

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



**BOARD OF COMMISSIONERS CHAMBERS  
ROCKINGHAM COUNTY GOVERNMENTAL CENTER  
WENTWORTH, NC  
FEBRUARY 12, 2024 AT 6:30 PM**

MEMBERS PRESENT: Paul Ksieniewicz, Chairperson  
Julie Talbert, Vice Chairperson  
Bernie Parnell  
Keith Duncan  
Jeff Kallam  
Quint Haley  
John Roberts (alternate)  
Cory Scott

MEMBERS ABSENT: Daniel Woods (alternate)

STAFF PRESENT: Clyde Albright, Rockingham County Attorney  
Hiram Marziano, Community Development Director  
Lynn Cochran, Senior Planner  
Victoria Pedigo, Planner  
Bricen Wall, Code Enforcement Officer

I. CALL TO ORDER

Chairperson Ksieniewicz called to order 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

Chairperson Ksieniewicz confirmed a quorum for conducting business. Mrs. Talbert motioned to adopt the agenda. Mr. Scott seconded. The board voted unanimously to adopt the motion (7-0).

IV. APPROVAL OF MINUTES

January 8, 2024 – Mrs. Talbert motioned to adopt the minutes as written, and Mr. Parnell seconded. The board voted unanimously to adopt. (7-0)

V. CONVENE BOARD OF ADJUSTMENT & REVIEW OF PROCEDURES FOR EVIDENTIARY  
HEARINGS

Mr. Ksieniewicz convened the Board of Adjustment and reviewed the procedures for quasi-judicial evidentiary hearings. No board member indicated any conflict of interest or site visit to disclose.

#### VI. MATTERS BEFORE THE BOARD OF ADJUSTMENT

- a. Appeal 2023-17 Pettitt: An appeal has been filed regarding the revocation of Zoning Permit ZMISC2309-001. The original permit was approved by Staff September 15, 2023 but was revoked by the Community Development director September 21, 2023, at the direction of the County Attorney.

*For the minutes of this hearing, including discussion, motions and voting, please refer to the transcript included herein.*

#### VII. CONVENE THE PLANNING BOARD & REVIEW OF PROCEDURES FOR LEGISLATIVE HEARINGS

**Mr. Scott motioned to close the Board of Adjustment and convene the Planning Board. Mrs. Talbert seconded. The board voted unanimously to close the Board of Adjustment and convene the Planning Board (7-0).**

The Planning Board was convened at 7:36 pm. Mr. Ksieniewicz reviewed the procedures for legislative hearings.

#### VIII. MATTERS BEFORE THE PLANNING BOARD

- a. Zoning Map Amendment 2024-03: a zoning map amendment has been requested for a small triangular portion the parcel denoted by Rockingham County Tax PIN 8948-00-07-7325, located on US Highway 29 at Mayfield Loop adjacent to 9900 US Highway 29 Business in the Ruffin Township. The request is to rezone the specified parcel from Residential Agricultural (RA) to Highway Commercial (HC).

Mr. Cochran presented this case for rezoning and concluded with staff recommendation of approval for this case. Mr. Haley and Mr. Scott had some questions about land access and ownership. Mrs. Talbert asked about proximity to residential structures. There were no speakers.

**Mrs. Talbert moved 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 this motion. The board voted unanimously to recommend approval of this rezoning (7-0).**

The Board has reviewed **Case 2024-03**, 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. However, this parcel abuts a major US Highway, which is 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. This parcel measures approximately 0.8 acres (+/-) 35,000 square feet. This 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. However, this parcel directly abuts a major US Highway and another commercially zoned property, which is atypical of the land class.
- C. The benefits and detriments resulting from the zoning action for the owner of the rezoning, the neighbors, and the surrounding community. Reasonableness & Consistency. The larger area surrounding this parcel is predominantly zoned for residential uses. Given that this property abuts highway rights of way on two borders, potential detriments to residentially zoned properties in the larger area will be attenuated.
- D. The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness. As noted, this property abuts only one other parcel, which is zoned Highway Commercial (HC). This rezoning request will allow all uses in the Highway Commercial (HC) zoning district.
  - b. Zoning Map Amendment 2024-04: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 7922-03-20-2094, located at 147 Sylvania Rd in the Huntsville Township. The request is to rezone the specified parcel from Residential Agricultural (RA) to Light Industrial (LI).

Mr. Cochran presented this case for rezoning and concluded with staff recommendation of approval for this case. There were no questions for Mr. Cochran nor speakers.

**Mr. Ksieniewicz asked if there was any further discussion. Mr. Scott moved 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. Kallam seconded this motion. The board voted unanimously to recommend approval of this rezoning (7-0).**

The Board has reviewed Case 2024-04, rezoning to Light Industrial (LI). 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 primarily in the G-3 Mixed Use Centers & Corridors Land Class, according to the Rockingham County Comprehensive Land Use Plan, characterized as the county’s strategic growth area. (p.55)
- B. Light Industrial zoning is specifically indicated as appropriate in the G-3 Land Class. (p. 55)

2. The proposed action is found to be reasonable because:

- A. The size of the tracts in question. Reasonableness. This parcel measures (+/-) 1.39 acres. This exceeds the minimum lot size of 20,000 square feet in the Highway Commercial (HC) zoning district and is typical of the area.
  - B. The compatibility of the zoning action with the comprehensive plan. Consistency. This zoning request is directly supported by the intents and descriptions of G-3 Land Class in the Rockingham County Land Use Plan and future land use map.
  - C. The benefits and detriments resulting from the zoning action for the owner of the property to be rezoned, the neighbors, and the surrounding community. Reasonableness & Consistency. This property directly abuts others that are zoned Light Industrial (LI) and Residential Agricultural (RA). Rezoning to Light Industrial (LI) would be consistent with zoning patterns in the area.
  - D. The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness. Although all uses in the Light Industrial (LI) zoning district would be permitted here, this property is currently occupied by the South Rockingham Corporate Park water tower. Public Utilities are permitted in this zoning district. The adjacent property to the south is being developed for a new Stokesdale fire and emergency services station.
- c. Zoning Map Amendment 2024-05: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 7975-03-01-1387, located at 1060 Vernon Rd in the Wentworth Township. The request is to rezone the specified parcel from Residential Protected (RP) to Residential Agricultural (RA).

Mr. Cochran presented this case for rezoning and concluded with staff recommendation of approval this case. Mr. Cochran also mentioned that staff had received multiple phone calls in opposition.

Applicant Daniel Leonard, of 1131 Freeway Dr, stated his wishes to rezone. The board did not have any questions for the applicant.

James McGinnis II, of 1010 Vernon Rd, spoke in opposition. Mrs. Talbert asked the applicant where his home was in proximity to the subject parcel. Mr. Scott was curious about his reasons for opposition.

James McGinnis III, of 1040 Vernon Rd, spoke in opposition as well. There was some discussion with Mrs. Talbert about home types within the area, and Mr. Parnell had a question about the history of homes in this vicinity.

Jeff French, of 1101 Vernon Rd, spoke in opposition. He was concerned with the nearby family farm, property and home values, and other reasons previously mentioned by the previous two speakers. Mr. Parnell asked for clarification about Mr. French's property location. Mrs. Talbert wanted to know about Mr. French's visibility of the neighborhood from his home, and she asked if anyone lives at the family farm currently. Mr. Haley asked if the property was recently for sale.

In his rebuttal, Mr. Leonard discussed variations in building codes, home styles, and appraisal values.

