

AGENDA

**ROCKINGHAM COUNTY PLANNING BOARD &
BOARD OF ADJUSTMENT**

MARCH 11, 2024 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. February 12, 2024

V. Review of Procedures for Legislative Hearings

VI. Matters Before the Planning Board

- a. Zoning Map Amendment 2024-06: a zoning map amendment has been requested the parcel denoted by Rockingham County Tax PIN 7020-00-51-6624, located at 550 Smith Rd in the Price Township. The request is to rezone the specified parcel from Residential Protected (RP) to Residential Agricultural (RA).
- b. Zoning Map Amendment 2024-07: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 7959-04-83-0644, located at 6750 NC Hwy 770 in the Mayo Township. The request is to rezone the specified parcel from Residential Agricultural (RA) to Neighborhood Commercial-Conditional District (NC-CD).
- c. Zoning Text Amendment 2024-09: a proposed amendment to the Rockingham County Unified Development Ordinance (UDO) that will establish minimum criteria for placing a Class AA (doublewide) manufactured home in the Residential Protected (RP) zoning district.

VII. Other Business:

- a. New Business: None
- b. Old Business: Approval of Board Order 2023-17 Pettitt Appeal

VIII. Adjourn

**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 CONSISTENTENCY 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

Respectfully Submitted

Chair, Planning Board Date

Secretary to the Board Date

STATE OF NORTH CAROLINA
COUNTY OF ROCKINGHAM

BEFORE THE BOARD OF
ADJUSTMENT

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

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

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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TABLE OF CONTENTS

PAGE NO.

OPENING REMARKS BY CHAIRMAN.....	5
PRESENTATION BY LYNN COCHRAN.....	7
PRESENTATION ON BEHALF OF THE APPELLANT.....	11
PRESENTATION ON BEHALF OF THE APPELLEE.....	35
CERTIFICATE OF REPORTER.....	53

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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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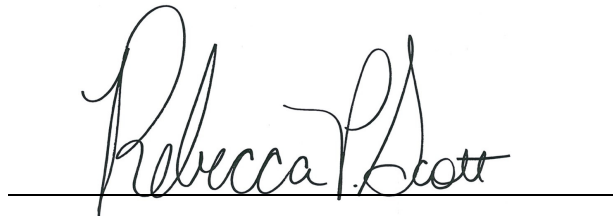
CERTIFICATE OF REPORTER

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

**ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT
STAFF REPORT: PLANNING BOARD
CASE 2024-06: ZONING MAP AMENDMENT (REZONING)**



Rockingham
County NC

Request: A request for **Rezoning from Residential Protected (RP) to Residential Agricultural (RA)**
Applicant: Jacob Hickman
Identification: Tax PIN: 7020-00-51-6624
Location: 550 Smith Rd – Price Township

1. Acreage and Location of Parcel:

This parcel measures (+/-) 1.0 acre according to the Rockingham County Tax Map, located at 550 Smith Rd, approximately 500 feet east of the intersection with C & N Smith Mill Rd.

2. Utilities: This property will be served by individual well and septic system facilities.

3. Zoning Classification and Uses of Surrounding Parcels:

This parcel directly abuts one other that is dually zoned Residential Protected (RP) and Residential Agricultural (RA). The remaining adjacent properties Residential Agricultural (RA). The uses nearby include low-density single-family residential, agriculture and open lands.

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*, 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)

5. Previous Zoning History:

1988: This property or its parent parcel was zoned Residential Protected (RP).

6. Staff Notes and Analysis:

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

- 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 common in 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. A large portion of properties in this area are zoned for the same uses. Impacts among adjacent parcels would arguably be negligible.
- 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, agricultural uses and open lands.

7. Staff Recommendation:

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 the requested zoning amendment to be consistent with the intents and descriptions of the 0-2 Land Class in the *Rockingham County Comprehensive Land Use Plan* and future land use map. Additionally, staff finds that the uses allowed in the Residential Agricultural (RA) Zoning District would be reasonable within the context of current zoning patterns and land uses among adjacent and nearby parcels.

Therefore, staff recommends approval of Case 2024-06, a request for Rezoning from Residential Protected (RP) to Residential Agricultural (RA).



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Date of Application/Fee: January 30, 2024

Property Address: 550 Smith Rd, Stoneville

Parcel No / Tax Pins(s): 7020-00-51-6624

Current Zoning District: Residential Protected (RP)

Proposed Zoning District: Residential Agricultural (RA)

Acreage requested for rezoning: (+/-) 1.0 acre

Township: Price

Owner(s): Jacob R Hickman

Mailing Address: 124 Dogwood Drive, Stoneville NC 27048-8424

Telephone: 336 552 5775 email: jrhickman83@gmail.com

Applicant(s): Same

Mailing Address: _____

Telephone: _____ email: _____

PB Hearing Date: 3/11/24

BOC Hearing Date: 4/15/24

A handwritten signature in black ink, appearing to read "Hickman".



