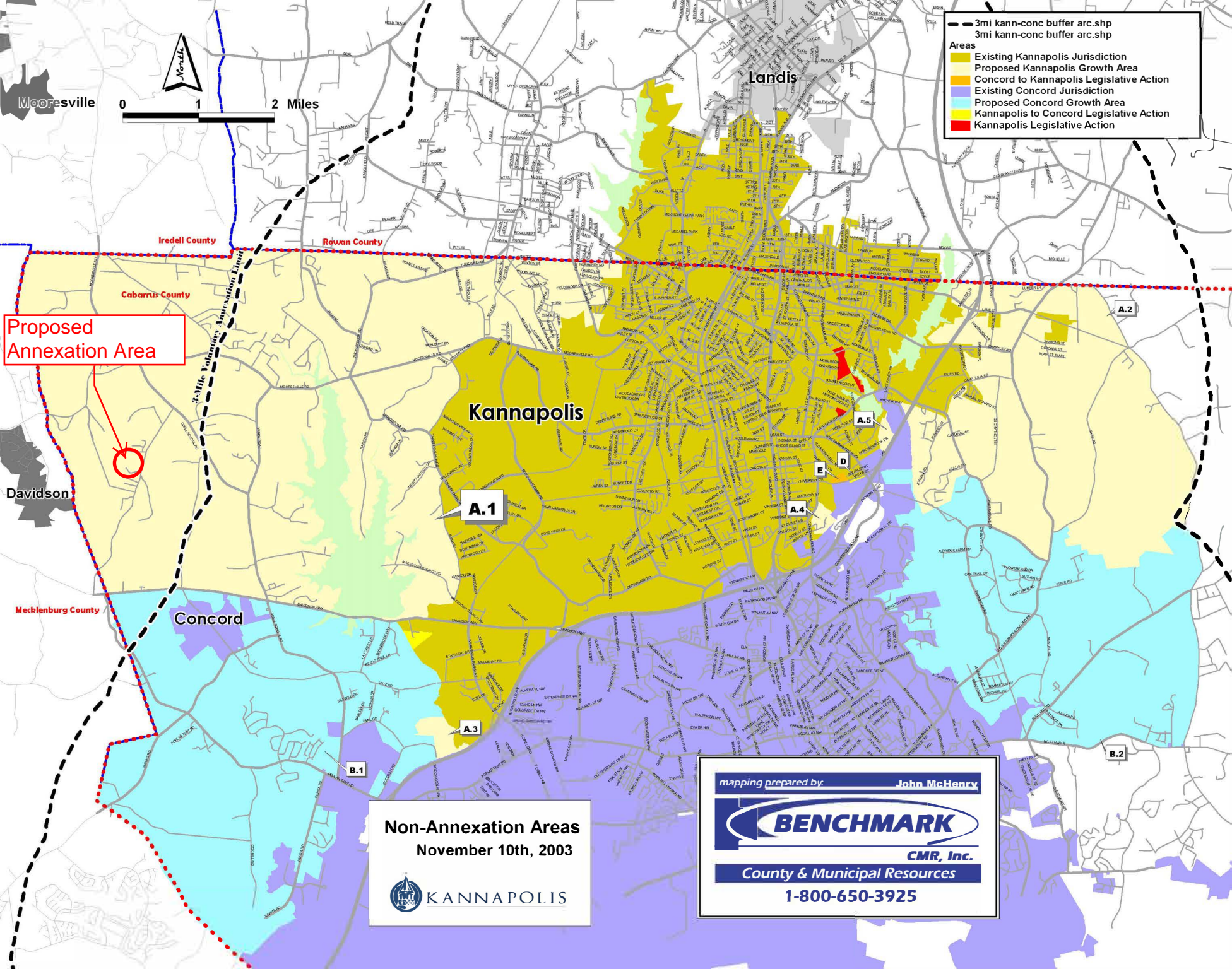
ATTEST:

Vickie C. Weant
Vickie Weant, CMC, City Clerk

APPROVED AS TO FORM:

Albert Benshoff
Albert Benshoff
City Attorney





- 3mi kann-conc buffer arc.shp
- 3mi kann-conc buffer arc.shp
- Areas
- Existing Kannapolis Jurisdiction
- Proposed Kannapolis Growth Area
- Concord to Kannapolis Legislative Action
- Existing Concord Jurisdiction
- Proposed Concord Growth Area
- Kannapolis to Concord Legislative Action
- Kannapolis Legislative Action

Proposed Annexation Area

Non-Annexation Areas
November 10th, 2003



KANNAPOLIS

mapping prepared by **John McHenry**



BENCHMARK

CMR, Inc.

County & Municipal Resources

1-800-650-3925



November 2, 2018

Mr. Lloyd Payne, City Manager
City of Concord
35 Cabarrus Ave W,
Concord, NC 28025

(Via USPS & Email)

Re: Petition for Annexation of Property (3901 Shiloh Church Road, Cabarrus County PIN 4672-69-4483) - Case # A-2018-05

Dear Mr. Payne:

Per the terms of the Annexation Agreement (see attached) between Kannapolis and Concord, the purpose of this letter is to inform you that the City of Kannapolis has received a petition for voluntary annexation of property in Area A.1 of the agreement (see enclosed petition with attachments), within which area the City may annex property. More specifically, the property requested for annexation is located on Shiloh Church Road and encompasses 12.079 +/- acres (see attached vicinity map).

The Kannapolis City Council will consider this petition for annexation at a public hearing to be held at 6:00 pm in the City Hall chambers, located at 401 Laureate Way, Kannapolis, on November 26, 2018.

The above-referenced property currently has a Cabarrus County Zoning designation of CR –Countryside Residential. As is required by the North Carolina General Statutes, an initial City of Kannapolis zoning designation must be applied to the property within 60 days of the effective date of the annexation. The property owner intends to the property as part of a single-family detached subdivision.

Please feel free to contact me if you have any questions or would like to offer input regarding this annexation petition.

Sincerely,

Zachary D. Gordon, AICP
Planning Director

Attachments

Cc: Mike Legg, City Manager (via email)
Wally Safrit, City Attorney (via email)
Bridgette Bell, City Clerk (via email)
Susie Morris, Cabarrus County Planning and Zoning Manager (via email)

**RESOLUTION DIRECTING THE CLERK TO
INVESTIGATE AN INTENT TO ANNEX UNDER
CHAPTER 160A ARTICLE 4A**

WHEREAS, the City Council may initiate annexation of contiguous property owned by the petitioners by adopting a resolution stating its intent to annex the property of the area described herein; and

WHEREAS, N.C.G.S Chapter 160A, Article 4A, Part 1 provide that the sufficiency of the petition shall be investigated by the City Clerk of the City of Kannapolis, North Carolina before further annexation proceedings consistent within the intent to annex can take place; and

WHEREAS, the City Council of the City of Kannapolis, North Carolina deems it advisable to direct the City Clerk to investigate the sufficiency of the intent to annex;

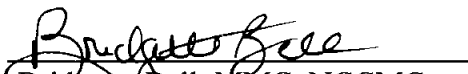
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kannapolis, North Carolina that:

The City Clerk is hereby directed to investigate the sufficiency of the above-described intent to annex under N.C.G.S. Chapter 160A, Article 4, Part 1 and to certify as soon as possible to the City Council the result of the investigation.

ADOPTED this the 12th day of November 2018.


Milton D. Hinnant, Mayor

ATTEST:


Bridgette Bell, MMC, NCCMC
City Clerk

RESOLUTION OF INTENT TO ANNEX AND FIX DATE
OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO
CHAPTER 160A ARTICLE 4A (Part 1) SECTION 160A-31(a)

WHEREAS, pursuant to NCGS 160A-31 the City Council may initiate annexation of real property contiguous to the City's boundary pursuant to a Petition for Annexation by all property owners located therein by adopting a Resolution stating its intent to annex the property described.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Kannapolis, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Laureate Center, 401 Laureate Way, Kannapolis, NC at 6:00 PM on the 26th day of November, 2018.

Section 2. The area proposed for annexation is described as follows:

Lying and being in Number 3 Township, Cabarrus County, North Carolina, and lying on the western side of Shiloh Church Road (public maintenance right of way), and being a portion of the property of C.B. Gardner and wife Lois R. Gardner (Deed Book 180 at Page 92), and being more particularly described as follows:

Beginning at an existing #5 rebar on the western side of Shiloh Church Road (public maintenance right of way), said existing #5 rebar being the northeast corner of Kenneth Mack Irvin (Deed Book 443 at Page 668); thence from the POINT OF BEGINNING with the northern line of said Kenneth Mack Irvin S 88°53'36" W (passing an existing #5 rebar 0.62 feet north of line at 337.19 feet) a total distance of 424.48 feet to an existing axle, said axle being the northwest corner of said Kenneth Mack Irvin; thence with the property of Shiloh Church Development Group, LLC (Tract One, Deed Book 13213 at Page 276) the following two courses and distances: 1) S 89°09'16" W 520.39 feet to an existing stone; and 2) N 07°04'44" W 481.86 feet to an existing axle beside stone; thence with the southern line of Lots 10 through 1 of Map Book 30 at Page 47 N 87°33'44" E (passing existing #4 rebar's on line at 16.65 feet and 121.99 feet, and passing existing ½" rods on line at 254.42 feet, 403.13 feet, 531.33 feet, 659.21 feet, 787.21 feet, 915.21 feet and 1043.28 feet, and passing an existing #5 rebar on line at 1133.81 feet) a total distance of 1164.21 feet to a point in the centerline of Shiloh Church Road (public maintenance right of way); thence with the centerline of Shiloh Church Road S 15°00'37" W 529.51 feet to a point in the centerline of Shiloh Church Road; thence S 89°00'17" W 21.91 feet to the POINT OF BEGINNING containing 12.079 acres.

Section 3. Notice of public hearing shall be published in the Independent Tribune on November 14, 2018.

ADOPTED this the 12th day of November, 2018.

ATTEST:


Bridgette Bell, MMC, NCCMC
City Clerk


Milton D. Hinnant, Mayor

CERTIFICATE OF SUFFICIENCY

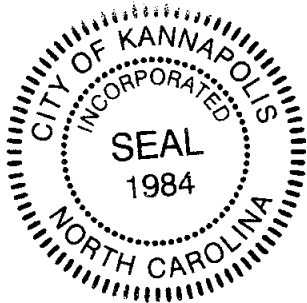
To the City Council of the City of Kannapolis, North Carolina.

I, Bridgette Bell, City Clerk, do hereby certify that I have investigated that attached petition and hereby make the following findings:

- a. The petition contains an adequate property description of the area proposed for annexation.
- b. The area described in petition is contiguous to the City of Kannapolis primary corporate limits, as defined by G.S. 160A-31.
- c. The petition is signed by and includes addresses of all owners of real property lying in the area described therein.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Kannapolis, this 12th day of November, 2018.

(SEAL)




Bridgette Bell, MMC, NCCMC
City Clerk

CITY OF KANNAPOLIS

MEMORANDUM

TO: Amanda Boan
The Independent Tribune
FROM: Pam Scaggs, Administrative Assistant
DATE: November 14, 2018
SUBJECT: Display Ad

Please publish this Notice of Public Hearing as a **display ad** in the non-legal section of *The Independent Tribune*.

