

AGENDA

ROCKINGHAM COUNTY PLANNING BOARD

JANUARY 8, 2023 at 6:30PM

County Commissioners Chambers

Rockingham County Governmental Center



- I. Call to Order**
- II. Invocation**
- III. Adoption of the Agenda**
- IV. Approval of Minutes**
 - a. December 11, 2023
- V. Convene Board of Adjustment & Review of Procedures for Evidentiary Hearings**
- VI. Matters Before the Board of Adjustment**
 - a. Appeal 2023-17 Pettitt: An appeal has been filed regarding the revocation of Zoning Permit ZMISC2309-1. The original permit was approved by Staff September 15, 2023 but was revoked by the Community Development director September 21, 2023, on the advice of the County Attorney.
 - b. Appeal 2023-20 Myers: An appeal has been filed regarding a Determination of the Community Development Director, specifically Code Enforcement Notice of Citation CE23-0296, Development Without Permit.
- VII. Convene the Planning Board & Review of Procedures for Legislative Hearings**
- VIII. Matters Before the Planning Board**
 - a. Rezoning 2024-02 Hall: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 798504540014, located 7720 NC Highway 87 in the Wentworth Township. The request is to rezone the specified parcel from Residential Agricultural (RA) and Highway Commercial (HC) to Highway Commercial (HC).
 - b. Text Amendment 2023-22: a citizen request to amend the standards for private roads, specifically to allow existing private roads to serve eight (8) parcels instead of five (5), which is the current ordinance standard.
 - c. Text Amendment 2024-01a: a proposal from Community Development staff to amend the standards for Campgrounds and Recreational Vehicle Parks, clarifying the definitions of each, separating each as a discrete use and adding additional development standards for RV Parks.
 - d. Text Amendment 2024-01b: a proposal from Community Development staff in response to vendor requests to amend, clarify and update the special use permit standards for New Wireless Telecommunications Towers.
- IX. Other Business:**
 - a. New Business:
 - b. Old Business:
- X. Adjourn**

**MINUTES OF THE REGULARLY SCHEDULED MEETING OF:
THE ROCKINGHAM COUNTY PLANNING BOARD**

**BOARD OF COMMISSIONERS CHAMBERS
ROCKINGHAM COUNTY GOVERNMENTAL CENTER
WENTWORTH, NC
DECEMBER 11, 2023 AT 6:30 PM**



MEMBERS PRESENT: Paul Ksieniewicz, Chairperson
Julie Talbert, Vice-Chair
H. Keith Duncan (new member)
Quint Haley (new member)
Jeff Kallam
Bernie Parnell (new member)
Cory Scott
John Roberts (Alternate)
Daniel Woods (Alternate)

MEMBERS ABSENT: Daniel Woods (Alternate)

STAFF PRESENT: Hiram Marziano, Community Development Director
Lynn Cochran, Senior Planner
Victoria Pedigo, Planner
Ben Curry, Code Enforcement Officer
Bricen Wall, Code Enforcement Officer

I. CALL TO ORDER

Chairperson Ksieniewicz opened the regularly scheduled meeting of the Rockingham County Planning Board at 6:30 pm.

II. INVOCATION

Mr. Scott conducted the invocation.

III. ADOPTION OF THE AGENDA

Mrs. Talbert motioned to adopt the agenda and Mr. Scott seconded. The board voted unanimously to adopt the agenda as written. (7-0)

IV. APPROVAL OF MINUTES

November 13, 2023 – Mrs. Talbert motioned to approve the minutes and Mr. Duncan seconded. The board voted unanimously to adopt the minutes as written. (7-0)

V. CONVENE THE BOARD OF ADJUSTMENT & REVIEW OF PROCEDURES

Mr. Ksieniewicz convened the Board of Adjustment and opened the floor for this hearing.

VI. MATTERS BEFORE THE BOARD OF ADJUSTMENT

- a. Appeal 2023-20 Myers: An appeal has been filed regarding Code Enforcement Notice of Citation CE23-0296, Development Without Permit.

Mr. Cochran addressed the board. He noted that since the County Attorney was unable to attend the meeting, staff recommended postponing the hearing until the next regularly scheduled meeting so that he could attend.

The applicant, Mr. Myers agreed with the request to reschedule the hearing.

Mr. Ksieniewicz ordered that the hearing be rescheduled to January 8, 2024.

VII. CONVENE THE PLANNING BOARD AND REVIEW OF PROCEDURES

Mr. Ksieniewicz convened the planning board and reviewed the procedures for legislative hearings.

VIII. MATTERS BEFORE THE PLANNING BOARD

- a. Rezoning 2023-21 Ahlgren: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 7901-00-67-7923 located at 4689 Ellisboro Rd in the Huntsville Township. The request is to rezone the specified parcels from Neighborhood Commercial (NC) and Residential Agricultural (RA) to Neighborhood Commercial (NC).

Mr. Cochran presented the rezoning application request and packet information to the board, including staff recommendation to approve the request. He responded to a small number of questions regarding the parcel area in question and the zoning history of the property.

Mr. Ksieniewicz called Toff Cundiff of 4635 Ellisboro Rd to the dais as he had signed up to address the board about the request. He stated that he had some general questions. Mr. Ksieniewicz then asked if Mr. Cundiff could hold his questions until the applicant addressed the board. He agreed.

The primary applicant, Samantha Ahlgren addressed to board, providing an overview of the rezoning request. She responded to several questions from board members regarding current activities on the portion of the parcel that had already been zoned for neighborhood commercial use.

Mr. Joe Krish of 110 Mustang Run, who had signed the speakers roster, addressed the board. He expressed concerns regarding the potential impact of the rezoning to nearby parcels.

Mrs. Ahlgren returned to the dais to answer follow-up questions.

Mr. Cochran and Mr. Marziano discussed with the board the UDO requirements for non-residential development, including access, fencing and landscape buffers/screening.

Mr. Haley motioned to “recommend approval of this request to rezone the specified parcel to the requested zoning district based upon the consistency and reasonableness determination statements that are included in the Board agenda packet, submitted during the rezoning presentation and as may be amended, incorporated into the motion, to be included in the minutes.” Mr. Duncan seconded. The board voted unanimously to recommend approval to the rezoning request (7-0).

IX. OTHER BUSINESS

- a. Old Business: None
- b. New Business: Staff and members of the board reviewed potential dates and times for a workshop with staff and the County Attorney to review planning board and board of adjustment procedures. There was a consensus that Monday, January 22 would be a suitable day, time to be determined.

IX. ADJOURN

As there was no additional business or discussion, Mrs. Talbert motioned to adjourn the meeting. Mr. Scott seconded. The board voted unanimously to adjourn at 7:10 pm (7-0).

Minutes Read and Approved,

Respectfully Submitted,

Chairperson

Date

Planning Staff

Date

**ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT
STAFF REPORT: BOARD OF ADJUSTMENT
CASE 2023-17: ZONING PERMIT REVOCATION APPEAL**



Request: An Appeal of The Revocation of a Zoning Permit
Appellants: Andy Patel (owner)
Brandon Pettitt (applicant)
Identification: The subject property is denoted by Tax PIN: 7924-00-09-9804
Location: 3998 US Highway 220, Madison – Huntsville Township

Only matters of fact may be considered deciding an appeal in the nature of certiorari. Testimony that is determined by the chairperson or any member of the board of adjustment to be hearsay, opinion or otherwise non-factual may not be taken into consideration.

Enabling Statute

N.C.G.S. § 160D-302(b) Boards of Adjustment

Duties. - The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under this Chapter. 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. If any board other than the board of adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a board of adjustment in making quasi-judicial decisions.

Administrative and Legal Provisions: Powers & Duties of the Boards of Adjustment

Rockingham County Unified Development Ordinance, *Article II, Division 3, Sec. 23.07 (p. 37)*

Pursuant to state law The Board of Adjustment has the power to: Hear and decide appeals and review any order, requirement, decision or determination made by the Community Development Director in the performance of his duties as the order, requirement, decision or determination relates to this chapter.

Appeals Procedure

Rockingham County Unified Development Ordinance, *Article II, Sec. 33.06 (p.57)*

The Board of Adjustment shall hear and decide all appeals from and review any administrative action taken by the Community Development Director. Each decision of the Board of Adjustment is subject to review by the superior court by proceedings in the nature of certiorari and subject to G.S. 160D-406 Quasi-judicial procedure.

Administrative Decisions: Definition

N.C.G.S. § 160D-106 (d-1)

Administrative decision. - Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of

objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Governing Statute: Appeals Time Frame

N.C.G.S. § 160D-405(d) Appeals of Administrative Decisions

Time to appeal – The owner or other party has 30 days from receipt of written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received the third business day following deposit of the notice for mailing with the United States Parcel Service.

Staff Summary

On Wednesday, September 15, 2023 Code Enforcement staff visited the subject location after receiving an anonymous complaint about potential unpermitted electronic video gaming. He reported to planning staff that he witnessed what he thought were gaming machines and instructed the manager to contact planning to obtain a zoning permit.

The same day, the applicant, Brandon Pettitt visited the permitting offices and submitted application materials for zoning approval of electronic gaming as noted in the Unified Development Ordinance (UDO). These included a description of the types of machines in use. Based on these materials, a zoning permit was issued.

On September 19, 2023 the County Attorney determined that this permit was issued in error and that, in fact, the types of games in place do not adhere to statutory requirements for gaming machines according to NCGS 14-306.4. He issued a legal letter to this effect. As a result, the previously issued zoning permit was revoked and the applicant was provided notice.

On September 22, 2023 the applicant, on behalf of the property owner, submitted a request for appeal of the permit revocation. The County Exhibits include:

- A. The Zoning Permit Application Materials
- B. The Zoning Permit that was originally issued
- C. The Legal Opinion of the County Attorney
- D. The Notice of Permit Revocation
- E. GS § 14-306.1A

ATTN: LYNN COCHRAN



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Departments of Planning, Inspection and Central Permitting

APPLICATION FOR APPEAL FROM DECISION OF THE ZONING
ADMINSTRATOR

****ALL SIGNATURES MUST BE WITNESSED BY STAFF OR NOTARY****

Date: September 22, 2023

Applicant: Brandon Pettitt
pettittconstruction@gmail.com

Owner: Hiren Inc, Andy Patel
336-453-3165

Mailing Address: 3998 US Hwy 220
Madison NC 27025

Home Address: 8260 Nautical Pt
Belews Creek NC 27009

Telephone: 336-960-3125

Request: Application for Appeal of zoning permit revocation notice dated September 21, 2023,
regarding Permit ZMISC2309-001, issued September 15, 2023.

Signature of Applicant

Signature of Owner (if different)



ROCKINGHAM COUNTY
BUILDING AND ZONING APPLICATION

Permit #: ZMISC2309-001

Property Address: 3998 VS Highway 220
OWNER: Madison N.C., 27025
Name: Andy Perrell
Mailing Address: 3998 VS Highway 220
Telephone: (336) 453-3165 Email:

APPLICANT:
Name: Brandon Perrell
Mailing Address: 8266 Nautical Point
Telephone: (336) 960-3125 Email: Perrellconstruction@gmail.com

Applicant is: Owner (Sign and Attach Owner's Affidavit) Builder (Job Value less than \$30,000)
Licensed Contractor / License# (Sign and Attach Lien Agent & Workers Comp)

TRADES: Plumbing Mechanical Electrical
POWER COMPANY GAS COMPANY

TYPE OF PERMIT: SFR Deck Pool
Storage Building Garage Modular
Addition X Commercial Project (structure, sign, ABC License, etc.)
X Other: Electronic gaming / Lucky Duck

BUILDING OR SIGN SIZE: (for buildings please list square footage) CONTRACT COST: (Please also include an itemized list of costs)
Bedrooms # Bathrooms # Stories

PROPERTY SERVICED BY: Well Community Well Public Water
Septic Public Sewer

Additional Information Included with Application: (Please check all documentation provided)
Site Plan Construction Drawings Workers Comp
Owners Affidavit Lien Agent

DISCLAIMER: By signing below I certify that the information is correct to the best of my knowledge. I understand all work is to conform to the current edition of the International Building Code (IBC). I also understand I am responsible for the location of wells, septic systems, and other underground utilities, and that no structure may be built within the property set backs.