**Mr. Ksieniewicz asked if there was any further discussion. Mrs. Talbert discussed manufactured home suitability, and Mr. Ksieniewicz asked about setbacks. Mr. Parnell had additional questions about neighboring homes and manufactured home types, and there was additional discussion about buffering and contours. Mr. Haley moved 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." Mrs. Talbert seconded this motion. The board voted to recommend approval of this rezoning (5-2), with Mr. Kallam and Mr. Duncan dissenting.**

The Board has reviewed Case 2024-05, rezoning to Residential Agricultural (RA). 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, characterized by a lack of public water or sewer services and low-density residential development, agricultural uses and open lands. (p. 46-47)
- B. The Rockingham County Land Use Plan suggests that areas in the 0-2 Land Class should generally be zoned Residential Agricultural (RA). (p. 47)

2. The proposed action is found to be reasonable because:

- A. The size of the tract in question. Reasonableness. The parcel to be rezoned measures (+/-) 1.0 acre, which exceeds the minimum necessary size of 35,000 square feet in the Residential Agricultural (RA) zoning district. The size of the property is not uncommon for the area.
- B. The compatibility of the zoning action with the comprehensive plan. Consistency. A zoning change to Residential Agricultural (RA) is supported by The Rockingham County Land Use Plan and future land use map in the 0-2 Land Class. The Land Use Plan specifically indicates Residential Agricultural (RA) zoning as the most commonly indicated in 0-2 Land Class areas.
- C. The benefits and detriments resulting from the zoning action for the owner of the rezoning, the neighbors, and the surrounding community. Reasonableness. This rezoning request will allow all uses in the Residential Agricultural (RA) Zoning District. The vast majority of properties in this

area are zoned for the same uses. Impacts among adjacent parcels would arguably be negligible. There are several properties zoned Residential Protected (RP) located within the nearby Wentworth town limits, some of which are occupied by legally nonconforming manufactured homes.

D. The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness & Consistency. The uses allowed in the Residential Agricultural (RA) Zoning District are compatible with those that currently exist in the area, which include single family residences, manufactured homes, agricultural uses and open lands.

## XI. OTHER BUSINESS:

### a. New Business:

#### i. Election of Officers 2024

- a. Mr. Ksieniewicz volunteered to continue on as Chairman. **Mr. Scott motioned for Mr. Ksieniewicz to continue his duties as Chairman. Mr. Haley seconded. The board voted unanimously to recommend that Mr. Ksieniewicz continue as Chairman of the Planning Board (7-0).**

Mrs. Talbert volunteered to continue on as Vice-Chairman. **Mr. Duncan motioned for Mrs. Talbert to continue her duties as Vice-Chairman. Mr. Scott seconded. The board voted unanimously to recommend that Mrs. Talbert continue as Vice-Chairman of the Planning Board (7-0).**

#### ii. Review of Revised Draft Planning Board Bylaws

- a. Mr. Cochran stated that the only change was language regarding terms included in the text amendment. Mrs. Talbert asked where the text was located, and Mr. Scott inquired about the voting. The board engaged in some related discussion, and Mr. Ksieniewicz had questions regarding quorum. **Mrs. Talbert made a motion to approve the revised bylaws. Mr. Parnell seconded this motion. The board voted unanimously to approve the revised edition of the bylaws (7-0).**

### b. Old Business:

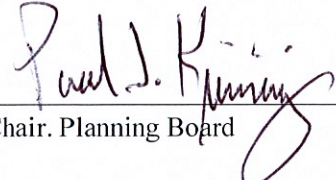
#### i. Approval of Board Order 2023-20 Myers Appeal

**Mrs. Talbert made a motion to approve the board determination for the Myers appeal. Mr. Scott seconded this motion. The board voted unanimously to approve the board determination for the Myers appeal (7-0).**

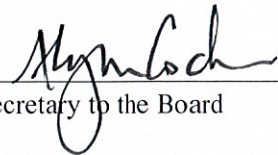
X. ADJOURN

As there was no additional business or discussion, Mrs. Talbert motioned to adjourn the meeting. Mr. Haley seconded. The board voted unanimously to adjourn at 8:35 pm (7-0).

Minutes Read and Approved

  
Chair, Planning Board      3/11/24  
Date

Respectfully Submitted

  
Secretary to the Board      3/11/24  
Date

STATE OF NORTH CAROLINA  
COUNTY OF ROCKINGHAM

BEFORE THE BOARD OF  
ADJUSTMENT

IN RE: )  
 )  
BRANDON PETTITT, ) CASE NO. 2023-17  
 )  
APPELLANT. )

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**TRANSCRIPT OF HEARING ON CONSIDERATION OF  
APPEAL FROM BRANDON PETTITT  
BEFORE THE BOARD OF ADJUSTMENT**

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The above-entitled matter came on for hearing before the Rockingham County Board of Adjustment on the 12th day of February, 2024, in the County Commissioners Chambers, Rockingham County Governmental Center, 371 North Carolina Highway 65, Wentworth, North Carolina.



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A P P E A R A N C E S

BOARD OF ADJUSTMENT MEMBERS:

Paul J. Ksieniewicz, Chair

Keith Duncan

Quint Haley

Jeff Kallam

Bernie Parnell

Cory Scott

Julie Talbert

STAFF MEMBERS:

A. Lynn Cochran, Senior Planner

Hiram Marziano, Community Development Director

Victoria Pedigo, Planner

Bricen Wall, Code Enforcement Officer

APPEARING ON BEHALF OF THE BOARD OF ADJUSTMENT:

Clyde B. Albright, County Attorney

Rockingham County Governmental Center

371 North Carolina Highway 65

Reidsville, North Carolina 27320

336-342-8347

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A P P E A R A N C E S

(CONTINUING)

APPEARING ON BEHALF OF APPELLANT BRANDON PETTITT:

Trapp Law, PLLC, by  
Jonathan Trapp, Esq.  
8601 Six Forks Road, Suite 400  
Raleigh, North Carolina 27615  
919-225-1337

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Reporter's Note: Any quoted material is reproduced as read  
or quoted by the speaker.

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1 Thereupon, the proceeding began at 6:32 p.m.:

2 THE CHAIR: At this time, we're going to  
3 convene as the Board of Adjustment. This is a dual  
4 meeting. This is a small county with a board that  
5 serves two functions. One is the Planning Board and  
6 the other is the Board of Adjustment.

7 This hearing is a quasi-judicial  
8 evidentiary hearing. That means it is like a court  
9 hearing. State law set specific procedures and rules  
10 concerning how this board must make its decision.  
11 These rules are different from other types of land use  
12 decisions like rezoning cases.

13 The Board's discretion is limited. The  
14 Board must base its decision upon competent, relevant,  
15 and substantial evidence in the record. A quasi-  
16 judicial decision is not a popularity contest. It is  
17 a decision constrained by the standards in the  
18 ordinance and based on the facts presented.

19 If you will be speaking as a witness,  
20 please focus on the facts and standards, not personal  
21 preference or opinion. Participation is limited.  
22 This meeting is open to the public. Everyone is  
23 welcome to watch. Parties with standing have rights  
24 to participate fully. Parties may present evidence,  
25 call witnesses, and make legal arguments.

1 Parties are limited to the applicant,  
2 the local government, and individuals who will show  
3 that it will suffer special damages. Other  
4 individuals may serve as witnesses when called by the  
5 board. General witness testimony is limited to facts,  
6 not opinions.

7 For certain topics, this Board needs to  
8 hear opinion testimony from expert witnesses. These  
9 topics include projections about impacts on property  
10 values and projections about impacts of increased  
11 traffic. Individuals providing expert opinion must be  
12 qualified as experts and provide the factual evidence  
13 upon which they base their expert opinion.

14 Witnesses must swear or affirm their  
15 testimony. At this time, we will administer the oath  
16 to all individuals who intend to provide witness  
17 testimony. All people who are going to be serving as  
18 witnesses for this first case, please come forward to  
19 be sworn.

20 **(Multiple prospective witnesses were**  
21 **duly sworn.)**

22 MR. TRAPP: And I don't know, as an  
23 attorney, if I'm really serving as a witness, but---

24 THE CHAIR: Are you going to give  
25 testimony?

1 MR. TRAPP: I'm probably going to deal  
2 with---

3 THE CHAIR: If you're going to give  
4 testimony, you have to be sworn in.

5 MR. TRAPP: All right. Then, I do.

6 THE CHAIR: Okay. Sir, may I ask your  
7 name and---

8 MR. RICKMAN: Jonathan Rickman.

9 THE CHAIR: All right. And how are you  
10 affiliated with this case? We're trying to determine  
11 whether or not you have standing.

12 MR. RICKMAN: I'm the technician that  
13 installed it.

14 THE CHAIR: Oh, okay. Thank you very  
15 much.

16 MR. TRAPP: Yes, sir.

17 THE CHAIR: At this time, we'll call  
18 upon staff to introduce the facts of the case.

19 MR. COCHRAN: Good evening, everyone.  
20 Thank you, Mr. Chairman, for getting us ready. I just  
21 realized I had forgotten to load the presentation. So  
22 I'll do it now.