Publish dates: Friday, November 16, 2018
Friday, November 23, 2018

Send proof & invoice of publication to: pscaggs@kannapolisnc.gov

Call me at 704-920-4350 if you have any questions.

Thank you.
Pam Scaggs
pscaggs@kannapolisnc.gov



NOTICE OF PUBLIC HEARING
Kannapolis City Hall
Laureate Center
401 Laureate Way, Kannapolis, NC 28081

City Council Meeting
Monday November 26, 2018 at 6:00 pm

Public Hearing Notice

Public Hearing Notice – Garner Annexation – A-2018-05 – Public Hearing to consider the voluntary annexation of approximately 12.079 +/- acres located at 3901 Shiloh Church Road further identified as Cabarrus County PIN #4672-69-4483.

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 tcline@kannapolisnc.gov.



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Eric Davis, Finance Director
TITLE: Presentation of Fiscal Year 2018 Audit

A. Action Requested by City Council

Presentation only

B. Required Votes to Pass Required Action

Presentation Only, no action required

C. Background

The Fiscal Year 2018 Audit results will be presented to the City Council. A copy of the audit is attached for your review. As in previous year's, this audit is "clean" and thoroughly shows the City's strong financial position.

A copy of the comprehensive annual financial report for fiscal year ending June 30, 2018, can be found by clicking on the link below:

[Comprehensive Financial Report Fiscal Year 2018](#)

D. Fiscal Considerations

None

E. Policy Issues

None

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

Presentation only. No action is required

ATTACHMENTS:

File Name

📎 Kannapolis_Presentation_2018.pdf

MARTIN • STARNES

 & ASSOCIATES, CPAs, P.A.

CITY OF KANNAPOLIS

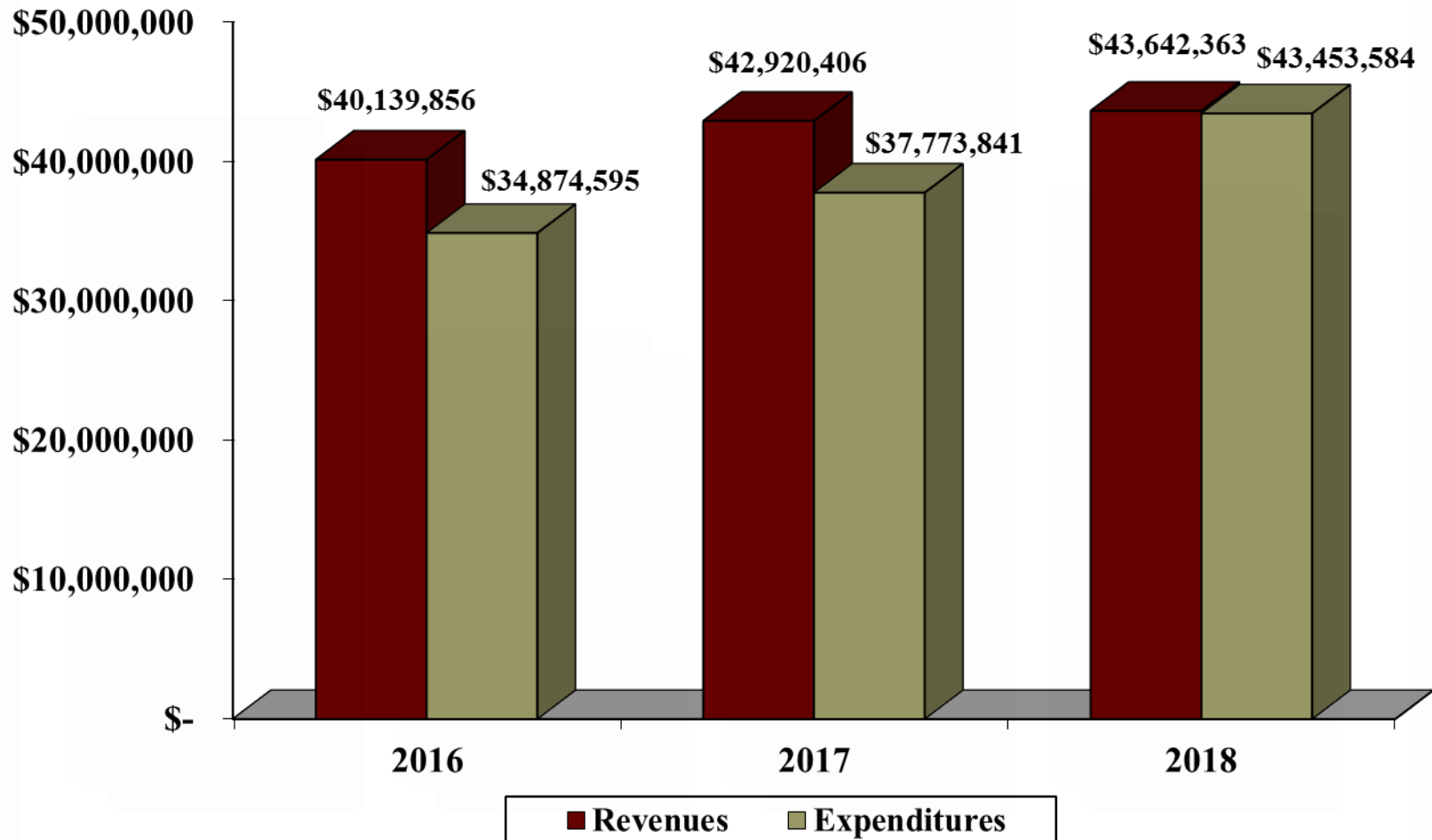
2018 AUDITED FINANCIAL STATEMENTS



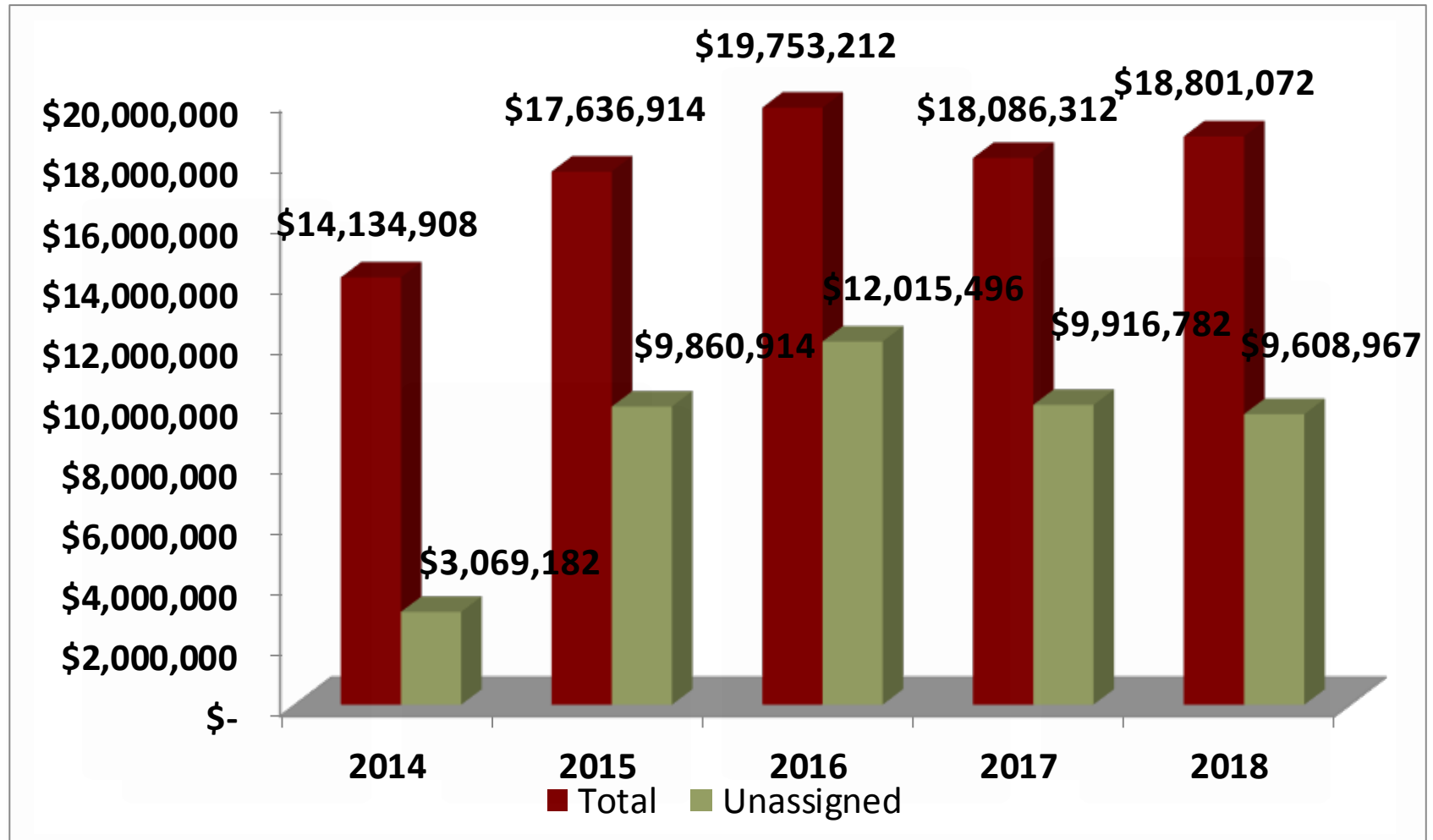
Audit Highlights

- ❑ Unmodified opinion
- ❑ No findings or questioned costs
- ❑ No material internal control weaknesses identified