Has work previously started? Yes No

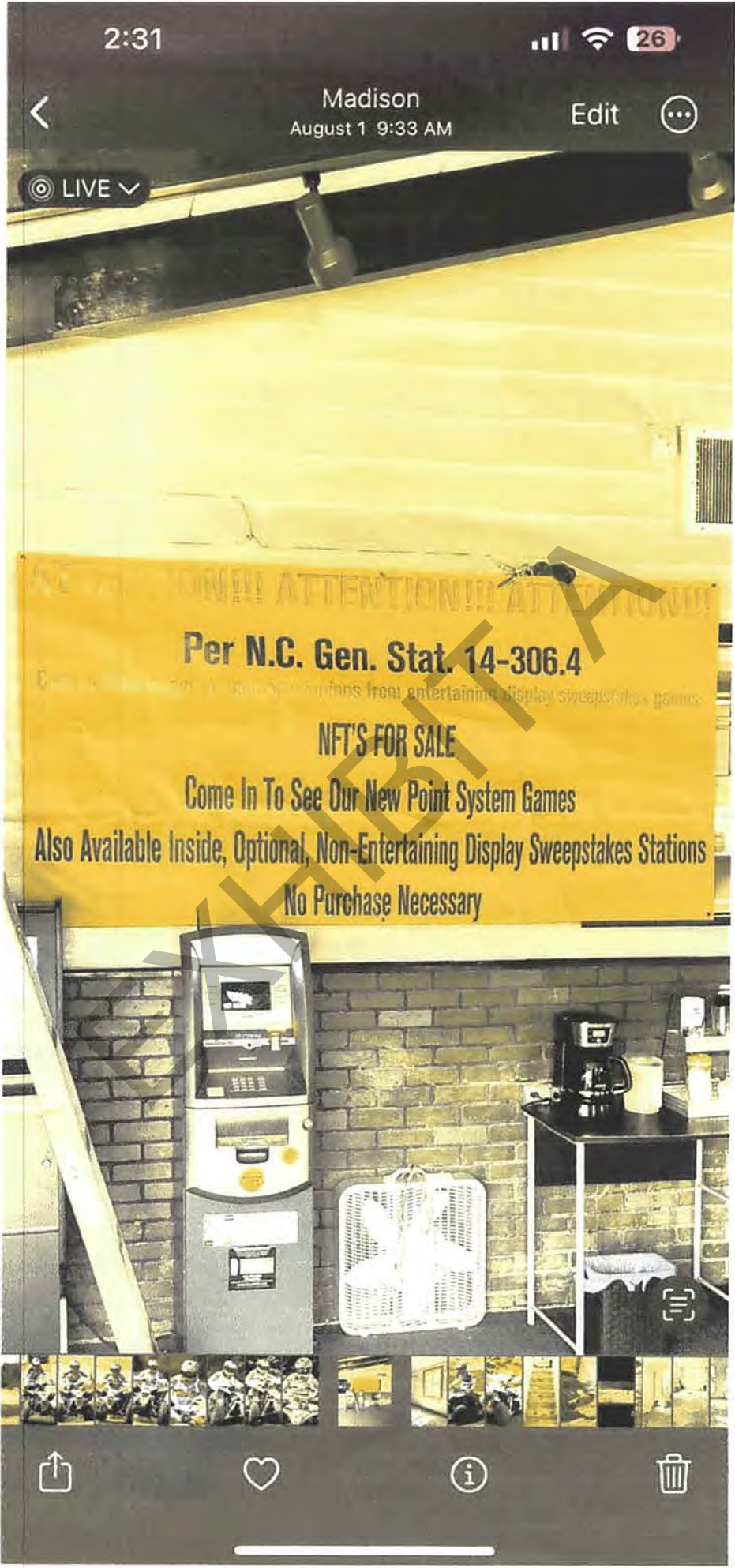
Signature of Applicant: Brandon Perrell Date: Sept 15, 2023

2:31

26

Madison
August 1 9:33 AM

LIVE



REGARDING NC STATUTE 14-306.4

09/15/2023 Stampede Software

The NFT Software System was developed in Accordance with legalities regarding NC Statute 14.306.4

- 1) Customer purchases an NFT
- 2) Customer does not win anything off of the games – The outcome for the customer comes only from the Non-Entertaining Display from the Kiosk.
- 3) Other Software systems violates the Supreme Court Ruling on Entertaining Display on a Sweepstakes or it is a Skill Base Game that you cannot pay cash on – It is either or, but not both.
- 4) Stampede Software can be operated without the Games in the building – Others cannot.
- 5) We are selling the customer a product, then we are issuing them a free entry to the non-entertaining sweepstakes kiosk.
- 6) The customer can also get an Instant Reveal on a free sweepstakes or they can play the entertaining games for free and cannot redeem any of those credits for cash value!
- 7) So, if the Customer is getting a free entry to play with and cannot win anything from the gameplay, there is no chance and/or gambling that takes place o that terminal.

Results are left up to the Non-Entertaining Kiosk Only!

NC Attorneys and others Present in 2021, either via conference call or actual meeting:

Michael Grace – Attorney in Winston-Salem, NC

Jonathon Trapp – Attorney in Rdu, NC

Jason Mann – Owner of Stampede Software and Developer



ZONING PERMIT

Rockingham County Government

PERMIT NUMBER
ZMISC2309-001

PERMIT TYPE: ZONING MISCELLANEIOU	SUBDIVISION/LOT #:	PIN #: 792400099804
PERMIT SUB TYPE :		

SITE ADDRESS: **3998 US 220 HW**

DESCRIPTION: **ELECTRONIC GAMING ESTABLISHMENT. LUCKY DUCK. REVOKED SEP 19**

APPLICANT: BRANDON PETTITT	PHONE: (336)960-3125
MAILING ADDRESS: 8260 NAUTICAL POINT BELEWS CREEK, NC 27009	FAX:

OWNER: HIREN INC	PHONE: (336)453-3165
MAILING ADDRESS: 3980 US HIGHWAY 220 MADISON, NC 27025-8314	FAX:

SETBACKS			
FRONT:	REAR:	SIDE 1:	SIDE 2:

COMMENTS

FEES	
DESCRIPTION	PAID AMOUNT
COMMERCIAL ZONING	\$60.00
TOTAL: \$60.00	

I CERTIFY THAT THE INFORMATION GIVEN IS TRUE TO THE BEST OF MY KNOWLEDGE AND THAT SZONING IS SUBJECT TO ALL ADDITIONAL REGULATIONS PERTAINING TO THE PROPOSED USE. I UNDERSTAND THAT THIS PERMIT BECOMES VOID WITHIN 30 DAYS OF ISSUANCE IF NO APPLICABLE BUILDING PERMIT HAS BEEN ISSUED FOR THE PROPOSED USE.

CENTRAL PERMITTING
PHONE: 336-342-8130 FAX: 336-342-8362

Planning Official: *A. Lynn Cochran*

Date: 9/26/2023

Memo

Attorney Client Privileged Confidential Communication

September 19, 2023

To: Hiram Marziano, Lynn Cochran

Fr: Clyde Albright

Re: Permit Number ZMISC2309-001

I read the description of the Stampede Software proposed to be used by Mr. Pettitt.

I find that “chance” predominates over “skill” in Mr. Pettitt’s use of Stampede Software and therefore violates the sweepstakes statute NCGS 14-306.4 as interpreted by the North Carolina Supreme Court in Gift Surplus, LLC v. State Ex Rel. Cooper, 2022-NCSC-1, February 11, 2022.

Also, the recent text amendment amended the Rockingham County UDO to allow the “use and operation of businesses licensed by the State” through state licensing agencies or commissions. Currently there is no license for electronic gaming operations as contemplated by the text amendment.

Until such time as the General Assembly passes HB 512, or similar legislation making video gaming regulated by the state legal, such video gaming activities remain illegal and the permit should be revoked.



Clyde B. Albright

Rockingham County Attorney



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Community Development Department

September 21, 2023

To: Brandon Pettitt, Hiren Inc
3998 US Highway 220
Madison, NC 27025-8314
From: Hiram Marziano, Community Development Director
Re: Zoning Permit (ZMISC2309-001)

All permits issued by the Rockingham County Community Development Department are subject to legal review at any time.

The following correspondence has been prepared as notice that the original zoning permit approval for electronic gaming at the location noted above is now void and revoked. The Rockingham County Attorney, after more thoroughly reviewed the documents submitted with the application, has determined that the games do not meet current statutory standards for gaming operations in North Carolina. It has been determined that "Stampede Software" does not conform to the rules set forth in NCGS 14-306.4 and that the use of the software does not conform to the rules of the Rockingham County Unified Development Ordinance.

All gaming operations including Stampede Software and any other video gaming software involving chance shall cease immediately. If you feel this permit revocation decision has been made in error, you have the right to appeal the decision to the Rockingham County Board of Adjustment. Any appeal must be received in the Community Development Office within 30 days from the date you receive this written notice.

Sincerely,

A handwritten signature in red ink, appearing to read "Hiram J. Marziano II".

Hiram J Marziano II

§ 14-306.1A. Types of machines and devices prohibited by law; penalties.

(a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (b) of this section, except for the exemption for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be lawful to operate and possess machines as listed in subsection (b) of this section if conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and G.S. 71A-8.

(b) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as, by way of illustration and not exclusion:

- (1) A video poker game or any other kind of video playing card game.
- (2) A video bingo game.
- (3) A video craps game.
- (4) A video keno game.
- (5) A video lotto game.
- (6) Eight liner.
- (7) Pot-of-gold.
- (8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.
- (9) Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, prepaid card, or any other method that requires payment, whether directly into the video gaming machine or resulting in remote activation, to activate play of any of the games listed in this subsection.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c) Exemption for Certain Machines. – This section shall not apply to:

- (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, lease, or transport them for use out-of-state, or
- (2) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, or lease video gaming machines for use only by a federally recognized Indian tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

To qualify for an exemption under this subsection, the machines must be disabled and not operable, unless the machines are located on Indian land where they may be lawfully operated under a Tribal-State Compact.

(d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the activities permitted under subsection (c) of this section.

(e) Repealed by Session Laws 2012-6, s. 3, effective June 6, 2012.

(f) Machines described in G.S. 14-306(b)(1) are excluded from this section. (2006-6, s. 4; 2006-259, s. 6; 2010-103, s. 4; 2012-6, s. 3.)



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
DRAFT MOTION TO APPROVE/DENY**

APPROVE

“Based on the evidence submitted and the testimony received, I motion to **APPROVE** this **APPEAL**. This motion is to be recorded hearing minutes and the board order.”

DENY

“Based on the evidence submitted and the testimony received, I motion to **DENY** this **APPEAL**. This motion is to be recorded hearing minutes and the board order.”

**ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT
STAFF ANALYSIS: BOARD OF ADJUSTMENT
CASE 2023-20: APPEAL OF NOTICE OF ZONING VIOLATION**



Request: An Appeal of Notice of Citation CE23-0296
Appellants: Chad Myers (owner)
Identification: The subject property is denoted by Tax PIN: 7962-04-70-7634
Location: 252 Gallent Rd, Reidsville – Simpsonville Township

Only matters of fact may be considered deciding an appeal in the nature of certiorari. Testimony that is determined by the chairperson or any member of the board of adjustment to be hearsay, opinion or otherwise non-factual may not be taken into consideration.