23 Okay. Everyone, can you see okay?

24 THE CHAIR: Yes.

25 MR. COCHRAN: The case number is

1 actually 2023-17. It's technically an appeal of a  
2 revocation of a zoning permit identified on the bottom  
3 here regarding the property located at 3998 US Highway  
4 220, Madison. The revocation stands as a decisive  
5 action of the Community Development Director for  
6 technical purposes.

7 Just a quick overview of where this lot  
8 is located here on US Highway 220 just outside of  
9 Madison. I highlighted the parcel so that you can see  
10 sort of the context of the zoning. This is the  
11 parcel. The structure housing, I guess, the subject  
12 of the appeal is 3998 there in the center. So if you  
13 need to look at those maps additionally, we can.

14 This is an appeal in the nature of  
15 certiorari. The relevant sections of the UDO  
16 32.03(a)(2), use in violation of zoning ordinance as  
17 interpreted by the County Attorney.

18 In your packet, you'll see quite a bit  
19 of information regarding enabling statutes,  
20 administrative and legal provisions, appeals  
21 procedures, administrative decisions, the definition,  
22 and the governing statute for an appeal's time frame.  
23 This is something that you've seen before whenever  
24 we've had an appeal. It lays out the groundwork for  
25 how these decisions work.

1           In summary, we received an anonymous  
2 complaint about the potential of unpermitted  
3 electronic video gaming at the location. On  
4 Wednesday, September 5th, Code Enforcement Officer  
5 Bricen Wall -- I forgot to include that there --  
6 visited the subject location. He reported to Planning  
7 staff that he witnessed what he thought were gaming  
8 machines and instructed the site manager to contact  
9 Planning to obtain a zoning permit.

10           The same day the applicant, Mr. Brandon  
11 Pettitt, visited the permitting office and submitted  
12 an application and materials for zoning approval for  
13 the electronic gaming as noted in the UDO. And if you  
14 recall, this was very shortly after last year's text  
15 amendment.

16           This included presentation of materials  
17 that stated -- you'll see this in your packet in your  
18 exhibits -- that these were nonentertaining displays,  
19 and with the very limited knowledge that the Community  
20 Director and I have of these sorts of gaming machines,  
21 given the change in the UDO, we issued the permit.

22           On review, the County Attorney  
23 determined that the permit was issued in error, and a  
24 revocation was delivered to the applicant. I note the  
25 general statutes here. We issued a specific letter to



1 that effect. On September 22nd, 2023, the applicant,  
2 on behalf of the property owner, submitted a request  
3 for appeal of the permit revocation.

4 That initial permit, the application  
5 materials, the notice of revocation, legal opinion of  
6 the County Attorney, and the relevant statutes are  
7 included in this packet.

8 At this time, I will cease and allow the  
9 appellant and his legal counsel to address the board.  
10 And as questions come up, we'll be happy to answer  
11 them. Thank you.

12 THE CHAIR: Okay. Before we do that, I  
13 suggest we admit all these documents as evidence --  
14 exhibits. Clyde, do we need a motion to do that? Do  
15 we need a motion to admit the documents in the packet  
16 as exhibits?

17 MR. ALBRIGHT: That would be wise to do  
18 that.

19 MR. HALEY: I make a motion we admit  
20 these as exhibits -- the documents enclosed.

21 MR. SCOTT: I second that motion.

22 THE CHAIR: A motion has been made and  
23 seconded to admit the documents in our packet as  
24 exhibits -- evidentiary exhibits.

25 All those in favor, please signify by

1 raising your right hand.

2 (All board members responded by raising  
3 their right hands.)

4 THE CHAIR: Those opposed like sign.

5 (No board members responded.)

6 THE CHAIR: There's no opposition. So  
7 the documents are admitted.

8 And I will call upon the appellant.

9 That would be Mr. Trapp?

10 MR. TRAPP: Yes, sir. And Mr. Rickman.  
11 You have Mr. Rickman down as well, correct?

12 THE CHAIR: Yes, I do.

13 MR. TRAPP: I think what I'll do is I'll  
14 have Mr. Rickman go first, and then I'll go second if  
15 that's all right.

16 THE CHAIR: Sure. You have the floor.

17 MR. RICKMAN: So the way the system is  
18 set up, they're technically selling online art, and  
19 then people can play the games as -- as a promotional.  
20 They're not actually purchasing time for the game.  
21 They're purchasing online art -- digital visual art  
22 that they can scan to their cell phone, and then the  
23 games are promotional.

24 MR. HALEY: Are you saying art?

25 MR. RICKMAN: Uh-huh. Yes, sir.

1 MR. HALEY: Online art?

2 MR. RICKMAN: Online art.

3 MR. TRAPP: I think the actual term for  
4 what these individuals are purchasing is called an  
5 NFT, non-fungible token, and it's the idea that  
6 individuals are buying things that are in -- we'll say  
7 in the cloud that---

8 THE CHAIR: They're on Blockchain.

9 MR. TRAPP: It's on Blockchain at some  
10 point, but then they gain access to it, and then they  
11 can either maintain or control that, they can trade  
12 it, or they can resell it.

13 Now when I had a chance to read the  
14 letter that was sent to the business after they were  
15 approved for a permit, it said that there was a recent  
16 law or changes in the law, and based on those recent  
17 changes in the law, that the permit that they were  
18 originally granted was revoked.

19 And unlike the *Gift Surplus* case, which  
20 is the case that I assume he was referring to, this  
21 business is not based on the playing of these games.  
22 An individual like yourself, if you were to go in and  
23 purchase an NFT, could walk out with that NFT, could  
24 trade it five minutes later, and never once touch any  
25 of these games.

1                   The case law and the issues in the  
2 legislature have been revolving around whether or not  
3 playing these games for money is lawful. The game  
4 itself--- And it varies. In this case, this game is  
5 called Stampede. It's the only game that attaches to  
6 these non-fungible tokens that I'm aware of at least  
7 at this time. ---was not part of that lawsuit, but  
8 the game is completely secondary.

9                   It is -- it is what people do literally  
10 for amusement, and that's it. It has nothing to do  
11 with money or prizes or redemption whatsoever, and  
12 what this business realized is that people in the  
13 community enjoy playing these games regardless if they  
14 win or if they lose. If they get 100 points, that has  
15 nothing to do with the ultimate outcome at all. It  
16 has to do with the NFT.

17                   So a person would walk into a place,  
18 they would pay for the NFT, and they may get one, they  
19 may get four, they may get five, different shapes and  
20 sizes. Then it's on their Blockchain, and after that  
21 point, they can either go play these games or they can  
22 leave.

23                   And I think that there may have been  
24 a -- I don't know if misunderstanding is the word, but  
25 I don't know if anyone ever actually came in and

1 viewed how the games were being used as a secondary  
2 source rather than in most of these cases, it was the  
3 only source. It was the only means of not only  
4 entertainment but of transfer of funds or money or  
5 prizes.

6 And I think that's maybe where some of  
7 the disconnect has occurred. I was thinking about  
8 this on my way here. I don't know if any of you have  
9 ever shopped or eaten at a place like Five Guys. It's  
10 a hamburger place, and Five Guys originated in  
11 Alexandria, Virginia.

12 And I know the gentleman who started the  
13 business, and when they started it, they wanted to  
14 have this place where people bought hamburgers --  
15 fresh hamburgers that they would make right in front  
16 of you, and they said, "Well, why don't we -- while we  
17 have people wait -- eat peanuts while they wait for  
18 their hamburger." You never once paid for the  
19 peanuts, but that's just like this added enjoyment.

20 Well, in 1998 in Virginia, there was an  
21 issue with peanuts being recalled, and those  
22 individuals were not allowed to give people peanuts  
23 while they waited. And there were a lot of  
24 complaints, and eventually, they were allowed to come  
25 back. Even though they weren't paying for these

1 peanuts, it was just one of these things people had  
2 grown to enjoy and appreciate.

3           Similarly here, even though individuals  
4 don't pay to play these games, it's still something  
5 that they enjoy doing, that they want to kind of come  
6 and sometimes even have camaraderie when they're  
7 playing with each other and talking about what's going  
8 on in their day.

9           I've had people say, "Well, why don't we  
10 have them do something different? Why don't they --  
11 instead of playing games, why don't they work out or  
12 why don't they do something else?" That can all  
13 happen. The NFT is what is being bought, sold, and  
14 traded. It is not the game.