General Fund Summary



General Fund ~ Fund Balance

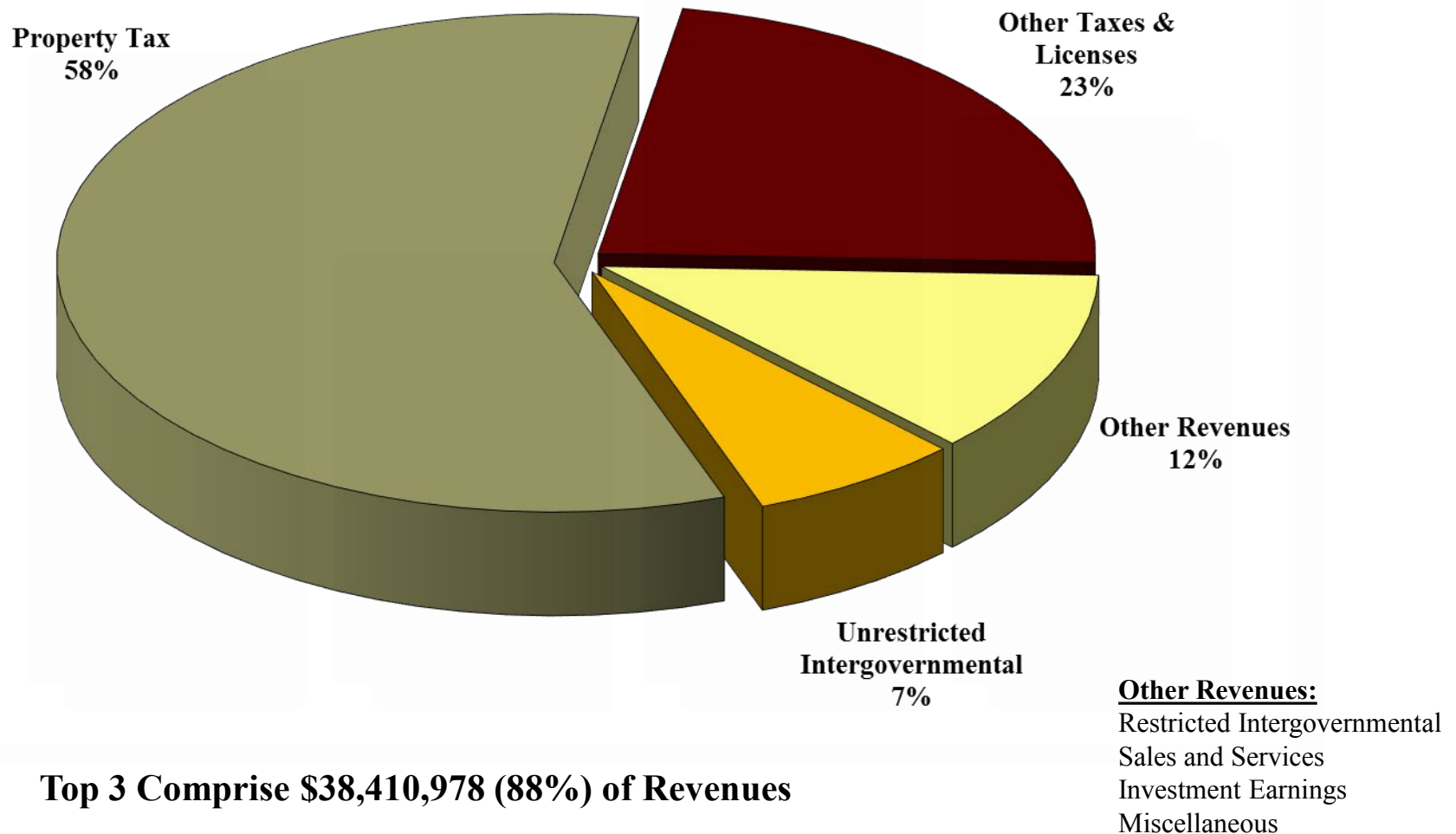




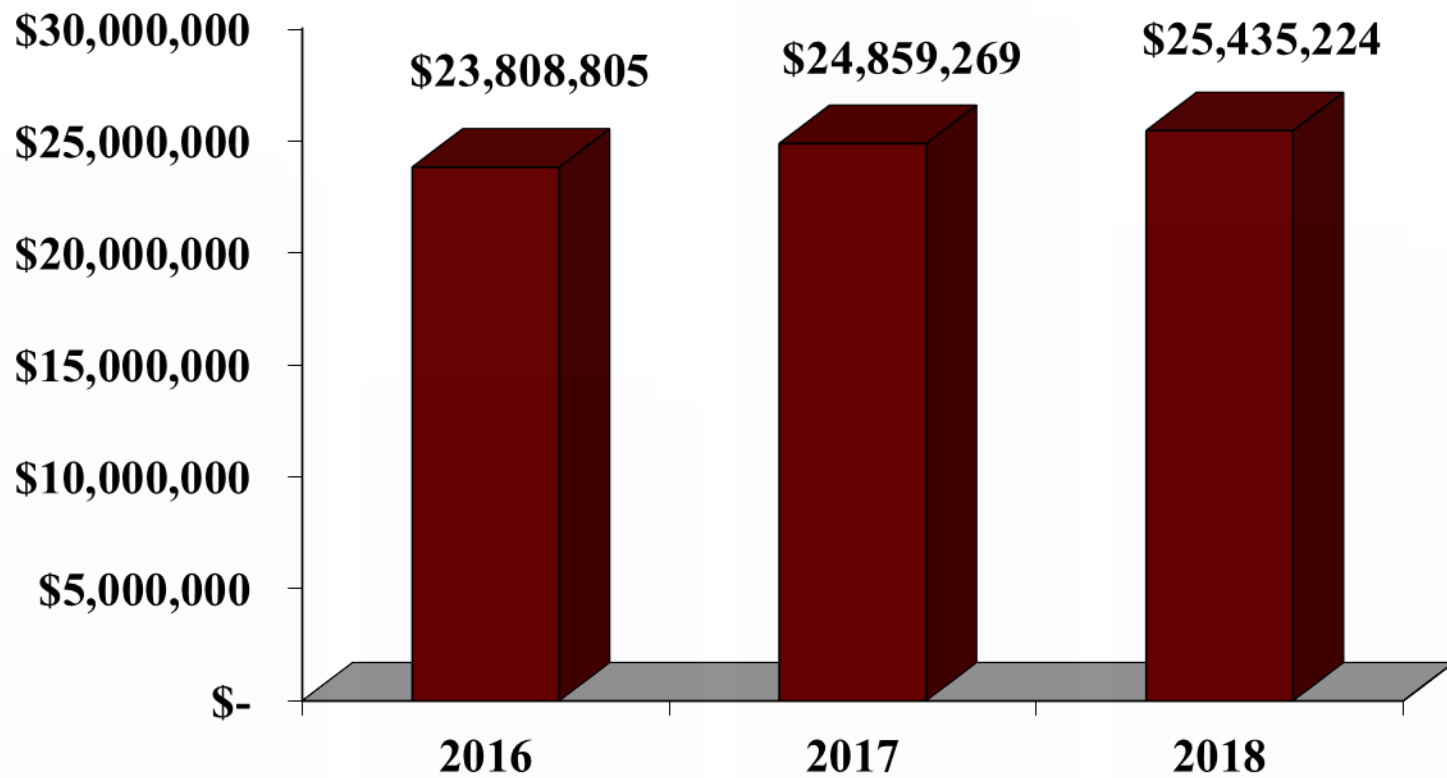
General Fund – Fund Balance- History

	2013	2014	2015	2016	2017	2018
Unassigned:	17.3%	9.9%	30.3%	34.5%*	26.3%	22.1%
Total:	23.3%	45.6%	54.1%	56.6%	47.9%	43.3%