Enabling Statute

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Governing Statute: Appeals Time Frame

N.C.G.S. § 160D-405(d) Appeals of Administrative Decisions

Time to appeal – The owner or other party has 30 days from receipt of written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received the third business day following deposit of the notice for mailing with the United States Parcel Service.

Staff Summary

In 2021 Mr. Chad Myers acquired the property located at 252 Gallent Rd. According to the Rockingham County tax map, the property measures (+/-) one acre in size. It is zoned Residential Protected (RP).

In October of 2022, Mr. Myers applied for new septic system permit. Also, he was issued a permit for temporary residence in a recreational vehicle (RV) during the period of home construction. Environmental Health Staff determined that the soils on the property are not suitable for placement of a septic system. See Exhibits C and D. Since then, the appellant has not provided evidence of evaluation of the site by a licensed soil scientist. Thus, the septic system permit denial remains in effect. Given that Mr. Myers did not obtain a building permit for a residential structure within 90 days of being granted the temporary RV permit, it expired in January of 2023.

Beginning August 3, 2023 Code Enforcement staff visited the subject location after receiving an anonymous complaint about potential burning and unpermitted building activities. Upon inspection, the property was gated but photos were taken from the public right of way area. The photos show a “primitive structure” being erected on the property. No zoning permit or building permit approvals were issued for this work. Primitive residential structures are eligible for zoning permit approval according to the Rockingham County Unified Development Ordinance.

It was also noted that an RV was located on the property and appeared to be inhabited. As a result, Officer Ben Curry initiated the process of notification and citation for a zoning violation. At the point the property owner received a notice of citation, he met with Code Enforcement and Planning Staff, choosing to appeal the notice as of October 18, 2023.



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Community Development Department

**APPLICATION FOR APPEAL FROM DECISION OF THE ZONING
ADMINSTRATOR**

****ALL SIGNATURES MUST BE WITNESSED BY STAFF OR NOTARY****

Date: October 18, 2023

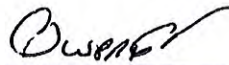
Applicant: Chad Myers

Mailing Address: 253 Galent Rd
Reidsville, NC 27320


Telephone: (716) 367-1945

Request

Appeal of CE23 - 0296 - Notice of Code Enforcement Penalty and Citation. Development Without
Permit - SEC. 32.03 (A) (1 - 3). Use in Violation.



Signature of Applicant



Signature of Owner (if different)

(Office Use Only)

Date Fee Paid: 10/18/23

Planning Board Decision: Approve () Deny () Vote: _____

Date of Hearing: 12/11/23



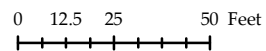
Authorized County Official



CASE 2023-20 MYERS APPEAL PARCEL MAP

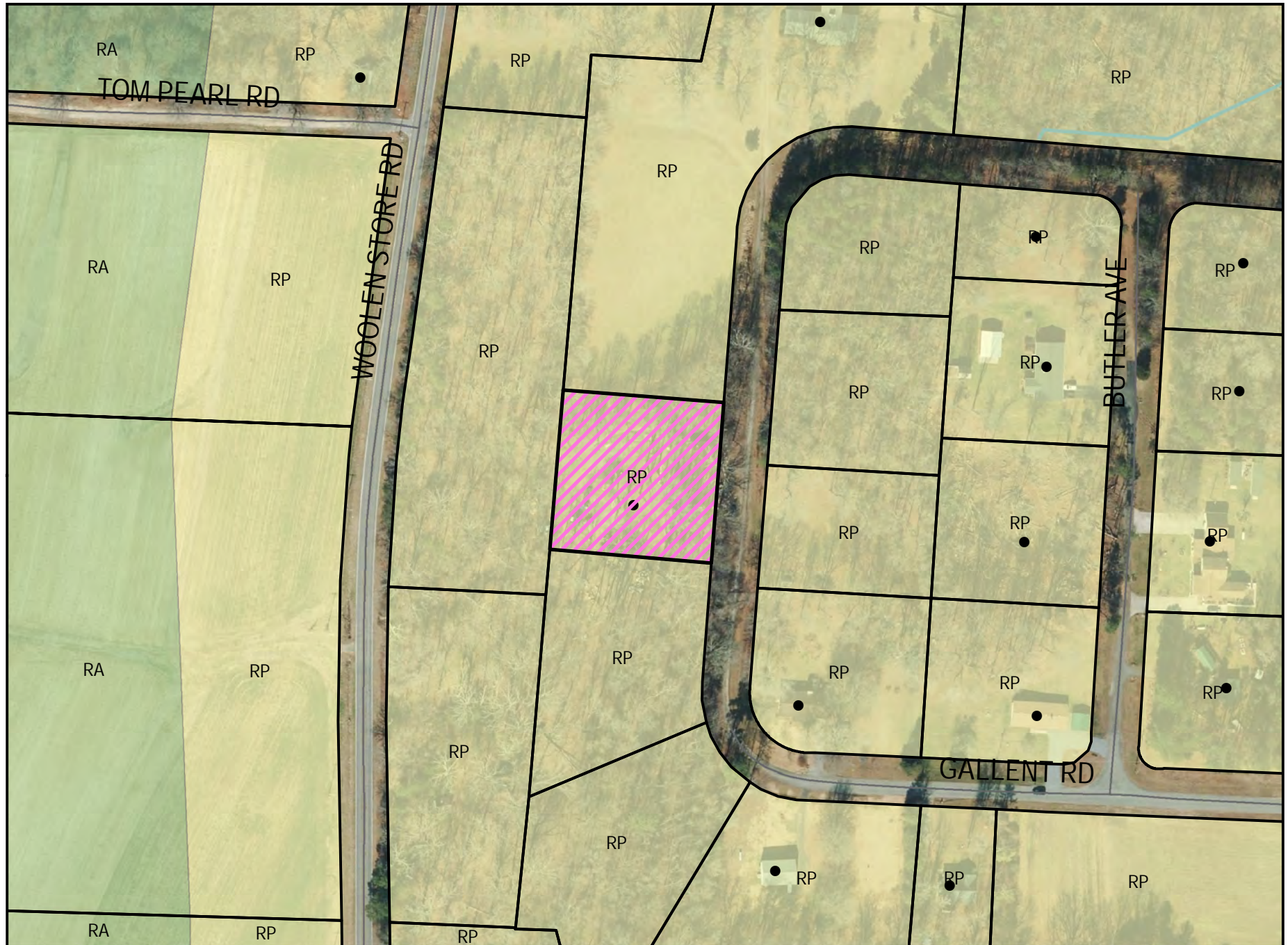


ROCKINIGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

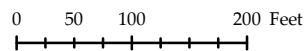




CASE 2023-20 MYERS APPEAL ZONING MAP



ROCKINIGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY





Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0211
(336) 342-8300
(336) 342-8362 Fax



Notice of Penalty and Citation

Service 10/05/2023

CE23-0296

Service Method Certified Mail

Name	MYERS CHAD EVERETT	Pin #	796204707634
Address	330 ARCHERGATE RD BROWNS SUMMIT, NC 27214-9630	Location	
		Fine	\$225

Pursuant to Rockingham County Ordinance, this citation issues based upon the existence of probable cause to believe that the above and named person has violated the Rockingham County Solid Waste or Zone Ordinance as cited below:

1. DEVELOPMENT WITHOUT PERMIT - SEC. 32.03 (A) (1 - 3)

(a) Applicability.

(1) A zoning permit is required for all residential and nonresidential development regulated under this ordinance, including developments approved by legislative or quasi-judicial board action.

(2) No new development activity, change of use or extension of existing uses shall occur until all permits applicable to the proposed development are issued.

(3) A zoning permit is required prior to beginning excavation, construction, moving, or alteration except ordinary repairs. Repairs or alterations within a flood plain are subject to a zoning authorization permit .

THIS FINE MUST BE PAID BY 4:00PM ON 10/24/2023 AT THE PLANNING AND INSPECTIONS OFFICE, ROCKINGHAM GOVERNMENTAL CENTER, 371 NC 65, SUITE 100, PO BOX 105, WENTWORTH, NORTH CAROLINA 27375.

- Fines must be paid withing 15 days of receipt or posting of this citation
- At the time the fine is paid, the Violator must show evidence of the remedy of the violation
- If the Violator does not respond to this citation, the Rockingham County Code Enforcement Officer may pursue all criminal, civil, and/or equitable enforcement measures as allowed by law.

Ben Curry
Rockingham County Code Enforcement Officer
10/05/2023

MYERS CHAD EVERETT
Violator
10/05/2023











ZONING PERMIT

Rockingham County Government

PERMIT NUMBER
ZRES2210-002

PERMIT TYPE: ZONING RESIDENTIAL	SUBDIVISION/LOT #: MIDWAY-CANAAN PARK	PIN #: 796204707634
PERMIT SUB TYPE : RECREATIONAL VEHICLE		

SITE ADDRESS: **252 GALLENT RD**

DESCRIPTION: **TEMP RV STAY FOR HOME CONSTRUCTION**

APPLICANT: Chad Myers	PHONE: (716)367-1945
MAILING ADDRESS: 330 ARCHERGATE RD BROWNS SUMMIT, 27214	FAX:

OWNER: MYERS CHAD EVERETT	PHONE: (716)367-1945
MAILING ADDRESS: 330 ARCHERGATE RD BROWNS SUMMIT, NC 27214-9630	FAX:

SETBACKS			
FRONT: 30	REAR: 15	SIDE 1: 10	SIDE 2: 10

COMMENTS

As the applicant was unable to obtain permits for a septic system, and thus building permits for a residential structure within 90 days, the RV temp stay permit has expired.

FEES	
DESCRIPTION	PAID AMOUNT
RESIDENTIAL ZONING	\$40.00
	TOTAL: \$40.00

I CERTIFY THAT THE INFORMATION GIVEN IS TRUE TO THE BEST OF MY KNOWLEDGE AND THAT SZONING IS SUBJECT TO ALL ADDITIONAL REGULATIONS PERTAINING TO THE PROPOSED USE. I UNDERSTAND THAT THIS PERMIT BECOMES VOID WITHIN 30 DAYS OF ISSUANCE IF NO APPLICABLE BUILDING PERMIT HAS BEEN ISSUED FOR THE PROPOSED USE.

CENTRAL PERMITTING
PHONE: 336-342-8130 FAX: 336-342-8362

Planning Official:

Date: 11/29/2023



Rockingham County Department of Health and Human Services

Division of Public Health Services
Environmental Health Section
371 NC HWY 65 ~ P.O. Box 204
Wentworth, NC 27375 – 0204
Phone (336) 342-8180
Fax (336) 342-8245

10/25/2022

Chad Myers
330 ARCHER GATE RD
BROWN SUMMIT, 27214

RE: 796204707634 - 252 GALLEN RD

Dear Chad Myers,

A soil/site evaluation has been completed for a ground absorption sewage treatment and disposal system on the above property. This evaluation was conducted in accordance with the existing laws and regulations governing sewage disposal in North Carolina (G.S. 130A, Article II).

Based on the criteria set out in Title 15A, Subchapter 18A, of the NC Administrative Code, Rule .1940 through .1948, the evaluation indicated that the site is UNSUITABLE for a sanitary system of sewage treatment and disposal. Therefore, we must deny your request for an improvement permit. A copy of the site evaluation is enclosed. The site is unsuitable based on the following:

- Unsuitable soil topography and/or landscape position (Rule .1940)
- Unsuitable soil characteristics (structure or clay mineralogy) (Rule .1941)
- Unsuitable soil wetness condition (Rule .1942)
- Unsuitable soil depth (Rule .1943)
- Presence of restrictive horizon (Rule .1944)
- Insufficient space for septic system and repair area (Rule .1945)
- Unsuitable for meeting required setbacks (Rule .1950)
- Other (Rule .1946)

These severe soil or site limitations could cause premature system failure, leading to the discharge of untreated sewage on the ground surface, into surface waters, directly to ground water or inside your structure.