15           And when I looked at the legal opinion  
16 and when I looked at the permit that was given, the  
17 permit allowed the business to operate games, and I  
18 think the big rub here is how is the game being  
19 operated. And if -- if a deeper inspection was done,  
20 I think that there would be room for approval because  
21 nothing that this store is doing that I can see has  
22 violated any North Carolina law whatsoever.

23           Now I did bring some paperwork, if  
24 anyone doesn't know what an NFT is, to explain what it  
25 is. The North Carolina School of Government has

1 written a short article to kind of explain how this is  
2 a new area of law and that even the federal government  
3 is still trying to figure out how they're going to  
4 supervise it, almost like artificial -- artificial  
5 intelligence and how they're going to deal with that  
6 in the way that we handle our daily lives.

7 But at this juncture when I'm looking  
8 at -- at least the revocation and the basis of the  
9 revocation, the basis of the revocation would be  
10 because there is a -- if there's something that's  
11 contrary to law -- state law or federal law that  
12 would, in turn, prevent this entity from providing a  
13 permit, which makes perfect sense -- you couldn't  
14 provide a permit for a business to manufacture  
15 fentanyl, right, or some illegal drug. You couldn't  
16 provide a permit in order to promote prostitution or  
17 something else that is blatantly or per se illegal.

18 I think this instance -- the game  
19 itself, which you can find in a children's arcade, is  
20 not in itself illegal. I think the real issue is how  
21 is that game being operated, and in this instance, the  
22 game is being operated as it's supposed to, as a  
23 nonentertaining display or as something that is not  
24 dispensing money or dispensing prizes. It is simply  
25 for entertainment purposes, and that's it.

1                   And I think if that was clearly  
2                   communicated maybe there could have been a different  
3                   understanding or outcome in reference to this permit.

4                   THE CHAIR: How does one grow the NFT?  
5                   If I walk in and buy one NFT, what do I get for that?

6                   MR. TRAPP: I think there might be --  
7                   you might have asked him two questions. So when you  
8                   go and you get the NFT and it goes onto your  
9                   Blockchain, then you can keep it, maintain it; you can  
10                  trade it with another individual; or you can resell it  
11                  at any given time.

12                  THE CHAIR: My question is, what do I  
13                  get for my NFT? Do I get art?

14                  MR. RICKMAN: Yes, sir.

15                  MR. TRAPP: Yes. Yes, sir.

16                  MR. RICKMAN: You actually get art.

17                  THE CHAIR: What if I don't like the  
18                  picture?

19                  MR. TRAPP: Well, you can get an  
20                  additional NFT if you don't like the one that you have  
21                  or you can trade it, but that's -- that non-fungible  
22                  token that you purchase is yours and you can do with  
23                  it as you please similar to if you were to buy any  
24                  other product, whether you return it, you exchange it,  
25                  you transfer it, or you hold it to keep for yourself.



1 MS. TALBERT: So if I buy an NFT and  
2 I -- is it chosen for me at random or do I choose it?

3 MR. TRAPP: It's chosen at random and  
4 that---

5 MS. TALBERT: It is chosen at random.  
6 So I don't -- I can't look at it to see what value I  
7 might think it has?

8 MR. TRAPP: No. And you also have to  
9 realize, just like some works of art or anything else,  
10 you and I don't necessarily determine its value.

11 MS. TALBERT: Yes, but we know a Julie  
12 Talbert from a Picasso.

13 MR. TRAPP: I think we've been told what  
14 the difference is.

15 MS. TALBERT: That's a skill that I've  
16 gained over time.

17 MR. TRAPP: Yes, but---

18 MS. TALBERT: But if I just pick  
19 something at random, I, by chance, may get some  
20 Picasso or I may, by chance, get a Julie  
21 Talbert, which is worth considerably less?

22 MR. TRAPP: I know a little bit about  
23 art history to say that when the Mona Lisa was first  
24 painted, it was not worth the many, many millions --  
25 hundreds of millions that it is right now, and it took

1 almost 200 years for it to gain that value.

2 So, yes, ma'am, there may be things that  
3 you get that aren't worth as much when you first get  
4 it, and then maybe things that you get that are, and  
5 sometimes that's based on supply and demand.

6 MR. HALEY: I've got a question. Why  
7 does it require a brick-and-mortar building? Why  
8 can't you just do this with an app on your phone? I  
9 just -- I can't -- somebody's making money on it. Is  
10 it---

11 MR. RICKMAN: They're working on that.

12 MR. HALEY: I mean, but the gentleman  
13 that's doing this, is he doing -- doing this for --  
14 just for the convenience of having a place to come  
15 and--- That's kind of an interesting scenario there,  
16 that you're paying -- you're paying a rent or a lease  
17 just for people to come and get something that's free.

18 MR. TRAPP: Well, I think that there are  
19 certain entities that do this strictly online, but  
20 other individuals like to go to a place to---

21 MR. HALEY: So they are -- they are  
22 spending money there?

23 MR. TRAPP: They have to purchase the  
24 NFT, yes, sir.

25 MR. HALEY: And who gets -- and that

1 goes to who?

2 MR. TRAPP: That goes to the company  
3 that sold it. It's my understanding, if I understand  
4 correctly, the company bought the rights to a certain  
5 brand of NFTs, and those NFTs are what individuals  
6 purchase when they go there.

7 MR. HALEY: So if they walk in that  
8 building and they buy their NFT, do they just hang out  
9 and look at it or -- I guess they can do with it what  
10 they want, but I just -- that's really intriguing that  
11 you would have to have a facility that you're paying a  
12 lease on to just get something as simple as it's going  
13 to be on your phone. That's quite interesting.

14 MR. TRAPP: I think I -- I understand  
15 your question, and the idea is why do they have to go  
16 to -- I think it was Building 3998 or Parcel 3998 to  
17 buy an NFT. Well, sometimes that allows individuals  
18 to know what they're getting and who they're getting  
19 it from, but in addition to that, there's still this  
20 entertainment component that's -- that's beyond this  
21 NFT.

22 And so if individuals want to sit and  
23 play games---

24 MR. HALEY: What games are they playing?

25 MR. TRAPP: Stampede. ---then they can,

1 and that's where the brick-and-mortar comes in more  
2 than anything else. And then when they're done or if  
3 they even don't choose to do so and they want to  
4 redeem or turn that NFT back in, then they can or they  
5 can keep it or they can trade it with another --  
6 another individual. You can -- just like you would  
7 hold trading cards like a baseball card or a  
8 basketball card or something along those lines.

9 MS. TALBERT: And to follow up with  
10 Mr. Haley's questioning, Mr. Trapp, have you been to  
11 this place before?

12 MR. TRAPP: I have, ma'am.

13 MS. TALBERT: You have. So to give you  
14 a little understanding as to why he and I both are a  
15 little -- not perplexed but curious as to why somebody  
16 would ride up to the Dolly Madison and sit there and  
17 like look at and trade these NFTs when it's -- you  
18 know, that's really not the center of population in  
19 the first place.

20 I just -- there's got -- to me there  
21 would need to be some other thing there to draw people  
22 in, and I'm wondering what that thing is. Is it  
23 money? Is it -- are you just going -- you could do  
24 this on your phone. I mean I've got lots of games on  
25 my phone that I play with friends close by and not

1 close by. So what's the difference in that? If I'm  
2 not making money off of it or gambling, what---

3 MR. TRAPP: Okay. Some of the games you  
4 do play on your phone, you can win prizes. I try and  
5 keep my kids off of that as much as possible, but in  
6 this instance, these NFTs do have value and these  
7 NFTs' value increase and decrease over time.

8 And so individuals would like to trade  
9 these NFTs like you would trade a stock or buy a stock  
10 or sell a stock on the stock market, and so I think  
11 that might be more of the draw than anything else, to  
12 give you an idea.

13 And because Madison is not a streaming  
14 Metropolis or anything like that, there's nothing  
15 that's driving people from all over Virginia or North  
16 Carolina to come there, but in the same vein, there  
17 aren't that many places that are operating this way  
18 and providing for the sale of NFTs.

19 And so because it is new, because it's a  
20 different way of giving things a value that may  
21 increase or decrease, that might also draw people to  
22 it.

23 MR. PARNELL: I have a question. If I  
24 buy -- if I walk in and buy an NFP [sic], or whatever  
25 it is, can I sell it back to the person that I bought

1 it from?