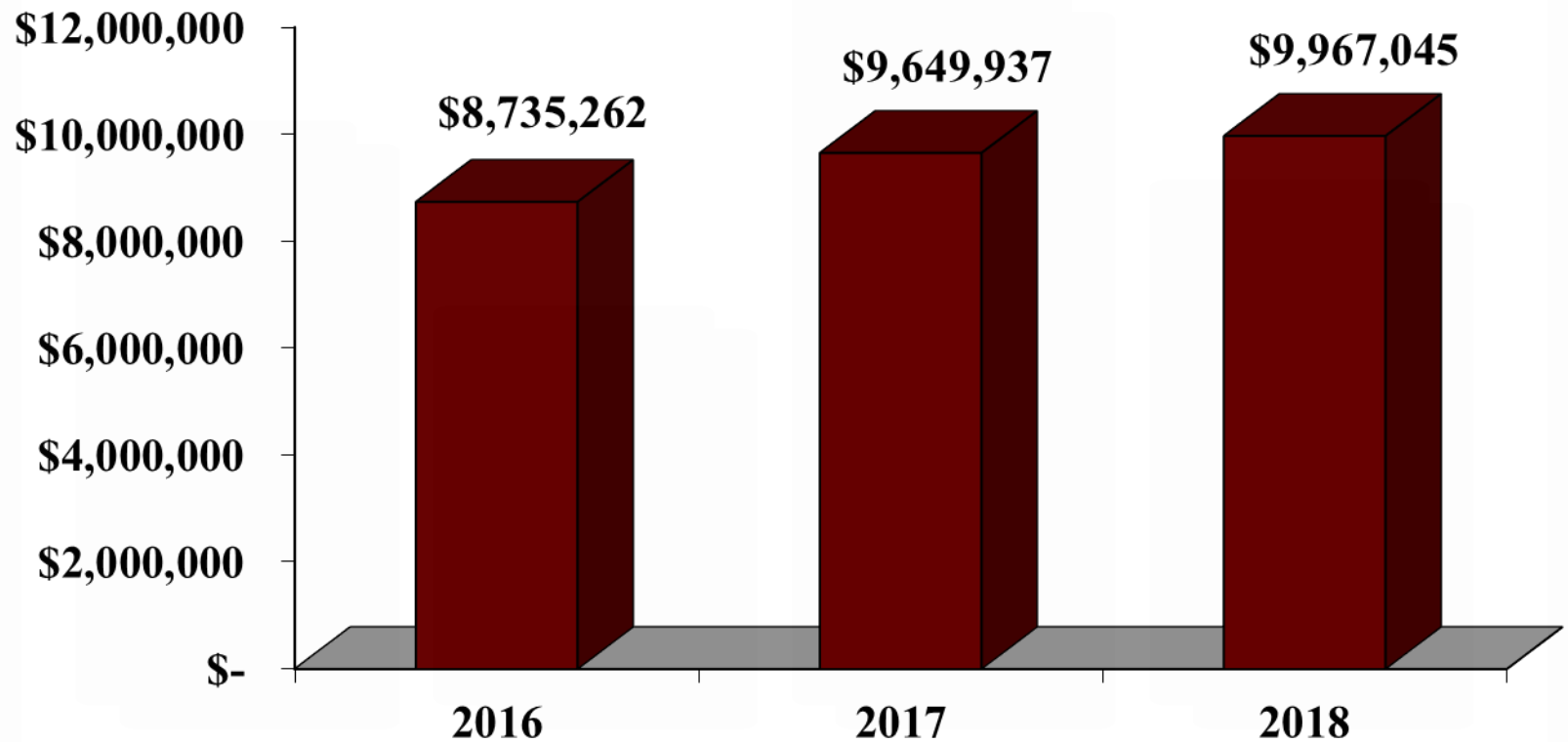
Top 3 Revenues: General Fund



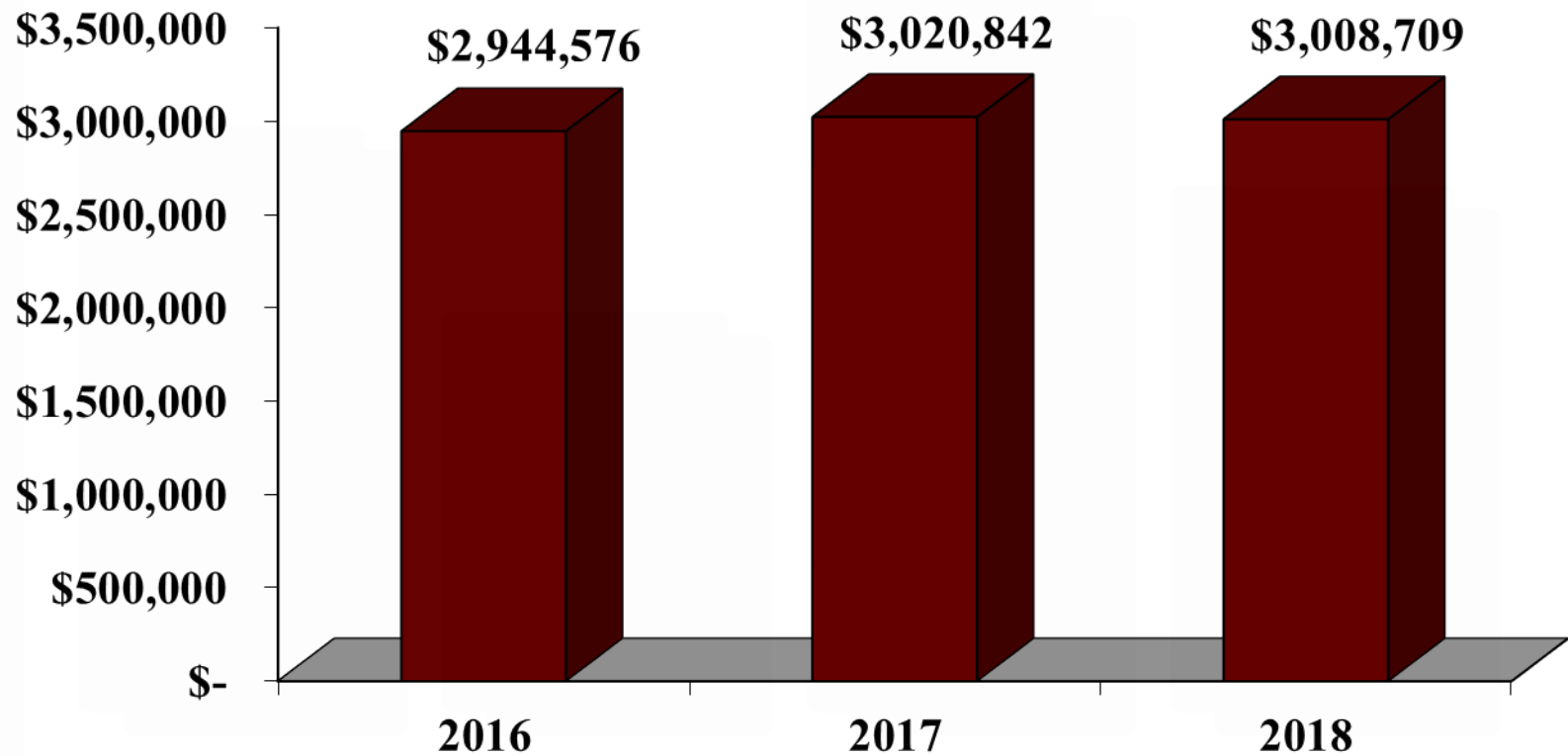
Property Tax



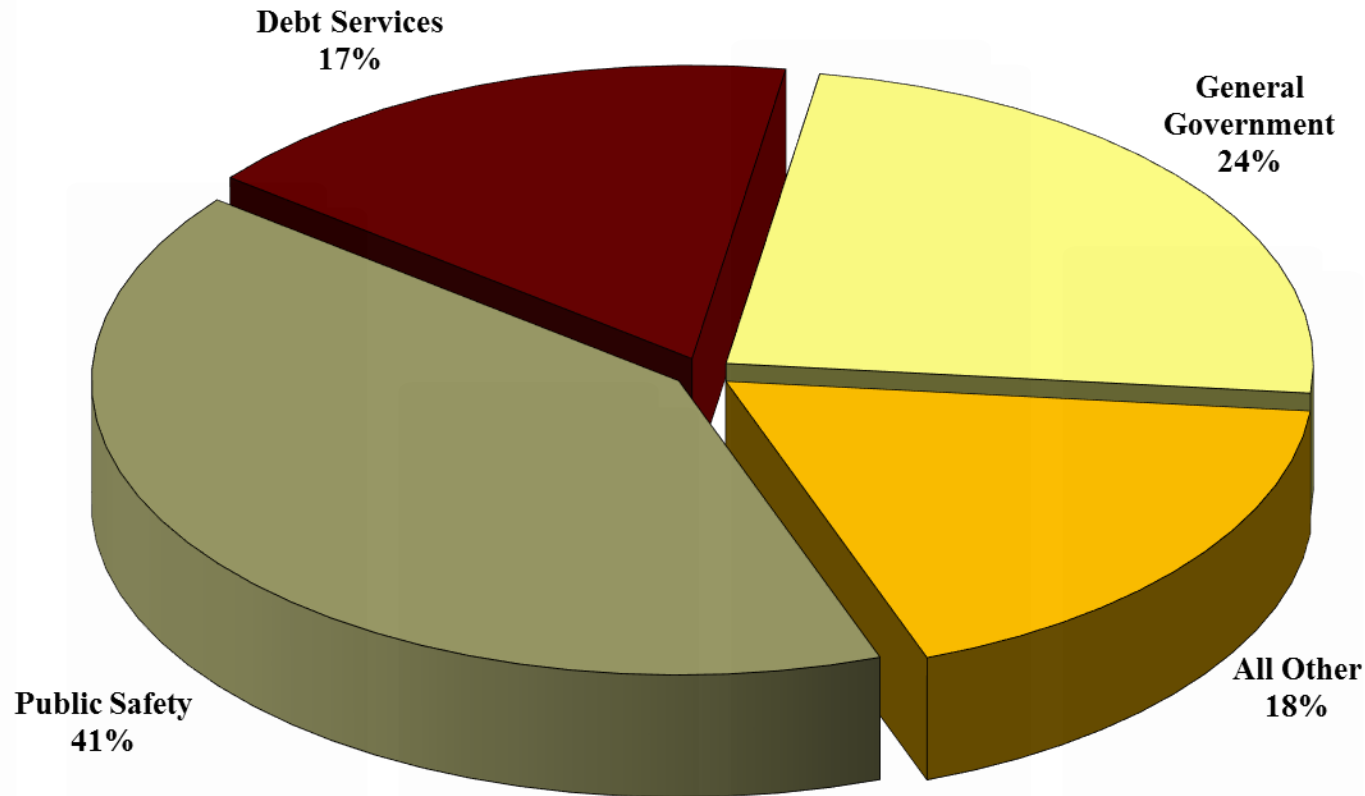
Other Taxes & Licenses



Unrestricted Intergovernmental



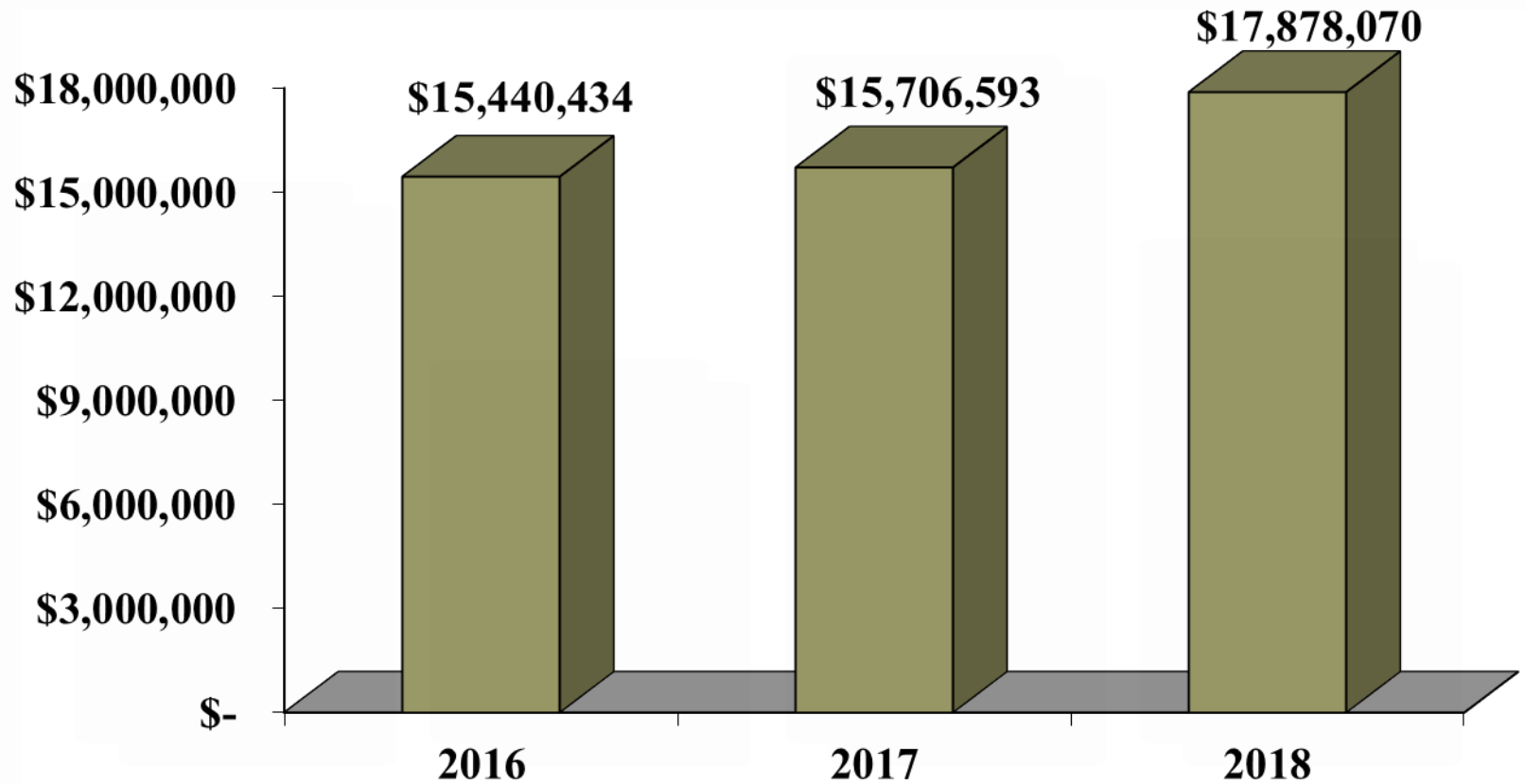
Top 3 Expenditures: General Fund



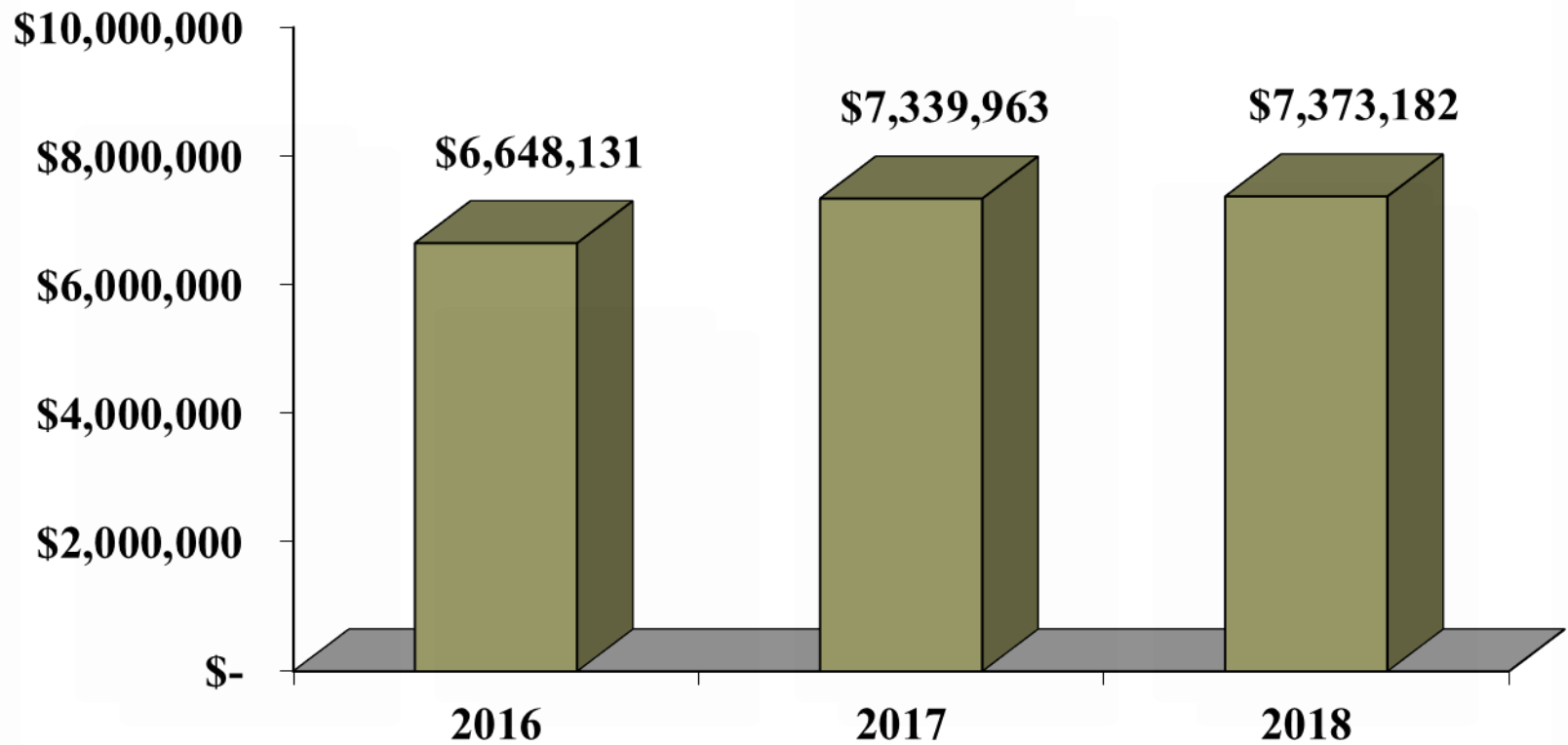
Top 3 Comprise \$35,706,082 (82%) of Expenditures