The site evaluation included consideration of possible site modifications, as well as use of modified, innovative, or alternative systems. However, the Health Department has determined that none of the above options will overcome the severe conditions on this site. A possible option might be a system designed to dispose of sewage to another area of suitable soil or off-site to additional property.

For the reasons set out above, the property is currently classified UNSUITABLE, and no improvement permit shall be issued for this site in accordance with Rule .1948(c).

Our policy provides for an ADDITIONAL evaluation by our OSWW Program Coordinator, at your request. If you choose to have this additional evaluation done, please submit your request in writing to Environmental Health.

Note that a site classified as UNSUITABLE may be classified as PROVISIONALLY SUITABLE if written documentation is provided that meets the requirements of Rule .1948(d). A copy of this rule is enclosed. You may

hire a consultant to assist you if you wish to try to develop a plan under which your site could be reclassified as PROVISIONALLY SUITABLE.

You have a right to an informal review of this decision. You may request an informal review by the soil scientist or environmental health supervisor at the local health department. You may also request an information review by the NC Department of Health and Human Services regional soil scientist. A request for informal review must be made in writing to the local health department.

You also have a right to a formal appeal of this decision. To pursue a formal appeal, you must file a petition for a contested case hearing with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714. To get a copy of a petition form, you may write the Office of Administrative Hearings or call the office at (919) 431-3000 or download it from the OAH web site at <http://www.ncoah.com/forms.html>. The petition for a contested case hearing must be filed in accordance with the provision of NC General Statutes 130A-24 and 150B-23 and all other applicable provisions of Chapter 150B. NC General Statute 130A-335 (g) provides that your hearing would be held in the county where your property is located.

Please note: If you wish to pursue a formal appeal, you must file the petition form with the Office of Administrative Hearings **WITHIN 30 DAYS OF THE DATE OF THIS LETTER**. Meeting the 30 day deadline is critical to your formal appeal.

If you file a petition for a contested case hearing with the Office of Administrative Hearings, you are required by law (NC General Statute 150B-23) to serve a copy of your petition on the Office of General Counsel, NC Department of Health and Human Services, 2001 Mail Service Center, Raleigh, N.C. 27699-2001.

Do not serve the petition on your local health department. Sending a copy of your petition to the local health department will not satisfy the legal requirement in NC General Statute 150B-23 that you send a copy to the Office of General Counsel, NC Department of Health and Human Services.

You may contact the local health department if you need any additional information or assistance.

Sincerely,



Eric Prunty

Environmental Health Section

APPLICANT: Chad Myers
 ADDRESS: _____

PHONE: (716) 367-1985
 DATE EVALUATED: 10/24/22

PROPOSED FACILITY: house PROPERTY SIZE: _____
 LOCATION OF SITE: 252 Gallent Rd.
 WATER SUPPLY: well AUGER BORING: PIT: _____

SITE EVALUATION FACTORS	PROFILE		PROFILE	PROFILE	PROFILE	PROFILE
	1	2	3			
LANDSCAPE POSITION	C	C	C			
SLOPE (%)	8%	8%	8%			
HORIZON I DEPTH	0-16	0-12	0-12			
Texture Group	SL	SL	SL			
Consistence	S	S	S			
Structure	S	S	S			
Mineralogy	SL	SL	SL			
HORIZON II DEPTH	16-29	12-20	12-26			
Texture Group	C	C	SCL			
Consistence	VH-	VH-	Fi			
Structure	BLU	BLU	SQL			
Mineralogy	E	E	E			
HORIZON III DEPTH						
Texture Group						
Consistence						
Structure						
Mineralogy						
HORIZON IV DEPTH						
Texture Group						
Consistence						
Structure						
Mineralogy						
SOIL WETNESS	@ 16"	@ 20"	@ 15"			
RESTRICTIVE HORIZON						
SAPROLITE						
CLASSIFICATION	U	U	U			
LONG-TERM ACCEPTANCE RATE						
SITE CLASSIFICATION: <u>unsuitable</u>			SITE LONG-TERM ACCEPTANCE RATE:			
EVALUATED BY: <u>Eric Mundy</u>			OTHER(S) PRESENT: <u>Chad Myers</u>			
REMARKS:						

EXHIBIT D

16E

24

11

31



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
DRAFT MOTION TO APPROVE/DENY**

APPROVE

“Based on the evidence submitted and the testimony received, I motion to **APPROVE** this **APPEAL, CASE 2023-20**. This motion and board vote is to be recorded hearing minutes and the board order.”

DENY

“Based on the evidence submitted and the testimony received, I motion to **DENY** this **APPEAL, CASE 2023-20**. This motion and board vote is to be recorded hearing minutes and the board order.”

**ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT
STAFF REPORT**

CASE 2024-02: ZONING MAP AMENDMENT (REZONING)

Request: Rezoning from Highway Commercial (HC) and Residential Agricultural (RA) to Highway Commercial (HC).

Applicant: Hall Rental Co LLC (Mike and Tim Hall)

Identification: The property is denoted by the Tax PIN: 7985-04-54-0014

Location: 7720 NC Highway 87 – Wentworth Township



1. Acreage and Location of Parcel:

This parcel measures a total of (+/-) 11.06 acres according to the Rockingham County Tax Map, located approximately 1,800 feet east-southeast of the Wentworth town limits and a little over one (1) mile from the west-northwest border of the Reidsville ETJ.

2. Utilities: This parcel is served by Dan River Water and individual septic system utilities.

3. Zoning Classification of Uses of Surrounding Parcels:

This parcel abuts others that are zoned Residential Agricultural (RA) and Heavy Industrial (HI). Nearby parcels include a mix of residential, commercial, industrial and institutional zoning.

4. Land Use Plan:

- a. This parcel is located in the 0-2 Rural Land Class, according to the *Rockingham County Comprehensive Land Use Plan*. This land class is generally characterized as rural, although the patterns of commercial zoning in this area are atypical of the 0-2 land class. (p. 46)
- b. Section 4.2 of the *Rockingham County Comprehensive Land Use Plan* promotes “the development of new commercial opportunities while supporting the retention and expansion of existing businesses. (p.74)

5. Previous Zoning History:

1988: The parcel was zoned Residential Agricultural (RA).

1996: A (+/-) 2.5 acre portion of the parcel at the time was rezoned to Highway Commercial (HC), specifically along the lot frontage.

2007: A Special Use Permit was granted for a Planned Business Development (PBD), intended to occupy the previously rezoned commercial area.

6. Staff Notes and Analysis:

The following factors were considered by the staff before making a recommendation:

- a. ***The size of the tracts in question. Reasonableness.*** The total area proposed to be rezoned equals approximately 11.06 acres total, including the (+/-) 2.5 acre portion already zoned Highway Commercial (HC). This lot size is typical for the area and exceeds the minimum lot size of 20,000 square feet in the Highway Commercial (HC) zoning district.
- b. ***The compatibility of the zoning action with the comprehensive plan. Consistency.*** This zoning request is not generally supported by the intents and descriptions of the 0-2 land class in the *Rockingham County Land Use Plan* and future land use map. Nonetheless, there exists a significant degree of commercial and industrial zoning along the NC Highway 87 corridor in this area.
- c. ***The benefits and detriments resulting from the zoning action for the owner of the rezoning, the neighbors, and the surrounding community. Reasonableness & Consistency.*** This rezoning request will allow all uses in the Highway Commercial (HC) zoning district, similar to uses allowed already occurring on a portion of the

parent parcel. The property owner may benefit economically from the rezoning. The services provided may be of benefit to residents in the area. Adjacent and nearby neighbors whose parcels are zoned and used for residential purposes may feel these uses could have a detrimental effect. Negative effects may be mitigated to some degree by landscape screening and other required development standards pertaining to non-residential uses on parcels abutting others that are zoned for residential purposes.

- d. ***The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness.*** Immediately adjacent tracts include a mix of open lands, residential uses and industrial uses. Nearby uses along NC Highway 87 feature a broad mix of types, including multiple instances of highway commercial uses. Multiple commercially zoned properties in this area have also received special use permits for planned business development over the last two decades.

7. Staff Recommendations:

After reviewing the application, Staff concludes that the application is complete and that sufficient information has been provided for the Planning Board and Board of Commissioners to consider the request. Staff finds that this request is not strictly consistent with the intents and descriptions of the 0-2 land class as described in the *Rockingham County Comprehensive Land Use Plan* and future land use map. This request is consistent with the history and patterns of zoning in the area. Staff also finds this request to be reasonable given the mix of commercial uses that have developed in this area over time.

Thus, Staff recommends approval of Case #2024-02, a request for a Rezoning from Highway Commercial (HC) and Residential Agricultural (RA) to Highway Commercial (HC).



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Date of Application/Fee: Dec 11, 2023

Property Address: 7720 NC Highway 87, Reidsville

Parcel No / Tax Pins(s): 798504540014

Current Zoning District: Highway Commercial (HC) & Residential Agricultural (RA)

Proposed Zoning District: Highway Commercial (HC)

Acreeage requested for rezoning: (+/-) 11.06 per Tax Map

Township: Wentworth

Owner(s): Hall Rental Co LLC (Tim & Mike Hall)

Mailing Address: Tim Hall - see attached

Telephone: _____ email: _____

Applicant(s): Mike Hall - see attached

Mailing Address: _____

Telephone: _____ email: _____

Trudy W. Hall
 Applicant/Owner Signature

James Michael Hall
 Applicant/Owner Signature

[Signature]
 Staff Signature

PB Hearing Date: 1/8/23

BOC Hearing Date: 2/19/23



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Owner Signature

(complete one for each owner)

I, Mike Hall, owner (trustee, executor, etc.) of the property denoted by Rockingham County Tax PIN 798504540014, request that the property be granted rezoning from Highway Commercial (HC) and Residential Agricultural (RA) to Highway Commercial (HC). I understand that the rezoning is permanent and will run with the land. I feel this will serve my best interests.

Jerry Michael Hall
 Signature

12-11-23
 Date

136 Hall Farm Road
 Mailing Address

Reidsville, NC 27320
 City, State, Zip

336-932-1676
 Phone Number

[Signature]
 Staff Signature

Notarial Certification

_____ County, North Carolina

I certify that _____ personally appeared before me this the _____ day of _____, _____ and acknowledged the due execution of the foregoing instrument.

Notary Signature: _____

Notary Printed Name _____

My Commission Expires: _____ (Seal)



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Owner Signature

(complete one for each owner)

I, Timothy W. Hall, owner (trustee, executor, etc.) of the property denoted by Rockingham County Tax PIN 798504540014, request that the property be granted rezoning from Highway Commercial (HC) and Residential Agricultural (RA) to Highway Commercial (HC). I understand that the rezoning is permanent and will run with the land. I feel this will serve my best interests.

Timothy W. Hall

Signature

149 Hall Farm Rd

Mailing Address

Reidsville NC. 27320

City, State, Zip

336-932-3234

Phone Number

12-11-23

Date

Alyssa Cochran

Staff Signature

Notarial Certification

_____ County, North Carolina

I certify that _____ personally appeared before me this the _____ day of _____, _____, and acknowledged the due execution of the foregoing instrument.