2 MR. TRAPP: Yes, sir.

3 MR. PARNELL: For the same amount of  
4 money?

5 MR. TRAPP: Would you be selling it back  
6 immediately or would you be waiting? I'm only asking  
7 because---

8 MR. PARNELL: Either way.

9 MR. TRAPP: ---that could -- that could  
10 change over time. And when she had mentioned to me  
11 before could you gain something, you could buy that  
12 NFT and then you could sell it back an hour from that  
13 time and it could actually be worth more, and that  
14 would be---

15 MR. PARNELL: Do you have that  
16 documented that that has happened?

17 MR. TRAPP: I don't physically have it  
18 with it with me right now, but yes, I am positive it  
19 does. I can assure you that it does happen.

20 MR. PARNELL: Okay. So if it's like  
21 buying a stock and I came back three days later and  
22 tried to sell it back, I could also -- I could also  
23 lose whatever I've got in it selling it back at that  
24 point?

25 MR. TRAPP: That's correct. Similar to

1 a stock, yes, sir.

2 MR. PARNELL: Okay.

3 MR. SCOTT: So can I ask you a question?

4 So if this were a pinball machine and this would be  
5 where I could also buy NFTs, this is basically the  
6 same kind of -- there's a game I can play and it  
7 happens to be a pinball machine versus Stampede?

8 MR. TRAPP: That's correct.

9 MR. SCOTT: And at the same time, if I  
10 want to purchase NFTs, I could do so.

11 MR. TRAPP: That's correct. And the NFT  
12 purchase is completely separate from how you performed  
13 on your pinball machine activity.

14 MR. SCOTT: Other than this is all in  
15 the same machine. Okay.

16 MR. TRAPP: I want to make sure. You  
17 ended with "all in the same machine." What do you---

18 MR. SCOTT: Meaning that you're playing  
19 Stampede and buying NFTs out of the same device.

20 MR. TRAPP: No.

21 MR. RICKMAN: No. No. They are  
22 completely separate. The NFT system is separate than  
23 the Stampede system.

24 MR. SCOTT: Two different boxes?

25 MR. RICKMAN: Yes.

1 MR. TRAPP: Yes.

2 MR. SCOTT: Two different devices?

3 Excuse me.

4 MR. RICKMAN: Yes.

5 MR. TRAPP: Yes. And I'm sorry. I  
6 didn't mean to cut you off, but when I heard that, I  
7 thought that maybe---

8 MR. SCOTT: No, no, no. Subject to  
9 clarification. Thank you.

10 MR. TRAPP: Yes, sir. And that's why I  
11 mentioned when you get your NFT, you could walk out of  
12 the store and never once touch Stampede or never once  
13 touch the pinball machine, and it would have no --  
14 they don't interact or interfere with each other.  
15 They're completely separate spheres.

16 But it's the idea that if you do like  
17 playing pinball, after you buy your NFT, you can play  
18 pinball.

19 MR. SCOTT: Okay.

20 THE CHAIR: Here's the problem as I see  
21 it.

22 MR. TRAPP: Yes, sir.

23 THE CHAIR: Well, first, let me -- let  
24 me give you just a brief history. Back in June of  
25 2023, the Unified Development Ordinance for this



1 county -- a certain portion was amended, a text  
2 amendment, to allow the use and operation of  
3 businesses licensed by the State as defined and  
4 authorized by the State of North Carolina.

5 The text amendment specifically says  
6 that "Any establishment deemed legal by the State of  
7 North Carolina requires such a license." Do you have  
8 one?

9 MR. TRAPP: Do we have a license to---

10 THE CHAIR: Do you have approval -- has  
11 this game been approved by the State?

12 MR. TRAPP: Has Stampede or have NFTs?  
13 Because those are---

14 THE CHAIR: Has Stampede. Stampede is  
15 the software that runs the game, right?

16 MR. TRAPP: Stampede is the game.

17 THE CHAIR: Okay. Then, has Stampede  
18 been approved by the State?

19 MR. TRAPP: The State -- I'll let my  
20 technician comment in a second. The State of North  
21 Carolina doesn't provide approvals or licenses for  
22 games. It's in the process of doing that, and in  
23 addition to coming to boards and talking to great  
24 people like yourselves, I also go to the legislature  
25 and talk with different people about things of this

1 nature.

2 And there isn't a license for a game or  
3 a program that exists at this time to request one, but  
4 they are working on making things like that possible  
5 so that there could be licenses for games. There  
6 could be a license for someone to repair those games.  
7 There could be a license for someone who transmits  
8 those games. And just like there isn't a license to  
9 buy and sell NFTs at this time.

10 THE CHAIR: Any other questions for  
11 Mr. Trapp?

12 MR. SCOTT: So my understanding, then,  
13 is that Stampeded -- you can buy Stampede to be on  
14 your phone or on your -- you know, if you have an  
15 Atari system since it's released by Atari, you can do  
16 it on -- you can play it on an Atari system or Xbox or  
17 something like that if it's available, correct?

18 MR. RICKMAN: In theory, if it's  
19 available for that system, yes, you can play it on it.

20 MR. SCOTT: So it's not necessary --  
21 it's like any other video game is what you're saying?

22 MR. RICKMAN: Yes, sir.

23 MS. TALBERT: And the NFTs come with a  
24 unique identifier, correct?

25 MR. RICKMAN: Yes.

1 MS. TALBERT: So I could download  
2 Stampede on my phone or whatever and input my unique  
3 identifier for the NFT and trade it?

4 MR. RICKMAN: I don't know how the  
5 online works for that because I've never really messed  
6 with the online side of it. I've only done with the  
7 NFT side on the installing, running Cat-5 cables and  
8 networking everything together.

9 MS. TALBERT: So if the NFTs are a thing  
10 of value and are traded, what you're saying is trading  
11 like stocks, bonds, you know, fungible -- that makes  
12 it fungible. So help me understand. There are also  
13 laws governing those trades and/or sales.

14 Is there not -- is there not some type  
15 of expertise, licensure that comes along with those?

16 MR. TRAPP: No, ma'am, not at this time.  
17 And I -- like I said, I don't want to flood  
18 everybody's minds and time with things, but this has  
19 been something that they are wrestling with at the  
20 School of Government because NFTs are still new. The  
21 laws -- not just state laws but federal laws -- have  
22 not addressed this well enough yet.

23 And it's -- if you get to a level where  
24 you're trading an NFT above the value of \$10,000,  
25 which in most cases \$10,000 is the threshold where you

1 have to do like a certain tax form whenever that kind  
2 of money or cash is transferred or moved. It's not  
3 even governed by that if it's below that threshold  
4 amount. So there isn't a license. There isn't  
5 anything that involves that.

6 And an NFT -- I was reading about an  
7 individual who put his lease for real property as an  
8 NFT, and he sold it as an NFT to someone else. Even  
9 though we all know that a transfer of property would  
10 still require an individual to go to a register of  
11 deeds and have a contract and all these other things,  
12 individuals are selling real tangible items as NFTs  
13 for convenience sake more than anything else.

14 And there isn't any type of guidance as  
15 to how that has to be done other than the fact that it  
16 can be at this time.

17 MR. SCOTT: And it's unregulated---

18 MR. TRAPP: That's correct.

19 MR. SCOTT: ---pretty much unregulated  
20 at this time?

21 MR. TRAPP: That's correct, sir.

22 MR. PARNELL: So if I go in tomorrow and  
23 want to buy an NFT, is there somebody there that can  
24 explain to me what I'm getting into or all the  
25 ramifications of it -- of the Stampede gaming stuff

1 and the NFP [sic] too?

2 MR. TRAPP: The staff that works at this  
3 location has been trained to explain to individuals  
4 like yourself or anyone else, you know, welcomed to  
5 this location, "We sell NFTs here, and once you buy  
6 your NFT, you're always free to go. You're always  
7 free to redeem or turn it back in, and if you'd like,  
8 you can play any of these games for your pleasure."  
9 And they're told that every time.

10 MR. PARNELL: So if I went in tomorrow  
11 and bought one, what is -- what does an NFT cost at  
12 this location?

13 MR. TRAPP: They have different values  
14 and different prices. You can get an NFT \$5, for \$10,  
15 for \$12.50. It's -- it's more -- once you put the  
16 value in, then different ones would be created and  
17 given to you.