Other Expenditures:
Public Works
Community Development
Parks and Recreation

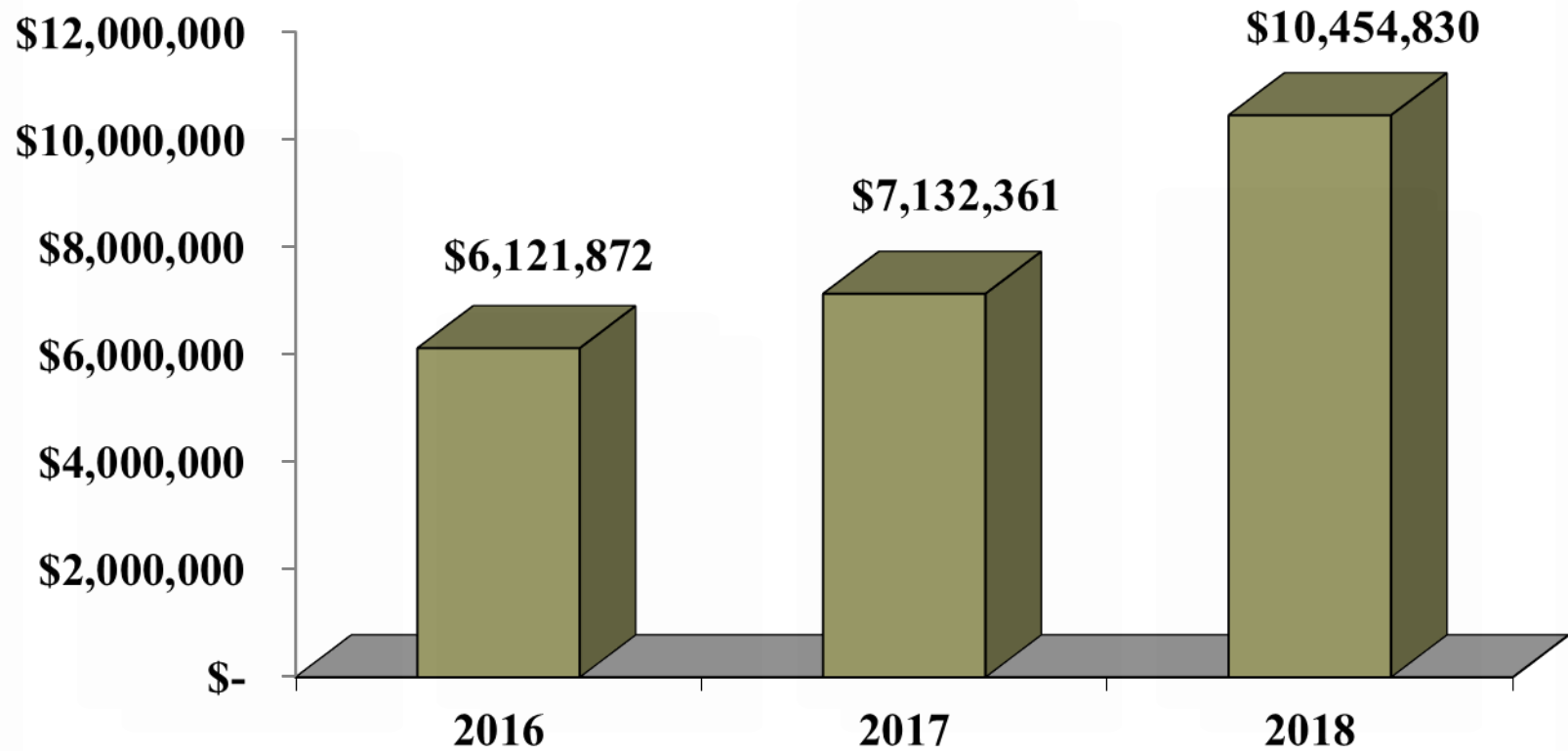
Public Safety



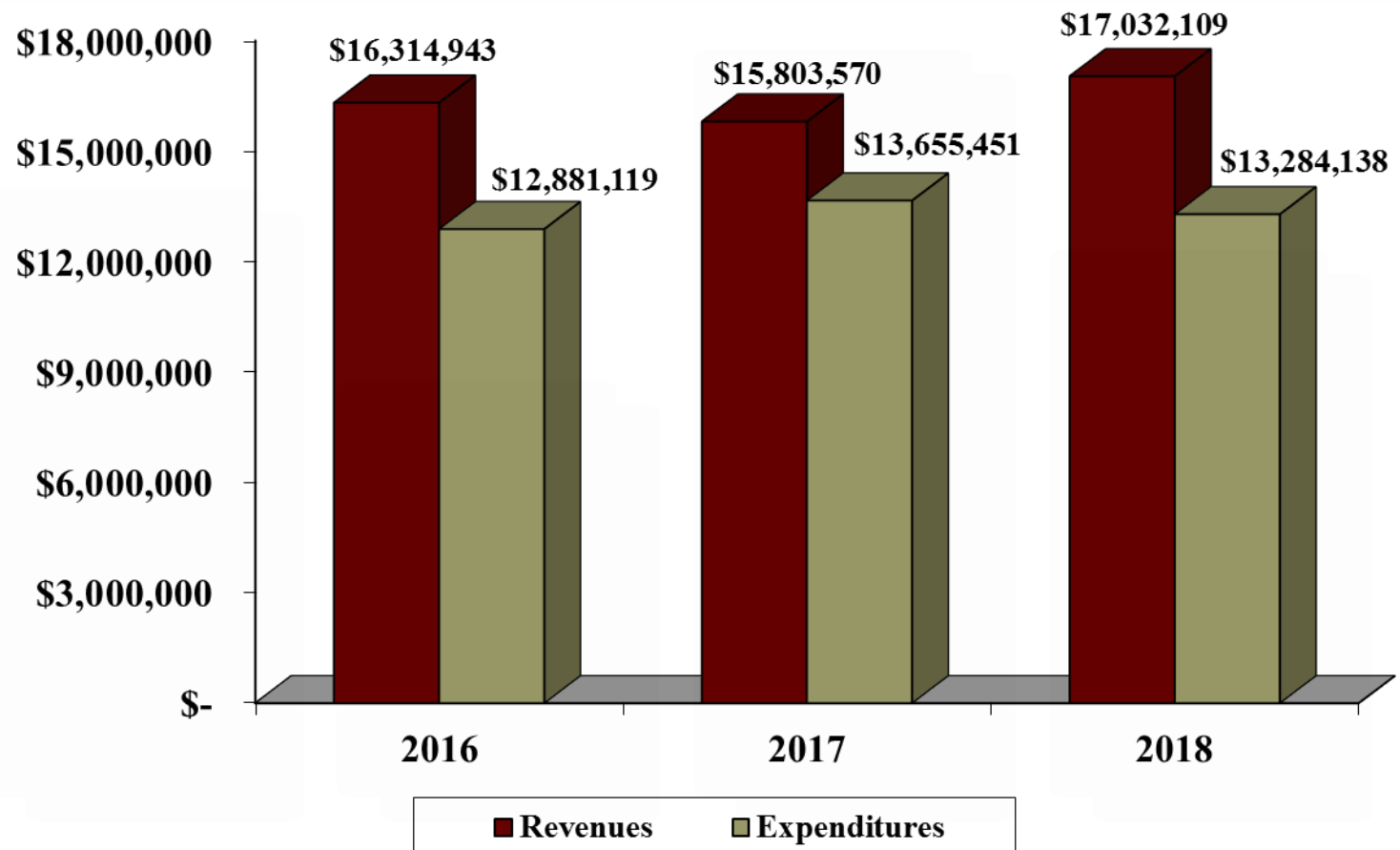
Debt Service



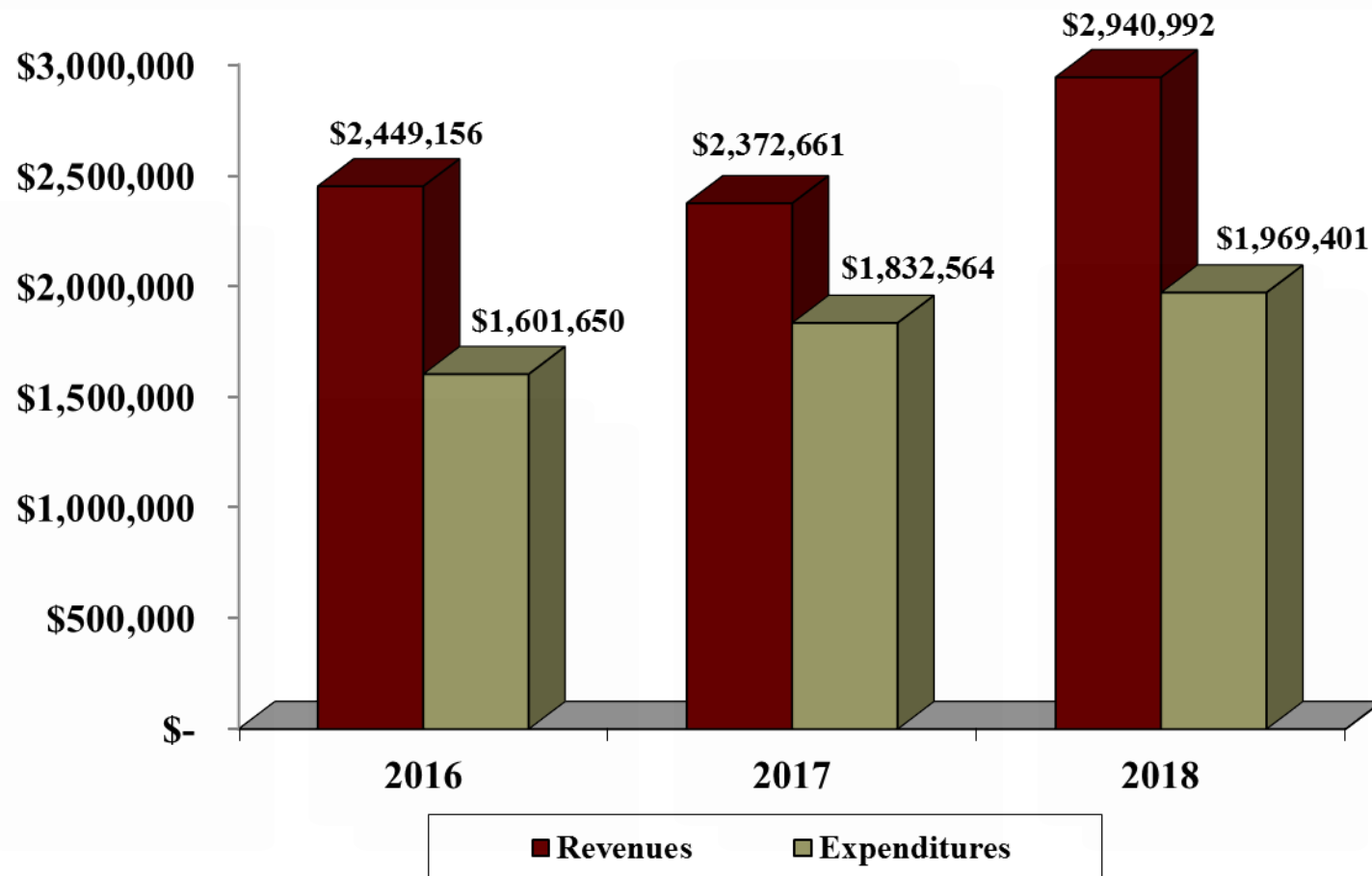
General Government



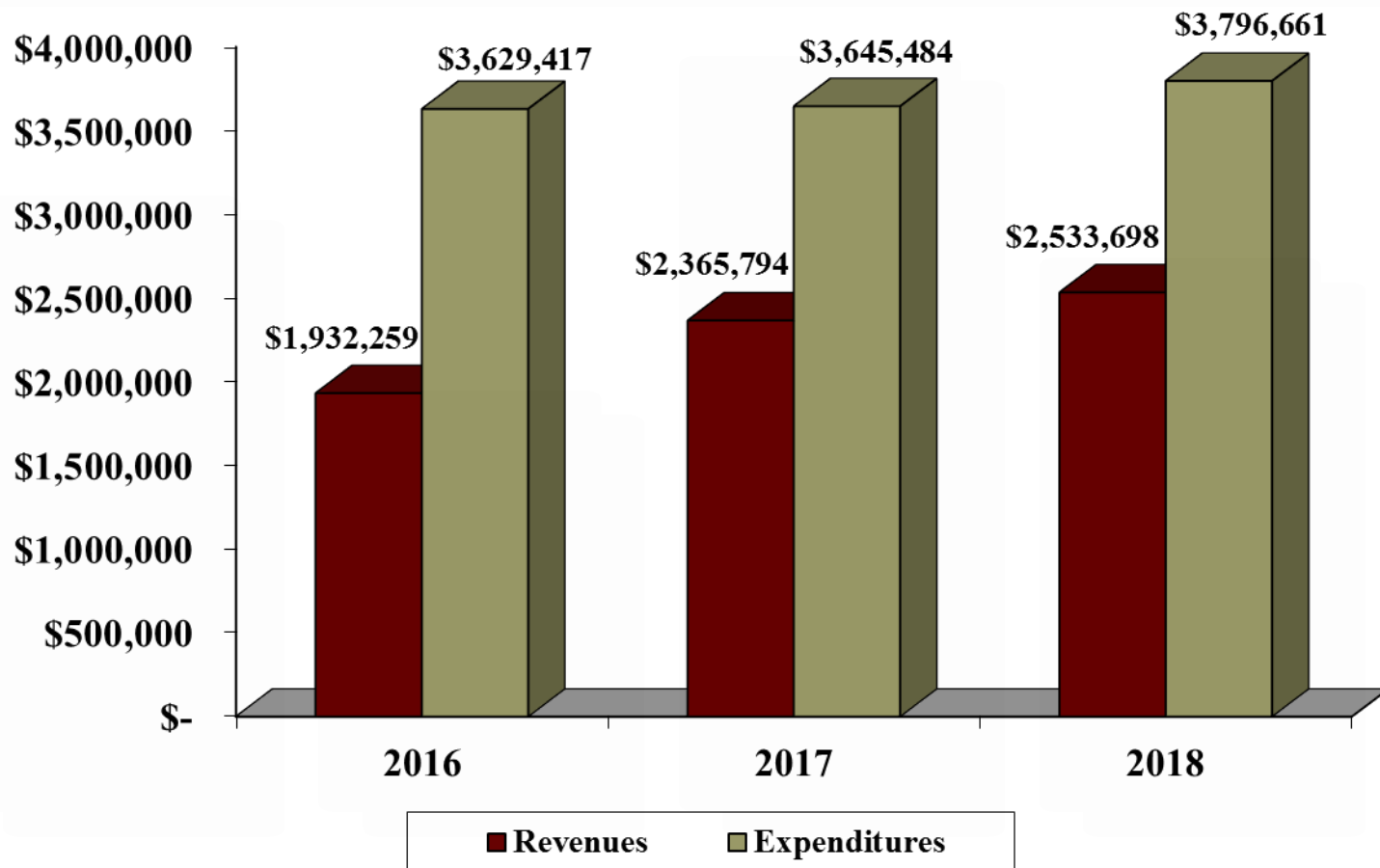
Water & Sewer Fund Summary



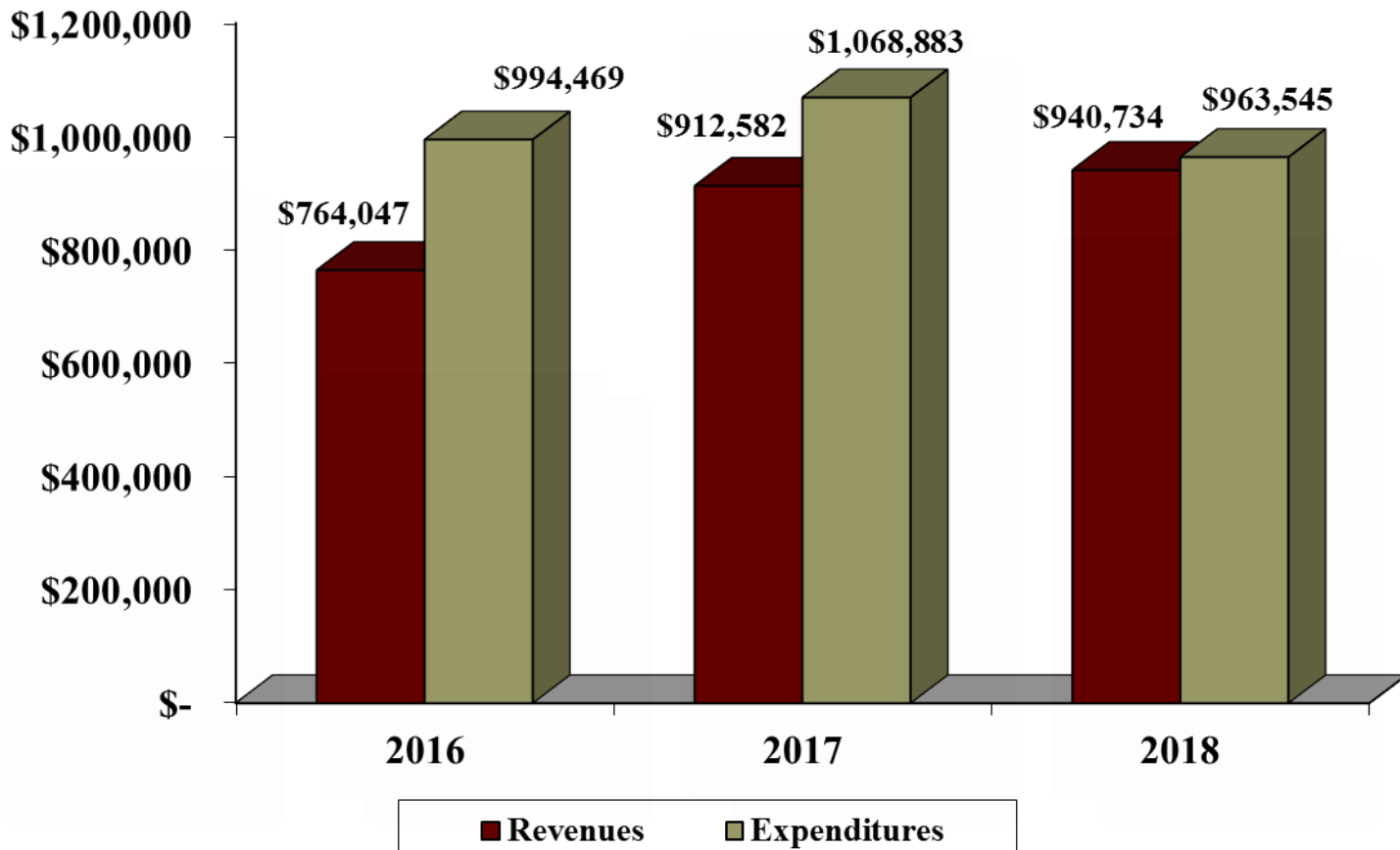
Stormwater Fund Summary



Environmental Services Fund Summary



Downtown Fund Summary





Discussion & Questions



City of Kannapolis

MARTIN • STARNES

& ASSOCIATES, CPAs, P.A.



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Zachary D. Gordon, AICP, Planning Director
TITLE: Update of Unified Development Ordinance (UDO) - Presentation by Clarion Associates

A. Action Requested by City Council

Presentation - No action required

B. Required Votes to Pass Required Action

Presentation Only, no action required

C. Background

At its October 22nd meeting, City Council authorized the City Manager to execute a contract with Clarion Associates for updating the Unified Development Ordinance. Clarion has begun the first phase of the project, which includes the review of background information and is scheduled to conduct discussions with City staff and stakeholders on November 26th and 27th. Clarion will provide City Council with an overview of the UDO update process and answer any questions or receive any input that the Council may have regarding the update.

D. Fiscal Considerations

None

E. Policy Issues

None

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

No City Council action is required.

ATTACHMENTS:

File Name

No Attachments Available



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Wilmer Melton, III - Director of Public Works
TITLE: Presentation and Discussion of Future Solid Waste Collection Services

A. Action Requested by City Council

None. Discussion only.