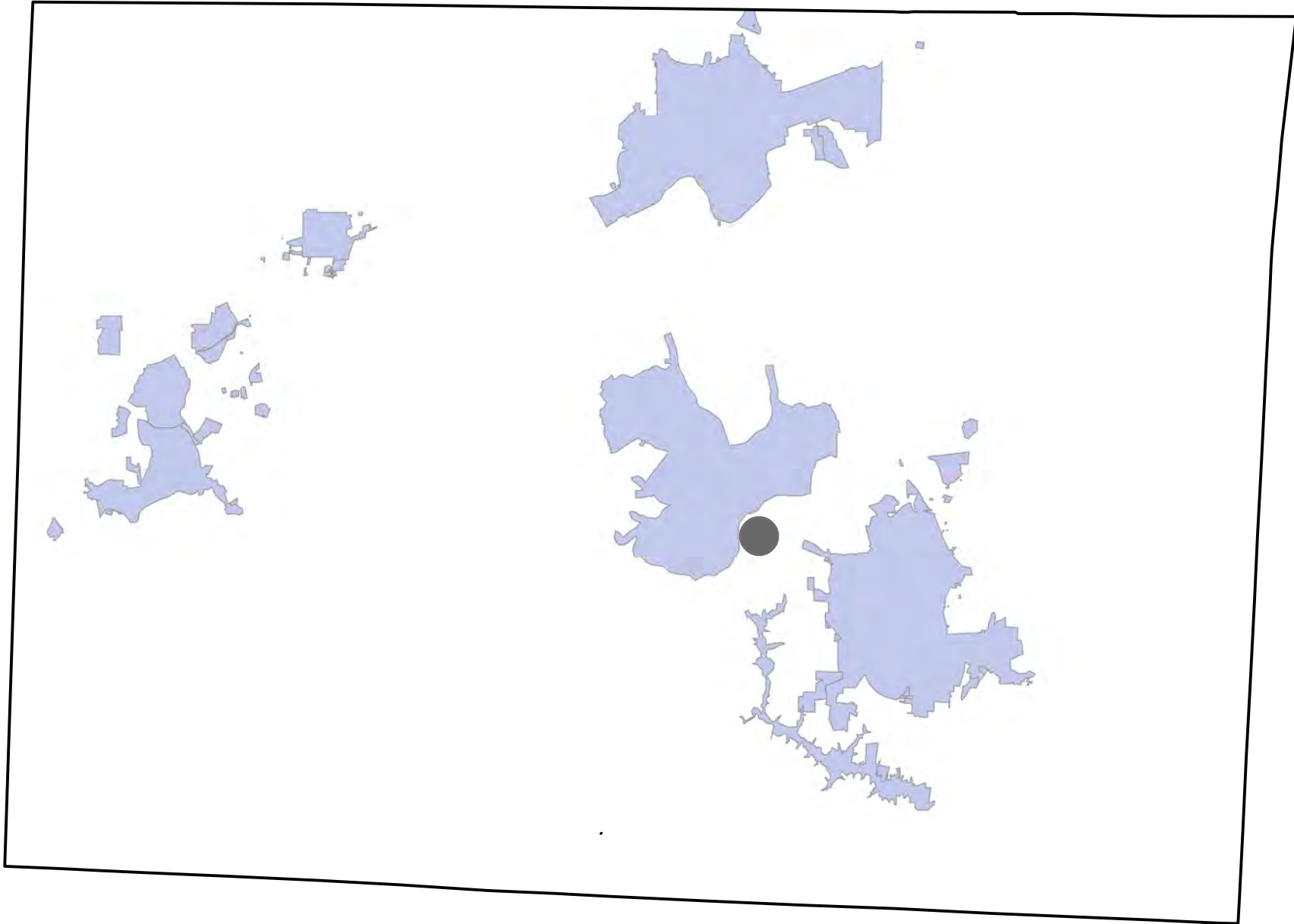
Notary Signature: _____

Notary Printed Name _____

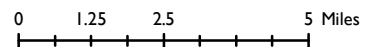
My Commission Expires: _____ (Seal)