18 MR. PARNELL: Okay. So, potentially, I  
19 could go in and buy one for \$10---

20 MR. TRAPP: That's correct.

21 MR. PARNELL: ---and if I've got --  
22 somebody walks in beside me and I tell them if they  
23 buy my NFT from me, they can have my house--- You  
24 just said somebody's selling a lease or whatever.

25 MR. TRAPP: Oh. But they actually --

1 they went through additional steps to transfer -- put  
2 their lease and turn it into an NFT. So, yes, people  
3 can move property and sell paintings like real  
4 paintings, not just digital paintings, as NFTs; that's  
5 correct.

6 MR. PARNELL: So do you see the  
7 potential for fraudulence in this -- buying and  
8 selling NFTs?

9 MR. TRAPP: No, not in this instance  
10 because these NFTs are coming from one specific  
11 company and that's it. They're not -- they're not  
12 coming from outside people, from eBay, or anything  
13 along those lines. These are -- these are all owned  
14 by the company that's selling them.

15 MR. KALLAM: I have a question. You've  
16 said that you can buy and sell, which you could -- the  
17 value could go up or could go down.

18 MR. TRAPP: Yes, sir.

19 MR. KALLAM: Each sale -- is there a  
20 commission that is on the sale like a stock? So if I  
21 sold my NFT online to someone else, is there a  
22 commission in the sale that somebody else makes for  
23 helping sell it?

24 MR. TRAPP: No, sir.

25 MR. KALLAM: Okay.

1 MS. TALBERT: I am curious as to if  
2 you -- to maintain a business -- a brick-and-mortar  
3 business is no small cost to any business owner. So  
4 what are they getting out of this? What are the  
5 business owners -- are they selling alcohol? Are they  
6 selling snacks, drinks?

7 Are they selling things, or are they  
8 just providing this nonentertainment that they --  
9 they're just -- they're good citizens and they're  
10 providing a place for people to come and buy and sell  
11 their online art?

12 MR. TRAPP: This is a place where people  
13 can buy and sell their -- this online art and play  
14 games, and that's it. There's no alcohol. There's no  
15 tricks. There's no -- nothing hidden behind my hand  
16 or anything along those lines.

17 And it's one of those things where a  
18 business is taking a chance thinking that this will be  
19 something that people will enjoy and appreciate and  
20 continue to come. And if it's successful, that's  
21 good; and if it's not, then that's -- that's on them.

22 MS. TALBERT: But where is the --  
23 where's the commerce in this other than -- it seems  
24 like to me that Stampede is the one making the money  
25 because people are buying and selling their

1 nonexistent art. What is the business owner  
2 themselves -- how are they justifying their outlay?

3 MR. TRAPP: From the selling of the  
4 NFTs.

5 MS. TALBERT: So they are making money  
6 off of this?

7 MR. TRAPP: Yeah. They -- they bought  
8 the rights to these NFTs. They buy and they sell and  
9 they trade them, and so they make money off the sale  
10 of the NFTs, yes, ma'am.

11 MS. TALBERT: So the owner -- the  
12 business owner is the one that -- so he's actually or  
13 they are actually making money off of this off -- off  
14 of each transaction, correct?

15 MR. TRAPP: That's correct.

16 MS. TALBERT: I knew there had to be  
17 some---

18 MR. TRAPP: Yeah. And I'm sorry if I  
19 didn't make that clear.

20 THE CHAIR: Any other questions for  
21 Mr. Trapp or Mr. Rickman?

22 MR. KALLAM: So I asked that question  
23 earlier. Every time one is sold, there is a money  
24 transaction like a commission or someone receives  
25 money for it being sold?



1 MR. TRAPP: No, sir.

2 MR. KALLAM: Or receives a credit?

3 MR. TRAPP: So let's use a hypothetical.  
4 So your name's Jeff. So, Jeff, you come into the  
5 store. You talk to the receptionist and you say, you  
6 know, "I'd like to purchase an NFT for \$20." All  
7 right. So at that time, the store has made \$20 off  
8 the sale of that NFT.

9 MR. KALLAM: Okay.

10 MR. TRAPP: All right. Now you could,  
11 the following day, come back and say, "You know what?  
12 I don't want to trade my NFT. I want -- I want to  
13 sell it back to you --" sell it back to the store.  
14 You sell the NFT back to the store, and based on the  
15 value of all the NFTs that have been bought and sold  
16 of similar -- whatever algorithm determines these --  
17 these NFT prices and values, that's beyond my  
18 understanding.

19 Let's say that your NFT increased in  
20 value, and so when you sell it back, you get \$25. At  
21 that time, the store has lost money, and that's  
22 understandable. But you could say, "You know what?  
23 Since I got 25 or gained \$5, I'm going to buy two NFTs  
24 this time." All right. So then you buy two NFTs for  
25 \$25.

1                   When you come back, maybe those two NFTs  
2 have decreased in value, and then you come back and  
3 you get \$18 instead of \$25. And so that's kind of  
4 the -- the give-and-take. There are times when the  
5 store takes a loss with a redeeming or returning of an  
6 NFT.

7                   There are times when the store will make  
8 a profit because that NFT has decreased in value based  
9 on the number of other NFTs that have been sold in  
10 that manner and how they were resold and so on and so  
11 forth. Does that make sense?

12                   MR. KALLAM: Yeah.

13                   MR. TRAPP: Okay.

14                   THE CHAIR: Okay. Thank you very much,  
15 gentlemen.

16                   MR. TRAPP: Thank you, sir.

17                   THE CHAIR: If we need to, we'll call  
18 you back.

19                   MR. TRAPP: Thank you, sir.

20                   THE CHAIR: At this time, let's hear  
21 from the appellee.

22                   MR. ALBRIGHT: Thank you, Mr. Chairman.  
23 In all of that discussion about NFTs, I didn't hear a  
24 single word about the software. It still, in my  
25 opinion, violates state law. The Supreme Court's been

1 very clear that if a game is not dependent on skill  
2 and dexterity, then chance predominates. I didn't  
3 hear a single word about skill or dexterity in all  
4 this discussion. It's a game of chance. It's  
5 violated -- it violates the statute 14-306.4.

6 The customer is not getting a free  
7 entry. You have to pay to get in to play, and the  
8 Courts have been clear that games of chance such as  
9 the Stampede software are illegal. So I've not heard  
10 anything that convinces me that this software is not  
11 illegal, and I still stand by my opinion.

12 MR. DUNCAN: I have a question,  
13 Mr. Chairman.

14 THE CHAIR: Yes.

15 MR. DUNCAN: Okay. So the County issued  
16 a permit by mistake, right? And when -- after the  
17 permit was issued, when was the revisions made to the  
18 UDO? Was it after that?

19 THE CHAIR: No.

20 MR. MARZIANO: No. The revisions to the  
21 UDO happened several months before this. That's how  
22 the -- the mistake happened because of an  
23 interpretation issue with that UDO change.

24 MR. DUNCAN: Here's my thing with this.  
25 It's been going on -- excuse me -- with the gaming in

1 this county for years and years because I dealt with  
2 it years ago when I was here on the board --  
3 commissioners board. If gaming is against the law in  
4 North Carolina, then it's being violated all over  
5 Rockingham County on every corner right now. I mean I  
6 rode through five yesterday.

7 And my question is -- and I understand  
8 how this setup works. I mean I've read about it and  
9 already knew before it came up, but if they're  
10 illegal, who is granting permission for these other  
11 places? We call them games of chance. You know,  
12 people -- adults can choose how they want to spend  
13 their money, and that's not our business in my --  
14 that's just my opinion.

15 Who's approving these places to open? I  
16 know some of them are in municipalities, but this is  
17 Rockingham County. If they're illegal, why hasn't the  
18 DA issued an order to the sheriff to go shut them  
19 down?

20 And there's a new one that pops up every  
21 other weekend. I mean, heck, I know where there's six  
22 or seven in Eden right now. You know, to me, fair is  
23 fair with us. We can't pick and choose who to -- you  
24 know.

25 MR. ALBRIGHT: Well, to answer your

1 question, the NC Lottery Commission is working on  
2 rules, and they've got the rules issued -- they're  
3 going to issue the rules for the booking -- gambling  
4 booking -- they hope to do that sometime in March, I  
5 think. They're still going back and forth with the  
6 rules.