B. Required Votes to Pass Required Action

Presentation Only, no action required

C. Background

The City's current solid waste services contract expires in June 2019. Staff will lead a discussion regarding options related to a new multi-year contract. The goal is to have a new contract in place by the end of January 2019. Some key policy issues will be discussed at the meeting with the hope that staff receives general direction from City Council.

D. Fiscal Considerations

To be discussed at the meeting.

E. Policy Issues

To be discussed at the meeting.

F. Legal Issues

None.

G. Alternative Courses of Action and Recommendation

None. Information only. Some general direction from City Council on key issues will be requested by staff.

ATTACHMENTS:

File Name

No Attachments Available



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE: Interlocal Agreement with Rowan County related to Utility Extensions in southern Rowan County

A. Action Requested by City Council

Motion to authorize the City Manager to execute Interlocal Agreement with Rowan County related to Utility Extensions in southern Rowan County.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The purpose of this agreement is to facilitate a large private development of 318 acres of land adjacent and in close proximity to a new Interstate 85 interchange at Old Beatty Ford Road in southern Rowan County approximately one mile from the primary corporate limits of the City. The project will require a public investment of potable water and sanitary sewer extensions to the site.

Louisiana-based Commercial Properties Realty Trust (CPRT) has secured the rights to purchase the High Bridge Site and has expressed to the City and County its intent to develop the property for a multitude of residential and non-residential purposes contingent upon the successful implementation of a plan for the Infrastructure Extension Project.

Under the agreement Rowan County will do the following:

1. Contribute \$1,000,000 to the city in two equal payments. The first is due at the time of the City's execution of a development agreement with CPRT. The second payment is due at the time of completion of the utility extensions.
2. Release the City from its debt obligations on the current baseball stadium site (currently \$2,687,500) upon completion of the utility extensions. Any proceeds up to \$3,750,000 from the future sale of the Stadium Property shall accrue entirely to the City. Any proceeds greater than \$3,750,000 will be shared equally between the City and County.

3. Commit its share of the excess proceeds (described above) to match any incentives or other public investments by the City for the purposes of facilitating private sector development of the High Bridge Site subject to separate agreement.
4. Publicly support (via resolution or other method acceptable to the City) the City's pursuit of municipal annexation of the High Bridge Site. This Interlocal Agreement in its entirety is subject to and contingent upon the annexation of the High Bridge Site into the City of Kannapolis by the North Carolina General Assembly or by other lawful means. A resolution formally requesting this annexation will come before City Council at its December meeting.

Under the agreement the City will do the following:

1. Design and construct the utility extensions. The City will assume all responsibilities and risks.
2. Execute a development agreement with CPRT within 90 days of the interlocal agreement execution. If this is not completed in 180 days the County can void the agreement.
3. Negotiate financial clawbacks with CPRT should the development not meet projected tax value increases. These clawbacks will be shared with the County.

Next steps:

Dec.: Resolution requesting General Assembly annexation of the property into Kannapolis.

Dec/Jan.: Secure an engineering firm to design the utility extensions.

Dec/Jan.: Completion of Financial analysis by City staff (presentation to City Council).

Jan/Feb: City Council consideration of Development Agreement with CPRT.

D. Fiscal Considerations

The project is projected to realize a private investment of between \$200 million and \$500 million. A full financial analysis is underway by City staff to determine the projected city costs versus long term revenue gains. A preliminary estimate shows this is positive net gain to the City. This analysis will be part of the ongoing negotiations with CPRT.

E. Policy Issues

None.

F. Legal Issues

None.

G. Alternative Courses of Action and Recommendation

1. **Motion to authorize the City Manager to execute Interlocal Agreement with Rowan County related to Utility Extensions in southern Rowan County. (Recommended)**
2. Table action to a future date.
3. Take no action.

ATTACHMENTS:

File Name

FINAL_#5_Interlocal_Agreement_(Kannapolis-Rowan_Old_Beatty_Ford_Roa....doc

INTERLOCAL AGREEMENT
BETWEEN
CITY OF KANNAPOLIS, NORTH CAROLINA
AND
ROWAN COUNTY, NORTH CAROLINA

Dated as of November ___, 2018

Old Beatty Ford Road Interchange Project

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INTERLOCAL AGREEMENT

This **INTERLOCAL AGREEMENT** ("*Agreement*" or "*Interlocal Agreement*"), made and entered into this the ____ day of November, 2018, between the City of Kannapolis, North Carolina, a municipal corporation created and existing under the laws of the State of North Carolina (the "*City*") and the County of Rowan, North Carolina (the "*County*"), a political subdivision created and existing under the laws of the State of North Carolina;

WITNESSETH:

WHEREAS, the City and County equally desire to facilitate the private development of land adjacent and in close proximity to a new Interstate 85 interchange at Old Beatty Ford Road in southern Rowan County approximately one mile from the primary corporate limits of the City; and

WHEREAS, the City and County have collectively determined that there are numerous benefits that will come from public investment of potable water and sanitary sewer extensions (the "*Infrastructure Extension Project*") to this interchange including but not limited to long-term tax base growth, improved economic conditions in southern Rowan County, additional sales tax generation and job creation; and

WHEREAS, the City intends to extend potable water lines and sanitary sewer lines and related components to an approximately 318 acre site contemplated for a private development investment (the "*High Bridge Site*"); and

WHEREAS, more specifically, Louisiana-based Commercial Properties Realty Trust ("*Developer*") has secured the rights to purchase the High Bridge Site and has expressed to the City and County its intent to develop the property for a multitude of residential and non-residential purposes contingent upon the successful implementation of a plan for the Infrastructure Extension Project; and

WHEREAS, on August 15, 2011 the City and County entered into an Interlocal Agreement ("*Stadium Property Transfer Agreement*") which provided that the City would purchase the current minor league baseball stadium and approximately 55.68 acres (the "*Stadium Property*") from Rowan County for \$3,000,000, including certain down payment requirements and 48 annual payments of \$62,500; and

WHEREAS, the City currently owes the County \$2,687,500 on its obligations in accordance the Stadium Property Transfer Agreement; and

WHEREAS, under Article 20 of Chapter 160A of the North Carolina General Statutes, as amended (the "*Interlocal Act*"), municipalities and counties are authorized to enter into interlocal cooperation undertakings with other local governments for the joint exercise of any power, function, public enterprise, right, privilege, or immunity of local governments in North Carolina;

WHEREAS, as permitted by the Interlocal Act, the County desires to provide assistance to the City for the funding of the Infrastructure Extension Project by participating in both direct funding and by releasing the City of certain obligations of the Stadium Property Transfer Agreement, subject to the limitations, restrictions and conditions set forth in this Interlocal Agreement; and

NOW, THEREFORE, in consideration of the foregoing, the City and the County desire to provide in this Interlocal Agreement for the basis on which the County Contribution will be made, the City and the County do hereby covenant, promise, agree and represent as follows:

ARTICLE I

GENERAL PROVISIONS

SECTION 1.1 Purpose of the Interlocal Agreement. This Interlocal Agreement is being entered into as a means for the County to provide financial assistance to the City in funding the Infrastructure Extension Project by making a payment to the City of \$1,000,000 (“Cash Contribution”) and by releasing the City from its debt obligations described in Section 2.3 of the Stadium Property Transfer Agreement.

SECTION 1.2 Duration of the Interlocal Agreement. This Interlocal Agreement shall be effective immediately upon its execution by both parties and shall remain in effect until all payment obligations hereunder are satisfied or until it is replaced by a subsequent agreement or terminated by agreement of the parties.

SECTION 1.3 City Annexation. This Interlocal Agreement in its entirety is subject to and contingent upon the annexation of the High Bridge Site into the City of Kannapolis by the North Carolina General Assembly or by other lawful means on or before _____. Rowan County will publicly support (via resolution or other method acceptable to the City) the City’s pursuit of municipal annexation of the High Bridge Site.

ARTICLE II

COUNTY CONTRIBUTIONS AND RESPONSIBILITIES

SECTION 2.1 Funding Commitment. The County shall remit to the City one-half of the Cash Contribution within 60 days following execution of the Development Agreement described in Section 3.2, and the remaining one-half shall be paid upon delivery of an executed copy of the Engineer of Record Certificate of Project Completion for the Infrastructure Extension Project.

SECTION 2.2 Use of Cash Contribution. The City shall apply the Cash Contribution to pay direct costs of designing and constructing the Infrastructure Extension Project.

SECTION 2.3 Release of City Debt Obligations. As additional consideration for this Agreement and to further support the Infrastructure Extension Project, Rowan County will release the City from its remaining debt obligations described in Section 2.1 of the Stadium Property Transfer Agreement (the “Stadium Debt Release”). The Stadium Debt Release shall be executed and recorded upon delivery of an executed copy of the Engineer of Record Certificate

of Project Completion for the Infrastructure Extension, subject however, to the provisions of Section 2.4 hereinafter.

SECTION 2.4 Excess Proceeds from Sale of the Stadium Property. Any proceeds up to \$3,750,000 from the future sale of the Stadium Property shall accrue entirely to the City. Any proceeds greater than \$3,750,000 (*“Excess Proceeds”*) will be shared equally between the City and County. Further, the County will commit its share of the Excess Proceeds to match any incentives or other public investments by the City for the purposes of facilitating private sector development of the High Bridge Site as described in Section 2.6 hereinafter. The parties agree to execute and record any document necessary to perfect this obligation.

SECTION 2.5 Release of City Debt Obligations. The contributions described in Section 1.1 and this Article II shall constitute Rowan County’s only financial obligation to this Interlocal Agreement except as provided in 2.6 hereinafter.

SECTION 2.6 Future Tax Incentives. County agrees to participate consistent with its adopted policies with the City to provide tax or other financial incentives that are deemed by the parties necessary to attract specific quantities and qualities of job and tax base generating investments on the High Bridge Site. The Excess Proceeds described in Section 2.4 herein above, if any, shall be used, in part, for this purpose. In the event the parties agree that such incentives are desirable and appropriate, the parties shall enter into an agreement at that time further defining respective contributions and responsibilities.

ARTICLE III CITY RESPONSIBILITIES

SECTION 3.1 City to Financing, Design and Construct. The City and County acknowledge that the County contributions are intended to assist the City in the funding of the Infrastructure Extension Project. The City shall be solely responsible for the financing, design and construction of the Infrastructure Extension Project. Except as otherwise described herein, the City assumes all risk and responsibilities related to its implementation.

SECTION 3.2 Development Agreement. Within 90 days from and after execution of this Interlocal Agreement, it is the intent of the City to negotiate and execute a Development Agreement and/or Utility Extension Agreement (*“Development Agreement”*) with the Developer. The County will not be a party to the proposed Development Agreement. Notwithstanding this intent, in the event a Development Agreement is not executed between the City and the Developer within 180 days from and after the execution of this Agreement, this Agreement is voidable by the County and the County shall have no further obligations to the City under this Interlocal Agreement.

SECTION 3.3 Clawbacks. It is the City’s intent to negotiate as part of the Development Agreement certain provisions that establish minimum tax value increase

benchmarks tied to a repayment schedule by the Developer of part of the utility costs. The City intends to require provisions relating to the potential cancellation, recoupment, rescission, payback or similar clawback procedures in the event the Developer fails to achieve the benchmarks. In the event clawback funds are collected it is intended that such funds shall be shared with the County on a pro-rata share of contributions and obligations to Infrastructure Extension Project.