CASE 2024-02 HALL REZ, HC & RA to HC VICINITY MAP

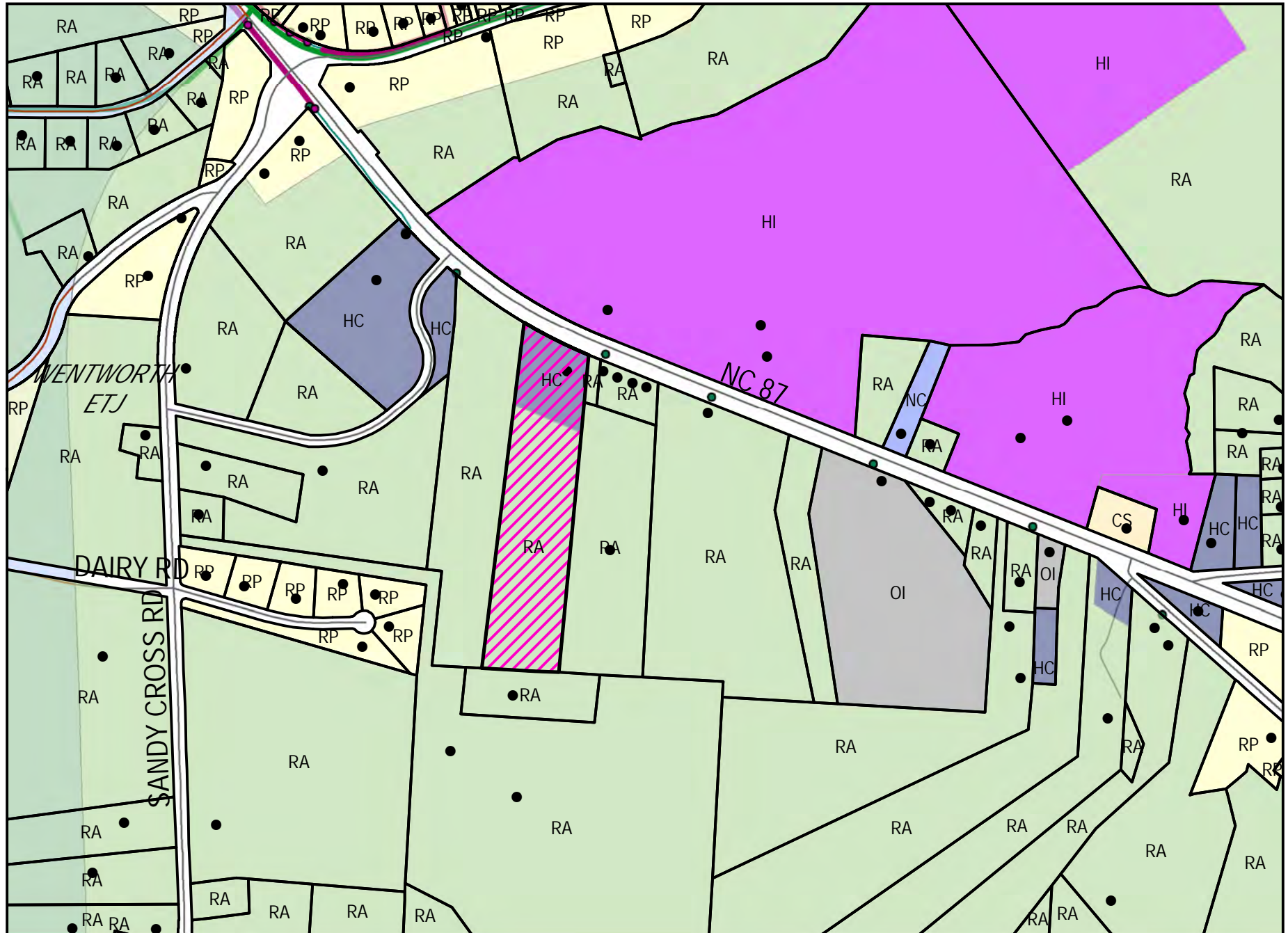


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

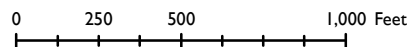




CASE 2024-02 HALL REZ, HC & RA to HC ZONING MAP

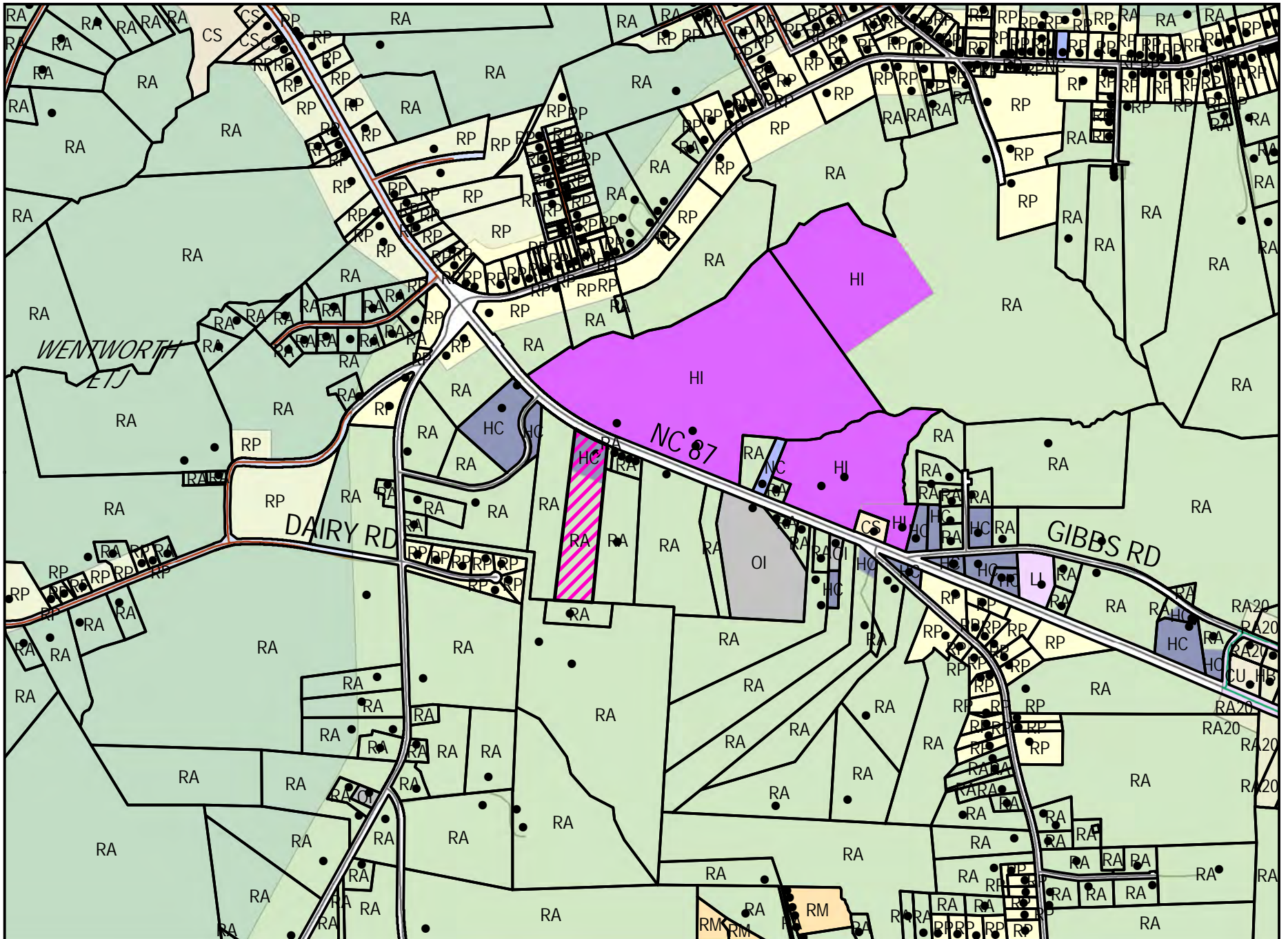


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

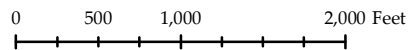




CASE 2024-02 HALL REZ, RA & HC to HC ZONING MAP II

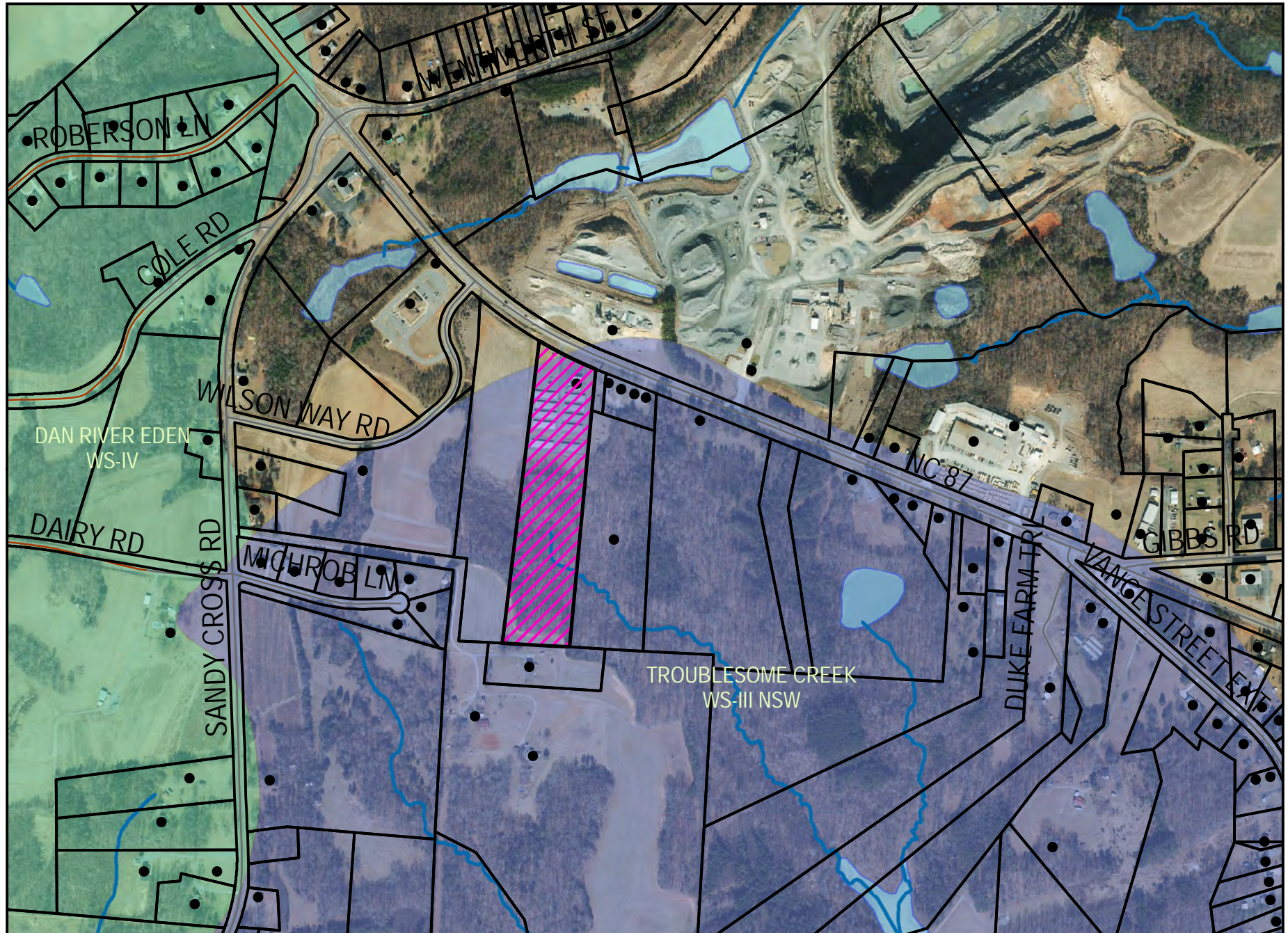


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

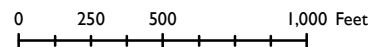




CASE 2024-02 HALL REZ, HC & RA to HC ENVIRONMENTAL MAP



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

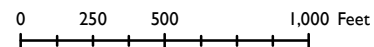




CASE 2024-02 HALL REZ, HC & RA to HC LAND USE MAP (0-2)



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

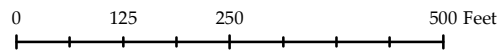




CASE 2024-02 HALL REZ, HC & RA to HC PARCEL MAP



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY





ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT CONSISTENCY AND REASONABLENESS DETERMINATION

The Board has reviewed **Case 2024-02**, rezoning to **Highway Commercial (HC)**. As required by NCGS § 160D, the Board makes the following findings:

1. The proposed action is found to be consistent with the adopted *Rockingham County Comprehensive Land Use Plan* because:
 - A. This parcel is located in the 0-2 Rural Land Class, according to the *Rockingham County Comprehensive Land Use Plan*. This land class is generally characterized as rural, although the patterns of commercial zoning in this area are atypical of the 0-2 land class. (p. 46)
 - B. Section 4.2 of the *Rockingham County Comprehensive Land Use Plan* promotes “the development of new commercial opportunities while supporting the retention and expansion of existing businesses. (p.74)

2. The proposed action is found to be reasonable in the because:
 - A. The size of the tracts in question. Reasonableness. The total area proposed to be rezoned equals approximately 11.06 acres total, including the (+/-) 2.5 acre portion already zoned Highway Commercial (HC). This lot size is typical for the area and exceeds the minimum lot size of 20,000 square feet in the Highway Commercial (HC) zoning district.
 - B. The compatibility of the zoning action with the comprehensive plan. Consistency. This zoning request is not generally supported by the intents and descriptions of the 0-2 land class in the Rockingham County Land Use Plan and future land use map. Nonetheless, there exists a significant degree of commercial and industrial zoning along the NC Highway 87 corridor in this area.
 - C. The benefits and detriments resulting from the zoning action for the owner of the rezoning, the neighbors, and the surrounding community. Reasonableness & Consistency. This rezoning request will allow all uses in the Highway Commercial (HC) zoning district, similar to uses allowed already occurring on a portion of the parent parcel. The property owner may benefit economically from the rezoning. The services provided may be of benefit to residents in the area. Adjacent and nearby neighbors whose parcels are zoned and used for residential purposes may feel these uses could have a detrimental effect. Negative effects may be mitigated to some degree by landscape screening and other required development standards pertaining to non-residential uses on parcels abutting others that are zoned for residential purposes.
 - D. The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness. Immediately adjacent tracts include a mix of open lands, residential uses and industrial uses. Nearby uses along NC Highway 87 feature a broad mix of types, including multiple instances of highway commercial uses. Multiple commercially zoned properties in this area have also received special use permits for planned business development over the last two decades.



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
DRAFT MOTION TO APPROVE/DENY**

APPROVE

“I motion to recommend **APPROVAL** of this request to rezone the specified parcel to the requested zoning district based upon the **CONSISTENCY AND REASONABLENESS DETERMINATION** statements that are included in the Board agenda packet, submitted during the rezoning presentation and as may be amended, incorporated into the motion, to be included in the minutes.”

DENY

“I motion to recommend **DENIAL** of this request to rezone the specified parcels to the requested zoning district contrary to the **CONSISTENCY AND REASONABLENESS DETERMINATION** statements that are included in the Board agenda packet, submitted during the rezoning presentation and as may be amended, incorporated into the motion, to be included in the minutes.”



ROCKINGHAM COUNTY

GOVERNMENTAL CENTER

Community Development Department

Text Amendment 2023-22: This is a citizen-requested change to the Unified Development Ordinance amending the standards for private roads. Specifically, the request is to increase the number of individual parcels of land that may be served by private roads from five (5) to eight (8). Textual changes are highlighted in red below.

The change to the subsection title is a Staff recommendation to clarify the role of private roads related residential development if this text amendment is approved.

Development Standards

Article 5, Division 3, Sec 53.03d(1)

~~Road standards within minor subdivisions.~~ **Residential Private Road Standards**

Up to ~~five (5)~~ **eight (8)** parcels may be accessed by a named and approved private road. There are no specific ~~road~~ standards required for a private road, but a 30' private wide right-of-way must be dedicated and recorded by plat. (p. 165)



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT

Date of Application: November 27, 2023

Applicant: Mike Doyle

Mailing Address: 270 Beene Lane, Stokesdale NC 27357

Telephone: 336-671-7971 Email: mdoyledds@bellsouth.net

Applicant Signature (handwritten)

Date: 12/1/23

Instructions: Complete the following with the language you wish to change in the the County's Unified Development Ordinance (UDO). If you know the specific section please include that information, if you do not, you may leave it blank. You may also include additional information that is related to this proposed change.

Specific UDO Section Requested for Amendment: Article 5, Division 3, Section 53.03(d)(1)

Purpose of the Amendment and Statement of Consistency & Reasonableness

Applicant owns an approximately 46 acre parcel currently served by private right-of-way (Beene Lane). Beene Lane currently serves 5 parcels which prohibits the larger parcel(s) from being subdivided, sold, or developed for single-family residences. Changing the ordinance will allow reasonable development while still limiting the number of parcels allowed to be served by a private right-of-way.

Proposed Wording of the UDO Amendment:

Up to eight (8) parcels may be accessed by a named and approved private road. There are no specific standards required for a private road, but a 30' wide private right-of-way must be dedicated and recorded by plat.



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

If a new use is proposed, provide a specific title and definition of the use:

Will this use be "By Right?" Yes No N/A

If No, describe the permit development standards or specific requirements if it is proposed to be a Special Use Permit.

Notarial Certification

<p><u>Forsyth</u> County, North Carolina</p> <p>I certify that <u>Michael Doyle</u> personally appeared before me this the <u>1st</u> day of <u>December</u>, <u>2023</u>, and acknowledged the due execution of the foregoing instrument.</p> <p>Notary Signature: <u><i>Phillip Adam Coley</i></u></p> <p>Notary Printed Name: <u>Phillip Adam Coley</u></p> <p>My Commission Expires: <u>9/30/2025</u></p>		<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p>PHILLIP ADAM COLEY NOTARY PUBLIC Forsyth County, North Carolina My Commission Expires Sept 30, 2025 (Seal)</p> </div>
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ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

Applicant: Michael Doyle

Mailing Address: 270 Beene lane, Stokesdale NC 27357

Telephone: 336-671-7971 Email: mdoyledds@bellsouth.net

[Handwritten Signature]

Applicant Signature

12/1/23

Date

Notarial Certification

Forsyth County, North Carolina

I certify that Michael Doyle personally appeared before me this the 1st day of December, 2023, and acknowledged the due execution of the foregoing instrument.

Notary Signature: [Handwritten Signature]

Notary Printed Name Phillip Adam Coley

My Commission Expires: 9/30/2025

PHILLIP ADAM COLEY
 NOTARY PUBLIC
 Forsyth County, North Carolina
 My Commission Expires Sept 30, 2025
 (Seal)



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CONSISTENCY DETERMINATION**

The Board has reviewed **Case 2023-22**, a proposed text amendment to change the number of individual parcels served by a private road for residential development from five (5) to eight (8); and as required by NCGS § 160D makes the following findings:

1. The proposed action is found to be consistent with the adopted *Rockingham County Comprehensive Land Use Plan*.



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
DRAFT MOTION TO APPROVE/DENY**

APPROVE

“I motion to recommend **APPROVAL** of this this text amendment based upon the **CONSISTENCY DETERMINATION** statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.”