7 But, you know, for years, we didn't have  
8 a state lottery. People went to Virginia and bought  
9 lottery tickets, and the legislature in their wisdom  
10 has decided to come up with these rules and laws to  
11 control this type of activity.

12 And the Supreme Court for North Carolina  
13 has dealt with it several times, especially this  
14 gaming software where the chances are -- of winning  
15 are very low and the chances of losing are very high.  
16 And that's why they came down with their opinion that  
17 they did in 2022. They said video gaming -- video  
18 gambling is illegal.

19 MR. HALEY: I guess -- and I'm sorry,  
20 but what Mr. Keith is saying is, why is it not  
21 enforced? Because I can -- along with him, I know  
22 where there's plenty at.

23 MR. ALBRIGHT: That's a question for the  
24 police in Eden and the police in Mayodan and the  
25 sheriff. If the sheriff knows about it, the sheriff

1 should be investigating it.

2 MR. DUNCAN: Somebody should be. I mean  
3 I'm all about being fair. I think all of us are. I  
4 mean what's right is right and what's wrong is wrong,  
5 but there's no consistency with this right now. And  
6 it's not only Rockingham County, Forsyth County,  
7 Davidson -- it's everywhere.

8 Heck, just -- if you take a kid or your  
9 grandson or child into an arcade, I mean, you know,  
10 you've got -- you're going to spend money for that  
11 child to have fun, and if they win something, there's  
12 no value to it. It's just junk that you get back.

13 I know where I'm at with this, but --  
14 and the State's probably going to approve some type of  
15 law that will permit this based on what you read.  
16 Well, I've summed it up. I know where I'm at with  
17 this.

18 MS. TALBERT: Are we -- let me just make  
19 this -- we've been talking around the money part of  
20 this for a while now, but I think one of the things  
21 that we -- as Clyde said, we're not -- we're not  
22 determining as we should be whether this software in  
23 our opinion does -- is it based on skill and dexterity  
24 or is it just based on chance, you know, a chance that  
25 you get an NFT that -- that might increase in value.

1           The thing that strikes me is you don't  
2 get to choose. That is the skill. You can look at  
3 something, and whether you're an art critic or not,  
4 you can -- you can at least use your opinion of what  
5 it might look like to you before you buy it. But if  
6 you're going in and just buying something for \$25, it  
7 may or may not increase.

8           And the stock market is actually a very  
9 good -- a very good correlation. I mean, if you just  
10 randomly buy a stock, you don't know whether it's  
11 going to go up or down, but if you study the companies  
12 that the stock represents, you are making a skilled  
13 choice.

14           And as far as fairness is concerned, you  
15 know, we're between a rock and a hard place, and to my  
16 opinion, it doesn't matter whether this thing is an  
17 NFT, Bitcoin, those things that we really don't know  
18 that much about because they're all brand-new, but we  
19 do know about the stock market.

20           We can look at art and tell whether we  
21 think it's going to be worth something or not, but  
22 not -- going in and buying something and purchasing it  
23 sight unseen is, by definition, taking a chance.

24           MR. SCOTT: So are we confusing -- so to  
25 me, there's two separate things going on here. One is

1 buying the NFTs, and that can be completely  
2 independent of anything else, and then there's the  
3 game of Stampede, which in some cases can be a slot  
4 machine game---

5 MR. HALEY: Are the Stampede -- are they  
6 slots that's over there?

7 MR. TRAPP: Do you mind if I come back  
8 up?

9 MR. HALEY: Please do.

10 THE CHAIR: Please.

11 MR. TRAPP: Okay. So the Stampede game  
12 is, I guess, a series of games, and there are  
13 different skins or different manners and methods that  
14 you play. There is a game that does, I guess, roll,  
15 as you would describe as a slot, but then there are  
16 other games that you move and manipulate things. So  
17 there isn't just one game in this package.

18 MR. HALEY: Okay. You can go to  
19 gambling.com and see Stampede online slots. Is that  
20 the type of games?

21 MR. RICKMAN: No, it's not.

22 MR. TRAPP: I wouldn't know. I don't---

23 MR. RICKMAN: I wouldn't know either. I  
24 haven't seen that.

25 MR. HALEY: What is this? How is your



1 game set up?

2 MR. RICKMAN: You have a start-stop  
3 button, and you actually can stop it anytime you want  
4 to. So---

5 MR. HALEY: You're looking at a screen?

6 MR. TRAPP: Yes.

7 MR. RICKMAN: Yes.

8 MR. SCOTT: There's no money exchanged?

9 There's no---

10 MR. RICKMAN: No.

11 MR. SCOTT: It's just like playing Halo

12 or something---

13 MR. TRAPP: Correct.

14 MR. RICKMAN: Correct.

15 MR. SCOTT: ---or Call of Duty or

16 something?

17 MR. TRAPP: I think when there was a  
18 description about whether there's skill and dexterity  
19 in the game of Stampede, that hasn't been brought up  
20 because there's nothing that you are wagering or  
21 valuing in your playing of this game. So that's why  
22 skill and dexterity isn't as much of an issue.

23 MR. SCOTT: And that was the reason I  
24 mentioned about we're talking about two different  
25 things. Here's the -- you've got the game and you've

1 got the NFTs, and you're blindly investing in  
2 something that you have no idea about. And your  
3 position is that it sounds like a game of chance?

4 MS. TALBERT: Yeah. And it's connected  
5 to Stampede, so I -- and what really---

6 MR. SCOTT: See, I'm not sure. Is it  
7 really connected to it? Because they're describing it  
8 as two different---

9 MR. RICKMAN: It's two separate  
10 entities.

11 MR. SCOTT: ---two separate entities,  
12 two separate things.

13 MR. HALEY: I mean I'm going to ask  
14 another dumb question, I guess. Why would you want  
15 Stampede if you're just -- if you're making money with  
16 the NFT, why is Stampede in there?

17 MR. TRAPP: For entertainment and  
18 enjoyment. I think the young lady had brought up the  
19 idea of well, is somebody just going to come and sit  
20 and buy online art in this building, and the idea was  
21 why don't we give them something to do, something  
22 entertaining to do in addition to this -- what's going  
23 on here. And I think that that's why -- it could be  
24 Tekken or Street Fighter or Gran Turismo, but that's  
25 just the kind that---

1 MS. TALBERT: Well, so -- and here's  
2 where I'm really confused. Why would you go to a  
3 place called Lucky Duck to -- and is there going to be  
4 Pac-Man there, I mean, and Asteroids? Are those  
5 games -- are you not going to have to put a quarter in  
6 it to play it? I'm just -- because that's  
7 entertaining, but---

8 MR. TRAPP: It is not -- you would not  
9 have to put a quarter in or anything along those  
10 lines. There would be a person who's sitting up  
11 front. They would give you like a code or a number  
12 for you to put in. That's kind of like your  
13 identifier like your PIN, and that allows you to  
14 activate the game.

15 MS. TALBERT: But you've got to buy the  
16 NFT first before you can get past the door?

17 MR. TRAPP: And I'm glad you asked that.  
18 So there's a manner or means in which you can get an  
19 NFT for free and play games for free, and the only way  
20 you do that is you would have to mail in or email the  
21 company in order to do so. And that's one of the  
22 rules that goes along with any type of sweepstakes  
23 entrance because that's kind of what -- that's really  
24 what's going on.

25 So you have this sweepstakes entrants --

1 what was it? McMahon? Was that his name? Ed  
2 McMahon?

3 MS. TALBERT: Yeah.

4 MR. TRAPP: Yes. And so once these  
5 people buy these NFTs, that allows them to play these  
6 games for free. Now if you were to email or mail the  
7 company and say "I'd like to get a free NFT," you  
8 could do that as well.

9 MS. TALBERT: And you can take it to the  
10 Lucky Duck and play Stampede?

11 MR. TRAPP: That's correct.

12 MR. KALLAM: Can the Stampede game  
13 affect the value of the NFT in any way?

14 MR. TRAPP: No, sir.

15 MR. RICKMAN: No.

16 MR. KALLAM: Okay.

17 MR. PARNELL: So if I understand you  
18 right, if I go in there tomorrow, I can just walk in  
19 and start playing Stampede and that's all?