ARTICLE IV MISCELLANEOUS

SECTION 4.1 Notices. All notices, demands or requests required or permitted to be given pursuant to this Interlocal Agreement shall be given in writing and shall be deemed to have been properly given or served and shall be effective upon being deposited in the United States mail, postage prepaid, sent to the respective address as follows:

As to the City: City of Kannapolis
 401 Laureate Way
 Kannapolis, NC 28081
 Attention: City Manager

As to the County: Rowan County
 130 West Innes Street
 Salisbury, NC 28144
 Attention: County Manager

Any party may, however, at any time, change its address for notification purposes by giving to the other parties a notice in the manner herein provided stating the change and setting forth the new address.

SECTION 4.2 Headings. The headings appearing in this Interlocal Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any article, section or paragraph of this Interlocal Agreement.

SECTION 4.3 Counterparts. This Interlocal Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature of any party to any counterpart may be appended to any other counterpart.

SECTION 4.4 Modification. No change or modification of, or waiver under, this Interlocal Agreement shall be valid unless it is in writing and signed by duly authorized representatives of the City and the County.

SECTION 4.5 Time is of the Essence. Time is of the essence as to all parts of this Interlocal Agreement.

SECTION 4.6 Rules of Construction. Unless the context otherwise indicates:

- (a) Word importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders as well.
- (b) All references to Articles or Sections are references to Articles or Sections of this Agreement.
- (c) All references to a “party” or the “parties” are to the parties to this Agreement.
- (d) The headings herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

SECTION 4.7 Additional Parties. The parties agree that other units of local government(s) may be allowed to join in this effort and become a party to this Agreement, when the entry of such other units of local government(s) will further this effort to accomplish the goals of this Agreement. Any local government seeking to be allowed to participate in this effort, and to be a party to this Agreement, shall be subject to the unanimous approval of the then existing parties.

SECTION 4.8 Nature of Obligation of the Parties. No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of a party to this Agreement within the meaning of any constitutional debt limitation. No provision of this Agreement shall be construed or interpreted neither as delegating governmental powers nor as a donation or a lending of the credit of any party to this Agreement within the meaning of the State Constitution.

SECTION 4.9 Severability. If any provision of this Agreement shall be determined to be unenforceable, such unenforceability shall not affect any other provision of this Agreement.

SECTION 4.10 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties, and shall not be modified except in writing signed by all the parties.

SECTION 4.11 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

SECTION 4.12 Liability of Officers and Agents. No officer, agent or employee of any party shall be subject to any personal liability or accountability by reason of the execution of this

Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

[THE REMAINING PORTION OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties hereto have caused this Interlocal Agreement to be duly executed and delivered as of the day and year first above written.

CITY OF KANNAPOLIS, NORTH CAROLINA

By: _____
City Manager

Attest: _____
City Clerk

[SEAL]

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer
City of Kannapolis, North Carolina

[SIGNATURE PAGE TO THE INTERLOCAL AGREEMENT BETWEEN
CITY OF KANNAPOLIS, NORTH CAROLINA AND COUNTY OF ROWAN, NORTH CAROLINA]

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

ROWAN COUNTY, NORTH CAROLINA

By: _____
County Manager

Attest: _____
Clerk to the Board of Commissioners

[SEAL]

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer
County of Rowan, North Carolina

[SIGNATURE PAGE TO THE INTERLOCAL AGREEMENT BETWEEN
CITY OF KANNAPOLIS, NORTH CAROLINA AND COUNTY OF ROWAN, NORTH CAROLINA]



**City of Kannapolis
City Council Meeting
November 26, 2018
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE: Sale of City Owned Property Located on Kansas Street

A. Action Requested by City Council

Motion to approve final high offer of \$56,103.20 and authorize the City Manager to negotiate and execute the necessary documents to consummate the conveyance of the property to the final high bidder, BPH Property Management, LLC.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

City Council approved a Resolution at its July 14, 2018 meeting authorizing the upset bid process for selling of the property. The property is located on Kansas Street and was then used by the Public Works Department, but no longer needed. After the completion of five (5) rounds of upset bids, Staff has received a final bid for the 0.24 acre. After the close of the last ten (10) day upset bid period, the \$56,103.20 offer by BPH Property Management, LLC stands as the final high offer. The original offer made by Matthew C. Erich was \$45,000. The total tax value for the land and buildings located on the property is \$78,730.

At the last Council meeting, Council tabled action to this meeting in order to clarify the intended uses for the property and the zoning classification. The 0.24 acre lot is zoned C-2 (Commercial). BPH Property Management will utilize the buildings to store home furnishing and accessories used in staging homes they buy and sell. BPH Property Management intends to paint and clean up the property, add a new roof and concrete the dirt end bay.

Of course, any permitted use in the C-2 district would be permitted here in the future (subject to site plan review and approval).

D. Fiscal Considerations

If approved, Staff would complete the transaction of selling the 0.25 acre parcel at 610 Kansas Street to BPH Property Management, LLC. The revenue generated would be deposited into the General Fund increasing overall fund balance.

While the final offer is lower than the total tax value, the prevailing thought is that the buildings are of little value and might ultimately be removed (although that is not the short term plan). By taking that off the tax rolls and adding in the eventual cost of demolition, it appears that the final offer actually would exceed the tax/market value.

E. Policy Issues

The North Carolina General Statute § 160A-269 permits the City to sell property by upset bid, after receipt of an offer for the property.

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

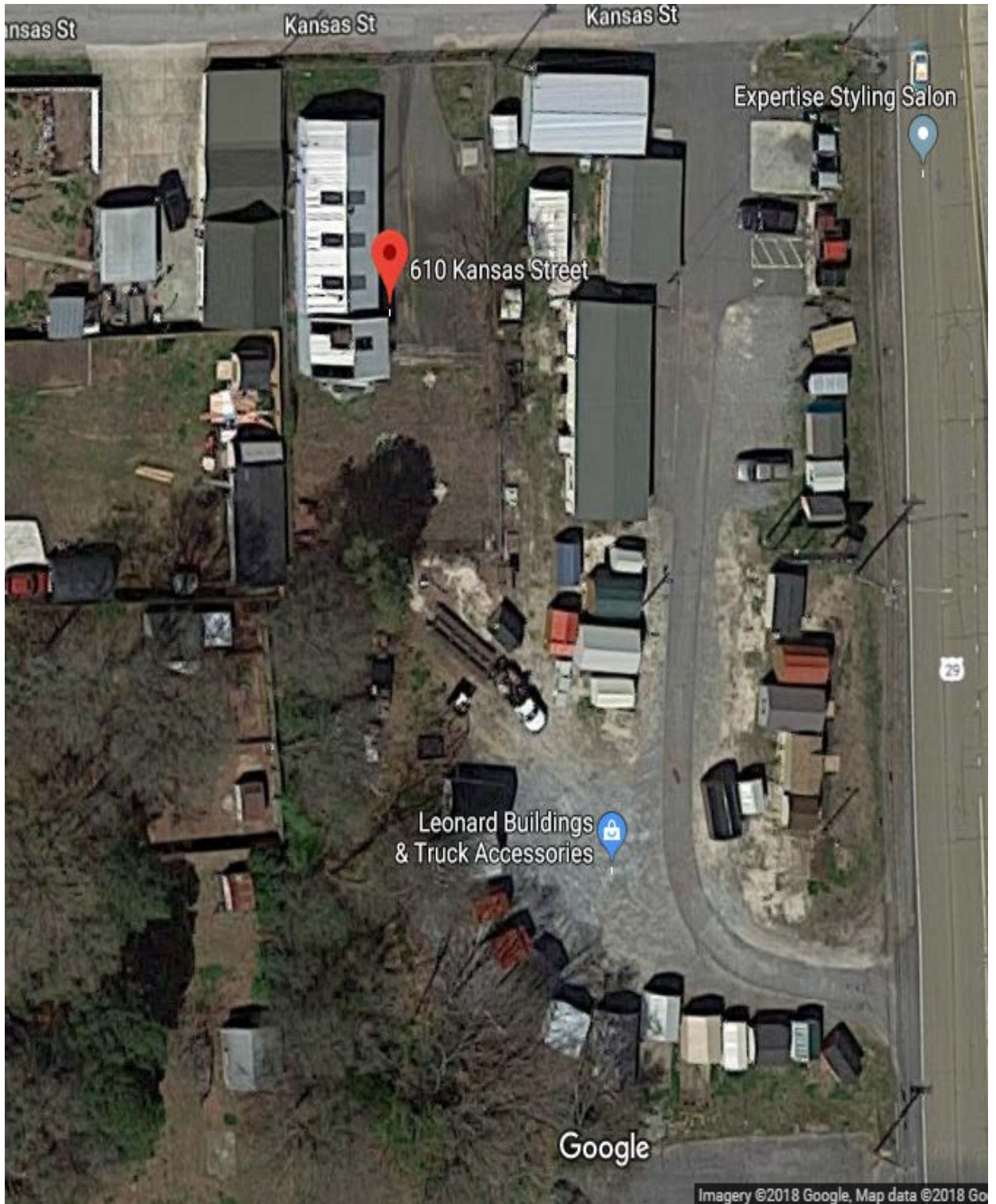
1. **Motion to approve final high offer of \$56,103.20 and authorize the City Manager to negotiate and execute the necessary documents to consummate the conveyance of the property to the final high bidder, BPH Property Management, LLC. (Recommended)**
2. Reject the offer and retain ownership, thus allowing for it to appreciate over time.
3. Reject the offer and direct Staff to hire an appraiser to "double check" the value and then re-value further options. (Based on the current lot value, it's size and permitted uses, Staff doesn't believe conducting an appraisal is cost effective solution)
4. Table action to a future meeting

ATTACHMENTS:

File Name

- ▣ 610_Kansas_Street_Aerial_View.pdf
- ▣ 610_Kansas_Street_Upset_Bid_Notice_5th_Round_Deadline_10-22-2018.pdf

Aerial View of 610 Kansas St.



View of Property from Kansas St.





PUBLIC NOTICE SALE OF CITY PROPERTY

An offer of \$56,103.20 has been submitted for the purchase of a certain property owned by the City of Kannapolis located at 610 Kansas Street, Kannapolis, NC 28083 more specifically described as follows: Approximately 0.24 acres of land which can be further identified as Cabarrus County Property Identification Number 5622-09-4138-0000, recorded in Cabarrus County Deed Book 627, Page 720.

Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk, 401 Laureate Way, Kannapolis, N.C., by 5:00 p.m., Monday October 22, 2018. At that time, the City Clerk shall open the bids, if any, and the highest qualifying bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

A qualifying higher bid is one that raises the existing offer to an amount not less than \$58,958.36.

A qualifying higher bid must be accompanied by an official bid form, provided by the City, and a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will return the deposit of the final high bidder at closing.

The buyer must pay cash or certified check at closing.

The City Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Further information may be obtained at the office of the City Clerk, 401 Laureate Way, Kannapolis, N.C., or by telephone 704-920-4333 during normal business hours.

PUBLISH FRIDAY, OCTOBER 12, 2018



**City of Kannapolis
City Council Meeting
November 26, 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

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