DENY

“I motion to recommend **DENIAL** of this this text amendment based upon the **CONSISTENCY DETERMINATION** statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.”

**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CASE #2024-01A UDO TEXT AMENDMENT**

Text Amendment 2024-01(a): A Text Amendment to the Rockingham County Unified Development Ordinance to clarify and set standards for primitive campgrounds and Recreational Vehicle Parks. The amendment will separate Campgrounds (group and primitive) and RV Parks into two discrete uses, subject to different development standards. This amendment makes RV Parks subject to approval of *conditional zoning* in the Residential Agricultural (RA) and Highway Commercial (HC) zoning districts. The intent of this text amendment is to more clearly define these uses, ensure safe, quality and consistent development of RV Parks, while allowing for community input as part of determining the reasonableness of rezoning for an RV park. This will involve the following changes to the UDO:

The letter...	Has the following meaning ...
P	<i>Permitted uses.</i> The letter "P" indicates that the listed use is permitted by-right within the zoning district.
D	<i>Development Standards.</i> The letter "D" indicates that the listed use is permitted by-right within the zoning district, but requires that referenced development standards are met.
C	<i>Conditional Zoning.</i> A "C" indicates that a particular use is subject to conditional zoning or rezoning approval, which may also include required developmental standards referenced in the Supplemental Standards section of this UDO
S	<i>Special uses.</i> The letter "S" indicates that the listed use is permitted within the respective zoning district only after review and approval of a special use permit.
A	<i>Accessory uses.</i> An "A" indicates that the listed use is permitted only where it is accessory to another use that is permitted in the district on the same lot.
T	<i>Temporary Uses.</i> A "T" indicates a use that is permitted as a temporary use.
	<i>Prohibited uses.</i> A blank cell indicates that the use is not permitted in the district or a zoning procedure is required for approval as listed in the reference column.

Campground —Land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, ~~recreational vehicles~~, or **accessory** cabins, for recreation, education or vacation purposes. A campground also includes a summer camp or other camping facilities consistent with this definition.

Camping unit —Any tent, ~~trailer~~, **accessory** cabin, lean-to, ~~recreational vehicle~~, or similar item established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

Campsite —Any plot of ground within a campground intended for the exclusive occupancy by a ~~cabin, recreational vehicle, or~~ tent or open air camping.

Recreational Vehicle Park – a designated area of land meeting the minimum size criteria as detailed in this ordinance, with dedicated spaces for the temporary parking of recreational vehicles, travel trailers, campers and the like.

Sec. 62.16. - Campground - Group or primitive, tent camping ~~and recreational vehicle parks.~~

(a) Group-camp facilities are operated on a profit or nonprofit basis. Standards for group-camp facilities are as follows:

- (1) The minimum size for a group-camp facility is three (3) acres.
- (2) Each group camp must provide a minimum of one-fourth acre per each person camping.
- (3) All buildings and areas for organized recreational use must be set back a minimum distance of 100 feet from any exterior property line.

Sec. 62.69. (will require renumbering 62.69 to 62.70) Park, Recreational vehicle, travel trailer, camper

(a) A dedicated area of land providing designated sites for tents and for the temporary use of recreational vehicles (RVs), including but not limited to park models, travel trailers and campers. Standards for recreational-vehicle parks are as follows:

- (1) The minimum size for a campground or recreational vehicle park is five (5) acres.
- (2) All buildings, ~~tent spaces~~ **facilities** and vehicle spaces must be set back a minimum distance of 50 feet from any exterior property line.
- (3) **If individual drinking water and wastewater facilities are not supplied,** a sanitary source of drinking water must be at least 200 feet, but no more than 400 feet, from toilet facilities. A bathhouse may not be more than 1,500 feet from ~~tent facilities~~ or vehicle space. ~~This does not apply where public water and sewer connections are provided to vehicles having self-contained kitchens and bathroom facilities.~~
- (4) A minimum of 1,500 square feet of area per RV space must be provided.
- (5) A minimum 30-foot private right of way must be dedicated to accommodate access to all spaces.
- (6) Access roadways must be **paved with asphalt, concrete or other material recognized by the NC Department of Transportation as suitable for road construction** and enable two-lane traffic flow.
- (7) A minimum of two (2) state-maintained roadway ingress, egress and regress points are required. Any dead-end interior roadway must comply with current NCDOT and Emergency Services vehicle turnaround requirements.
- (8) **The length of stay in any RV park is limited to a maximum of 180 days.**
- (9) ~~Campgrounds and~~ RV parks are subject to the non-residential development standards detailed in Article V of the Unified Development Ordinance.
- (10) **Establishment of an RV Park is subject to conditional zoning or rezoning approval.**
- (11) **A detailed site plan as described in this ordinance is required as part of the application for conditional zoning or rezoning.**

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Campground, primitive, group Recreational Vehicle Park	D				D		D				62.16
Park, Recreational vehicle, travel trailer, camper	C						C				62.69
Poultry Breeding Facilities, dry litter operations											62.69 62.70



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CONSISTENCY DETERMINATION**

The Board has reviewed **Case 2024-01a**, a proposed text amendment to clarify Unified Development Ordinance requirements for Campgrounds and Recreational Vehicle Parks. As required by NCGS § 160D the Board makes the following findings:

1. The proposed action is found to be consistent with the adopted *Rockingham County Comprehensive Land Use Plan*.



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
DRAFT MOTION TO APPROVE/DENY**

APPROVE

“I motion to recommend **APPROVAL** of this this text amendment based upon the **CONSISTENCY DETERMINATION** statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.”

DENY

“I motion to recommend **DENIAL** of this this text amendment based upon the **CONSISTENCY DETERMINATION** statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.”

TA2023-01(e): The current Special Use Requirements for new wireless communication towers needs complete reformatting. Much of the information regarding regulations and statutes referenced in the permit requirements needs updating. Clarifications are also needed to match current practice and much of the language regarding engineering, site design and financial guarantees needs revision. A new fall zone definition is being included as it is referenced throughout the document but was not included previously.

Cell Tower Fall Zone Definition

Fall Zone. Regarding wireless telecommunication towers, the fall zone is defined as the height of the tower measured in feet plus ten percent (10%). At minimum, the fall zone is equal to required setbacks from all parcel boundaries and protected facilities. Monopole towers are eligible for a fall zone reduction of twenty percent (20%) based on the same calculation.

Sec. 62.88.02. - New wireless telecommunication tower requirements.

Section I. Application Requirements

A. Pre-Application Meeting

There shall be a pre-application meeting attended by the applicant, consultant, and/or County staff prior to the submittal of any application. The purpose of this meeting shall be to address issues which will help expedite the review and permitting process and address any concerns regarding the site or the facility and the treatment of such. A site visit may also be required.

B. Policy and Requirements

All Applicants for a Special Use Permit for Wireless Telecommunications Facilities or any modification of such facility (other than an approved colocation) shall comply with the requirements set forth herein and only complete applications will be accepted by the County for review.

1. The Planning Board may, at its discretion, delegate or designate other official agencies of the County and/or seek outside assistance to accept, review, analyze, evaluate and make recommendations to the Planning Board with respect to the granting or not granting, or revoking special use permits for Wireless Telecommunications Facilities. The Applicant shall pay any extra fees necessary for outside assistance.
2. All Wireless Telecommunications Facilities must conform to local, state, and federal environmental laws, standards, and codes. All utilities at a Wireless Telecommunications Facilities site shall ~~be in compliance with~~ **comply with** all laws, including but not limited to the National Electrical Safety Code, the National Electrical Code, Electronic Industry Association/Telecommunications Industry Association (EIA/TIA) and Building Occupancy Code (BOCO) where appropriate.
3. An application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant must obtain all required certifications from a licensed professional engineer. The landowner, if different from the Applicant, shall also sign the application. Any false or misleading statement in the application may subject the Applicant to denial of the application without further consideration or opportunity for correction. (See Section V for application fee information.)
4. Applicants shall agree to lease space at commercially reasonable rates and shall also make towers available for use by County Emergency Service agencies at no charge to the County.
5. Placement of antennae on existing towers or other structures shall be preferred by the County, as opposed to the construction of a new tower.

6. Applicants shall submit ~~2~~ **one (1)** (or the number designated at the pre-application meeting) completed applications for a Special Use Permit in 3-ring binders **and shall provide this information in electronic form (e.g. pdf)**. ~~Seventeen copies of the following information must also be submitted:~~ boundary survey, site plan, compound plan, tower profile, visual impact assessments, propagation studies, justification for why a co-location is not practical, and an explanation why a higher priority site was not selected.
7. No Wireless Telecommunications Facility shall be installed or constructed until the application has been reviewed and approved by the Planning Board, ~~and the Special Use Permit, together with all applicable permits, has been issued~~ **the Special Use permit approved and all other applicable permits issued.**
8. The Applicant must begin construction on the new Wireless Telecommunications Facility ~~within one (1) year of the granting of a Special Use Permit or the Special Use permit shall become invalid (See Chapter II Article XVIII – Vested Rights pursuant to N.C.G.S. 153A-344.1).~~ **within two (2) years as provided for in N.C.G.S. § 160D-108.1 and the Rockingham County Unified Development Ordinance (Article III, Division 5).**

C. Site Plan Requirements

The Applicant shall provide a site plan containing:

1. The name, address, and phone number of the person responsible for preparing the application;
2. The name, address, and phone number of the property owner, service provider or operator, and the actual Applicant;
3. The postal address, zoning district designation, latitude and longitude, and tax parcel identification number of the property;
4. A parcel survey completed by a licensed surveyor or engineer that shows:
 - a. vicinity sketch, north arrow, date of plan, scale, name(s) and seal(s) of all persons preparing the plan;
 - b. The size of the property stated in square feet (or acreage) with lot line dimensions, the location of all lot lines and setback distances and all natural features such as streams, ponds, wetlands, etc.;
 - c. The location of all structures (including residential structures) on the property (which is the subject of the application);
 - d. **The location of all rights of way and easements located on and within 500 feet of the proposed tower location;**
 - e. Access to the site, with location and width of existing and proposed driveways;
 - f. The location, size, and height of all proposed and existing antennae and all appurtenant structures;
 - g. The type, locations, and dimensions of all proposed and existing landscaping, and fencing [See Section III E(1) and E(5)].

D. Written Documentation Required

The Applicant shall provide the following written documentation, **which will be reviewed and verified by a third-party consulting engineer, the cost of which shall be borne by the applicant:**

1. A copy of the lease agreement (or lease option) signed by the property owners if part or all of the property for the Wireless Telecommunications Facility is to be leased. The lease agreement (or lease option) must include liability insurance in accordance with the requirements specified in Section IX.
2. A copy of the property deed.
3. A demonstration of the need for the Wireless Telecommunications Facility to provide service primarily within the County. Such documentation shall include, but may not be limited to, propagation studies of the proposed site and all existing, adjoining, and proposed sites.
4. An explanation as to why a higher priority site was not selected (See Section III A).