20 MR. TRAPP: Uh-huh.

21 MR. PARNELL: No questions asked?

22 MR. TRAPP: Well, I guess you'd have to  
23 ask them---

24 MR. RICKMAN: You'd have to get your --  
25 there's a PIN that you would have to get---

1 MR. PARNELL: I have to get permission  
2 to do it, in other words?

3 MR. TRAPP: You would have to get a  
4 code, if that makes any sense, to turn it on. You  
5 would be given an activation code.

6 MR. PARNELL: Why? Why would you -- if  
7 you're saying this is just totally for entertainment,  
8 why would you have to get a PIN or permission, in  
9 essence?

10 MR. TRAPP: We would keep track of how  
11 long individuals are playing and so on and so forth.

12 MR. PARNELL: So I'm limited how long I  
13 can play if I don't buy an NFT?

14 MR. TRAPP: No, but I think they would  
15 want to keep track of how long you play.

16 MR. PARNELL: Why?

17 MR. TRAPP: Like any other business  
18 would like to keep track of how long people are  
19 shopping online if you're shopping on Amazon or  
20 anything else.

21 MR. TALBERT: But I thought the point  
22 was to get people there just to be entertained for  
23 free.

24 MR. TRAPP: Well, they are, but they  
25 still would like to know how long people are being

1 entertained for free in order for you to keep a log or  
2 a -- what's a good word?

3 THE CHAIR: Like Google. They follow  
4 everything you do.

5 MR. TRAPP: Yeah.

6 THE CHAIR: All right. We need to move  
7 along here, folks.

8 MR. TRAPP: I'm sorry. Yes, sir.

9 MR. HALEY: Thanks, guys. I appreciate  
10 it.

11 THE CHAIR: Thank you, sir.

12 MR. DUNCAN: I just have one question  
13 for the attorney.

14 THE CHAIR: Yes. Go ahead.

15 MR. DUNCAN: I'm not trying to open up a  
16 can of worms, but does a church as a nonprofit have to  
17 have a permit to get a reverse raffle drawing?

18 MR. ALBRIGHT: I didn't understand your  
19 question. A nonprofit---

20 MR. DUNCAN: Does a nonprofit or a  
21 church have to have any type of permit to have a  
22 reverse raffle drawing? Because there's not anything  
23 different from that than what we're talking about  
24 tonight, in my opinion, because it's chance to buy a  
25 ticket. I don't think they do.

1 MR. ALBRIGHT: No, I don't think they  
2 do.

3 MR. PARNELL: For instance, the  
4 Rotary -- the Rotary Club does a reverse raffle.

5 MR. ALBRIGHT: But they're not using---

6 MR. PARNELL: They call it a dream  
7 vacation. They sell tickets.

8 MR. ALBRIGHT: I understand, but they're  
9 not using software that's been declared by the Court  
10 to be illegal in order to raise money. That's --  
11 that's the answer -- I mean that's what the Supreme  
12 Court has said.

13 MS. TALBERT: Keith, I can answer that  
14 actually. So---

15 MR. DUNCAN: No. I'm good. I'm good.

16 MS. TALBERT: There is a fair market  
17 value, but it's -- yeah.

18 THE CHAIR: Well, here's -- here's the  
19 situation as I see it. The text amendment to the  
20 Rockingham County Unified Development Ordinance -- and  
21 this is what we voted on back in June, and bear in  
22 mind the purpose of the June text amendment was to  
23 accommodate remote locations for sports wagering that  
24 was passed in House Bill 347, which the Governor also  
25 signed in June.

1           So to accommodate those operations as a  
2 matter of right in our commercial districts, we came  
3 up with language to allow the use and operation of  
4 businesses -- and listen very carefully to these  
5 words -- use and operation of businesses licensed by  
6 the State, as defined and authorized by the State of  
7 North Carolina through a license issued by a state  
8 agency or other agency or commission designated by the  
9 State, shall have -- shall be by right in areas zoned  
10 as highway commercial."

11           Now this text amendment makes it  
12 necessary to look at the definition of what's been  
13 approved, and in our own UDO, "Electronic gaming  
14 operations. Any establishment deemed legal by the  
15 State of North Carolina, featuring one or more  
16 standalone electronic machines, including but not  
17 limited to computers, gaming terminals, tables, and  
18 like, that operate with or without the gaming software  
19 to conduct or facilitating games of chance, skill-  
20 based or otherwise, where cash or other monetary  
21 payments, goods, or certificates for services which  
22 are redeemable for cash or other monetary payments on  
23 or off the premises and including online redemptions  
24 whether or not the value of such distribution was  
25 determined by electronic games played or by



1 predetermined codes."

2 I think personally I'm going to vote on  
3 the -- and if I'm in error -- on the side of caution  
4 and say that that's exactly what we've got here, and  
5 it's -- it's -- and since it's not approved by the  
6 State and there's no state license as required by the  
7 UDO, then I don't see how we can permit the operation  
8 to continue.

9 Any other discussion?

10 MS. TALBERT: Well, until -- until the  
11 legislature is more definitive about it, I think it's  
12 clearly shown here that we're -- we're in between  
13 something. You know, we're in between, you know,  
14 being more -- the State being more definitive and this  
15 sort of, you know, wild west unregulated.

16 MR. HALEY: It's the state acts that's  
17 putting the municipalities and the counties between a  
18 rock and a hard place to try to---

19 MS. TALBERT: Exactly. So we have to do  
20 something hard here which is figure out where we're  
21 going to come down. Is this -- are we -- are we going  
22 to allow this to be on the unregulated side or the  
23 more cautious, more conservative side.

24 THE CHAIR: I think it's time we hear a  
25 motion.

1 MR. TALBERT: Mr. Chair, I make a  
2 motion, based on the evidence submitted and the  
3 testimony received, to deny this appeal. This motion  
4 is to be recorded in the hearing minutes and the board  
5 order.

6 MR. PARNELL: I'll second that motion.

7 THE CHAIR: A motion has been made and  
8 seconded to deny the appeal. All those in favor,  
9 please signify by raising your right hand. I can't  
10 see around the corner.

11 **(Five board members responded by raising**  
12 **their right hands.)**

13 THE CHAIR: Okay. It looks like the  
14 decision is unanimous, and the appeal is denied.

15 MR. MARZIANO: I think it's five to two.

16 THE CHAIR: He voted---

17 MR. DUNCAN: No. No. My vote is no.

18 THE CHAIR: Oh, okay.

19 MR. MARZIANO: Can I get a verbal count,  
20 please, so we know who voted what.

21 THE CHAIR: Okay. Jeff?

22 MR. KALLAM: I vote no. I vote against  
23 it.

24 MS. TALBERT: To deny?

25 MR. KALLAM: To deny.

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MS. TALBERT: Okay. Vote to deny. Vote to deny. Keith?

MR. DUNCAN: No. I side with these applicants.

MS. TALBERT: All right. So you vote no.

THE CHAIR: Then, the vote is six to one.

MR. HALEY: No. I voted -- I'm siding with the applicants.

THE CHAIR: Oh, you are. Okay.

MS. TALBERT: So it's five to two.

THE CHAIR: Five to two. Okay. At this time, we're going to take a five-minute recess so that our court reporter can gather all her equipment.

**(At 7:31 p.m., the hearing adjourned.)**

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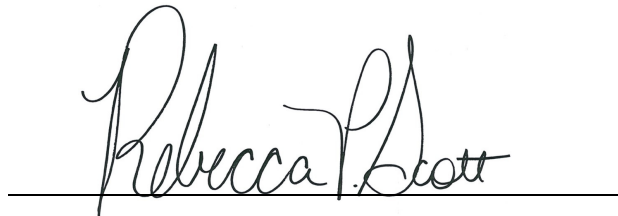
CERTIFICATE OF REPORTER

I, REBECCA P. SCOTT, Verbatim Reporter and Notary Public, duly appointed and qualified in and for the State of North Carolina at large, do hereby certify:

That the foregoing hearing was reported by me and the foregoing transcript is a true record of the proceeding to the best of my knowledge and belief;

That I am neither related to nor employed by any of the parties or counsel employed by the parties hereto, nor interested directly or indirectly in the matter in controversy, and am not financially or otherwise interested in the outcome of the action.

Certified this 4th day of March, 2024.

A handwritten signature in cursive script that reads "Rebecca P. Scott". The signature is written in black ink and is positioned above a solid horizontal line.

Rebecca P. Scott