5. Justification for why a co-location that meets Administrative Approval criteria is impractical and includes:
 - a. Demonstrations of the Applicant's meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the County.
 - b. An inventory of existing towers and other functionally suitable structures within four (4) miles of the location of any proposed new tower and a report that demonstrates conclusively why an existing tower or other suitable structure cannot be used.
6. Justification of the total height of any tower, facility and/or antenna, and the basis therefore.
7. Documentation showing that the tower owner has a signed agreement committing a commercial service provider to occupy space on the tower at the time of completion of construction on the new Wireless Telecommunications Facility.
8. The number, type, and design of the tower(s) and antenna(e) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users.
9. The make(s), model(s), and manufacturer(s) of the tower and antenna(e).
10. A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color, and lighting.
11. The frequency, modulation, and class of service of radio or other transmitting equipment.
12. The actual intended transmission and the maximum effective radiated power of the antenna(e).
13. The direction of maximum lobes and associated radiation of the antenna(e).
14. Certification that the Non-Ionizing Electromagnetic Radiation (NIER) levels at the proposed site are within the threshold levels adopted by the FCC. Calculations and measurements of NIER will not be required for any new source of NIER if it is determined by FCC definition to be categorically excluded from having to determine compliance with RF exposure standards. If the NIER emissions from the new source, when added to existing ambient NIER sources, would exceed the levels set forth in the above standard, then calculations and measurements will be required.
15. Certification that the proposed antenna(e) will not cause interference with other telecommunications devices.
16. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facility.
17. Certification that a topographic and geomorphologic study and analysis has been conducted, and by taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facility on the proposed site.
18. A copy of each of the policies or certificates representing insurance in the required amounts.
19. Certification that the Wireless Telecommunication Facility, foundation, and attachments are designed and will be constructed to meet all laws and requirements for loads, including wind and ice loads.
20. Certification that the Wireless Telecommunications Facility will be effectively grounded so as to protect persons and property and installed with appropriate surge protectors.
21. Certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.

E. Visual Impact Assessment Requirements:

The need for and nature of a visual impact assessment shall be determined at the pre-application meeting. The assessment may include:

1. A "Zone of Visibility Map" which may be provided in order to determine locations from which the tower may be seen.
2. Pictorial representations (which may include visual simulations) of "before and after" views from key viewpoints both inside and outside of the County as may be appropriate, including but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers, or residents. Guidance may be provided, concerning the appropriate key viewpoints at the pre-application meeting.
3. An assessment of the visual impact of the tower base, guy wires, and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
4. The Applicant may, prior to the public hearing on the application, be required to hold a "balloon test" as part of the required materials constituting a completed application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a six (6) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the County. The Applicant shall inform the County, in writing, of the dates and times of the test, at least fourteen (14) days in advance. Notice of the balloon test shall be posted in a prominent place on the property (determined at the pre-application meeting) at least ten (10) days prior to the balloon test. The balloon test shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but to prevent delays in the processing of the application, in case of poor weather on the initial date, the secondary date may be on a weekday.

Section II. Location of Wireless Telecommunications Facilities.

Wireless Telecommunications Facilities may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a Wireless Telecommunications Facility on such lot. Wireless Telecommunications Facilities that are constructed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

A. Location Priority

Wireless Telecommunications Facilities shall be located, sited, and erected in accordance with the following priorities, one (1) being the highest priority and five (5) being the lowest priority

1. On existing towers or other structures meeting the criteria for Administrative Approval;
2. On County-owned properties;
3. On properties in areas zoned for Light or Heavy Industrial use (Zoned HI and LI);
4. On properties in areas zoned for Commercial use (Zoned HC and OI); or
5. On properties in areas zoned for Residential Agricultural use (Zoned RA).

B. Shared Use

The application shall contain a commitment to construct the tower to accommodate at least five (5) additional commercial applications or service providers, assuming antenna arrays equivalent to those of the Applicant, and located as close to the Applicant's antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared use of the tower is not technologically feasible, based upon:

1. The foreseeable number of FCC licenses available for the area;
2. The type of Wireless Telecommunications Facility site and structure proposed;
3. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;

4. Available space on existing and approved towers.

C. Minimum Lot Size or Leased Area

If the applicant is the owner of the property, the minimum lot size or leased area must equal the Fall Zone or the minimum lot size of the underlying zoning district, whichever is greater.

D. Setbacks

1. The fall zone is defined as the height of the tower measured in feet plus ten percent (10%). At minimum, the fall zone is equal to required setbacks from all parcel boundaries and protected facilities.
2. Towers must be set back a distance equal to the Fall Zone of the tower from any residential structure; public and/or private road rights-of-way (excluding the tower access road); property lines; and/or recorded easements or rights-of-way. Guys and accessory facility support structures must satisfy the underlying zoning district setback requirements.
3. Monopole towers may have a 20% reduction of the required setbacks from the 110% total. In no case shall the setbacks be less than those required for the underlying zoning district. In no case shall a guyed tower be eligible for a reduction of the required 110% fall zone.
4. If a tower is proposed to have engineered features to reduce its fall equal to a number less than the total tower height plus 10%, the applicant must submit a full set of engineering plans and certifications for review. County staff will forward the plans to a third-party consulting engineer for review and confirmation of the engineered fall zone. For example, a 200-foot tower that is to be engineered with a 100-foot fall zone, if approved, will have a total fall zone equal to 110 feet.

E. Site Design Requirements

1. *Landscaping.* Wireless Telecommunications Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Wireless Telecommunications Facility from adjacent property. ~~The buffer shall consist of a Type I landscape buffer, either existing or planted, outside the perimeter of the compound as described in Chapter II Article XVII, unless the visual impact of the facility would be minimal as determined by the Planning Department.~~ The buffer shall be installed according to development standards as described in Article V of the Rockingham County Unified Development Ordinance and approved by the Community Development Director. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Existing mature vegetation can be included in landscape buffer plans.
2. *Access.* ~~An adequate turnaround and parking space(s) shall be included within the area leased or owned by the applicant upon which the Wireless Telecommunication Facility is sited.~~ The applicant shall provide for and maintain emergency and service vehicle access in accordance with standards set forth by the Department of the County Fire Marshal and the N.C. Department of Transportation. ~~private road standards set forth in Chapter 3, Article 6, Section 5 of the UDO.~~ Road construction shall, at all times, minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. Maximum use of existing roads, whether public or private, shall be made to the extent possible. Any disturbance of land in excess of one (1) acre in aggregate will require approval of an erosion control plan issued by the N.C. Department of Environmental Quality.
3. *Lighting.* Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by law. The applicant shall provide an FAA letter or TOWAIR report to determine whether the tower or existing structure intended to support Wireless Facilities requires lighting under FAA Regulations ~~Part 77.~~ If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting having as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations that adheres to Dark Sky standards as closely as possible.

4. *Appearance.* Both the Wireless Telecommunications Facility and any ~~and all accessory or associated~~ facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the County. As appropriate, towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance and any conditions of the Special Use Permit.
5. *Fencing.* The Wireless Telecommunications Tower base, guy wires, and all accessory ~~facility support structures~~ **facilities** shall be ~~located behind~~ **enclosed by an** eight (8) foot fence(s) and secured to prevent unauthorized access.

F. Modification of Site.

The holder of a Special Use Permit shall notify the Planning Department of any proposed modification of a Wireless Telecommunication Facility. The holder shall apply for a new Special Use Permit or a Site Plan Amendment, if applicable, to modify, relocate, or rebuild a Wireless Telecommunications Facility prior to such action. Failure to do so will constitute grounds for revoking the Special Use Permit. In the case of modification and/or rebuilding, a Special Use site plan amendment may be required. Relocation will require a Special Use Permit for a new Wireless Telecommunications Facility.

Section III. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than ~~four (4) square feet~~ **ten (10) square feet**, to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall:

1. contain the name(s) of the owner(s) and operator(s) of the **facility, accessory facilities**, antenna(e) and emergency phone number(s);
2. be placed on the equipment shelter or cabinet of the Applicant;
- ~~3. be visible from the access point of the site; and identify the equipment owner of the shelter or cabinet.~~
4. The sign shall not be lighted, unless lighting is required by applicable law, rule, or regulation. No other signage, including advertising, shall be permitted, unless required by applicable law, rule, or regulation.

Section IV. Application Fee

The application fee(s) for new towers and Special Use Permits may be found on the fee schedule for the County. Modifications to the Wireless Telecommunications Facility, except as listed in Section II(f), will require payment of Special Use Permit and new tower fees.

Section V. Public Hearing Requirements

All completed applications for Special Use Permits for Wireless Telecommunications Facilities will be ~~subject to a public hearing~~ **require a public quasi-judicial hearing** held before the Planning Board. The County, at any stage prior to issuing a Special Use Permit, may require such additional information as is deemed reasonable and necessary.

Section VI. Performance and Tower Removal Security

~~The applicant shall submit to the Community Development Director a decommissioning plan for the proposed tower.~~ The Applicant and the owner of record of any proposed Wireless Telecommunications Facility property site shall, ~~at its cost and expense, be required, jointly if appropriate, to execute and file with the County a bond or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least~~ **shall be required (jointly if appropriate) to execute**

and file a bond or other type of financial guarantee with the Community Development Director and the County Attorney for 125% of the total estimated cost of decommissioning the subject tower at the time of application. ~~of at least \$30,000~~ The financial guarantee shall have such sureties as are deemed sufficient by the County Attorney to assure the faithful performance of the terms and conditions of this Special Use Permit. ~~The full amount of the bond or security~~ The financial guarantee shall remain in full force and effect throughout the term of the Special Use Permit as long as the tower remains operational. ~~and~~ If the Special Use Permit is revoked, ~~the tower becomes inoperable, or a tower is decommissioned~~ the bond or security shall remain in full force and effect until the tower has been removed and the site restored ~~to the satisfaction of the Planning Department~~ as closely as possible to its original condition. ~~In any event the security shall remain in effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.~~ If the tower owner defaults on payment or abandonment ~~abandons a tower located~~ on County owned or controlled property, the County, at its option, can take control and ownership of the facility.

Section VII. Annual NIER Certification.

The holder of the Special Use Permit shall, ~~annually from the date of Planning Board approval,~~ certify by letter ~~and a copy of the report from the carrier or government agency to the County~~ that NIER levels at the site are within the threshold levels adopted by the FCC. This letter shall be submitted annually from the date of approval of the Special Use Permit. The letter shall be accompanied by any report necessary from the carrier or tower owner to certify the letter.

Section VIII. Liability Insurance.

1. A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, ~~for the duration of the Special Use Permit, and,~~ as long as the tower remains operational. If the Special Use Permit is revoked, the holder of the Special Use Permit shall maintain the stated coverage until the tower has been removed and the site restored ~~to the satisfaction of the Planning Department~~ as closely as possible to its original condition, in amounts as set forth below:
 - a. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - b. ~~Automobile Coverage: \$100,000 per occurrence/ \$300,000 aggregate;~~
 - c. Workers Compensation and Disability equal to statutory amounts.
2. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
3. The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

Section IX. Removal of Wireless Telecommunications Facilities.

1. ~~Notice shall be provided to the Planning Director, or his designees, within thirty days, when any Wireless Telecommunications tower is no longer used for transmission or relay purposes.~~ When a cell tower is to be decommissioned or becomes in operable, the tower owner shall notify the Community Development Director within 30 days of the date of such.
2. The County shall require the removal of Wireless Telecommunications Facilities when:
 - a. Wireless Telecommunications Facilities with a Special Use Permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a three hundred-sixty five (365) day period, except for periods caused by Acts of God, in which case,

repair, or removal shall commence within 90 days and be completed within a reasonable time.

- b. A permitted Wireless Telecommunications Facility falls into such a state of disrepair that it creates a health or safety hazard.
3. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made ~~to remove the~~ **towards removing any** Wireless Telecommunications Facilities within ninety (90) days after the holder of the Special Use Permit has received notice, then the County may order officials or representatives of the County (or hired persons) to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder **according to the terms of the aforementioned financial guarantee plus any additional incurred expenses.**

Section X. Variance Requests.

Applicants may request a waiver of provisions of this Special Use Permit as a variance which will be subject to requirements specified in ~~Chapter II Article XIV.~~ **The Rockingham County Unified Development Ordinance, Article III, Section 33.08, including a required quasi-judicial hearing carried out by the Board of Adjustment.**