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Owner Signature

(complete one for each owner)

I, Jacob R Hickman, owner of the property denoted by Rockingham County Tax PIN 7020-00-51-6624, request that the property be granted a rezoning from Residential Protected (RP) to Residential Agricultural (RA). I understand that the rezoning is permanent and will run with the land. I feel this will serve my best interests.

Jacob R Hickman
 Signature

1/30/24
 Date

124 Dogwood rd
 Mailing Address

Stoneville NC 27048
 City, State, Zip

336-552-5775
 Phone Number

[Signature]
 Staff Signature

N/A

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 _____

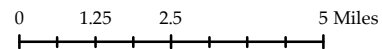
My Commission Expires: _____ (Seal)



CASE 2024-06 HICKMAN REZ VICINITY MAP

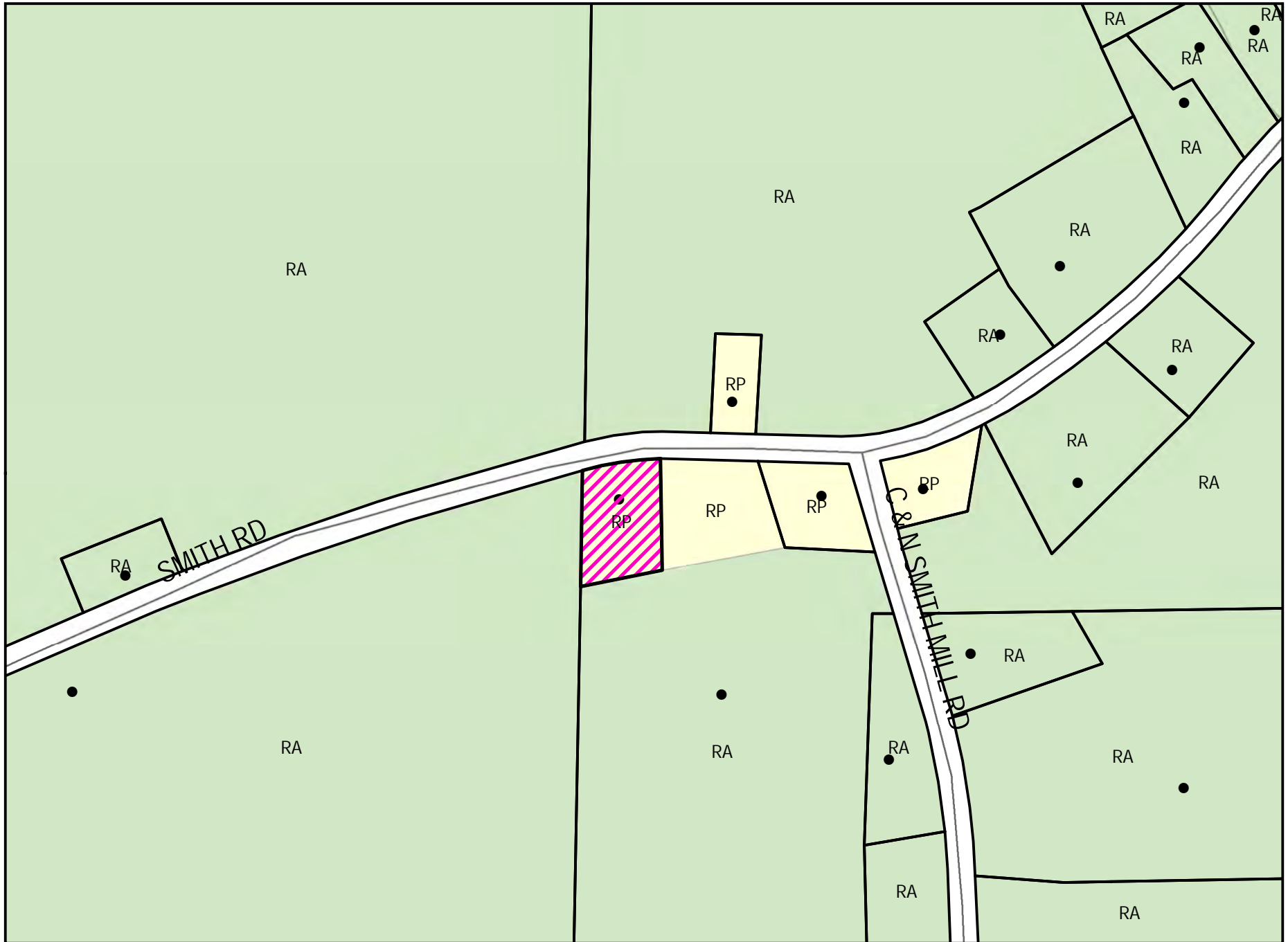


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

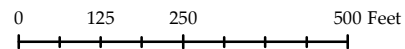




CASE 2024-06 HICKMAN REZ RP to RA ZONING MAP

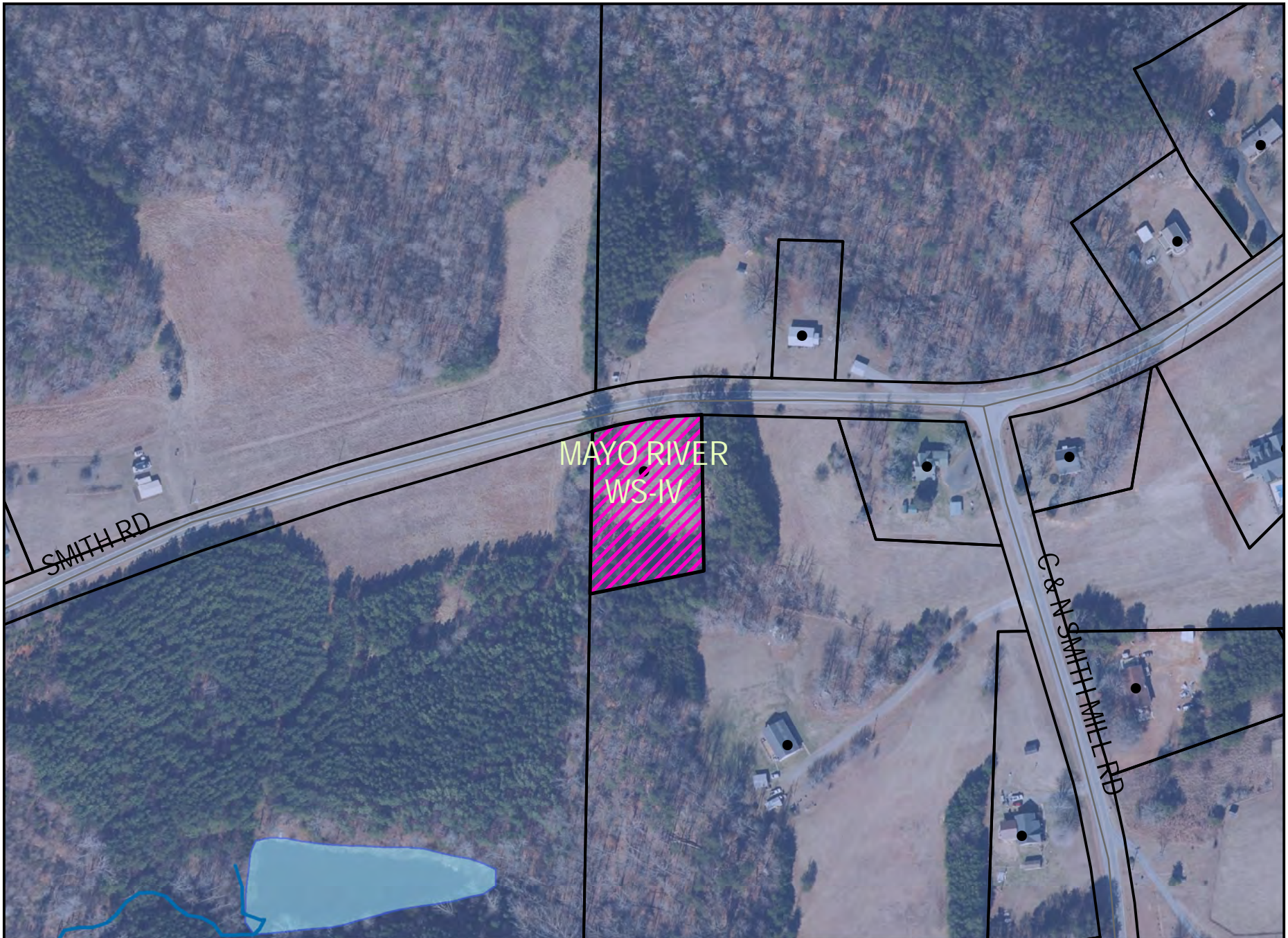


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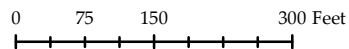




CASE 2024-06 HICKMAN REZ ENVIRONMENTAL MAP

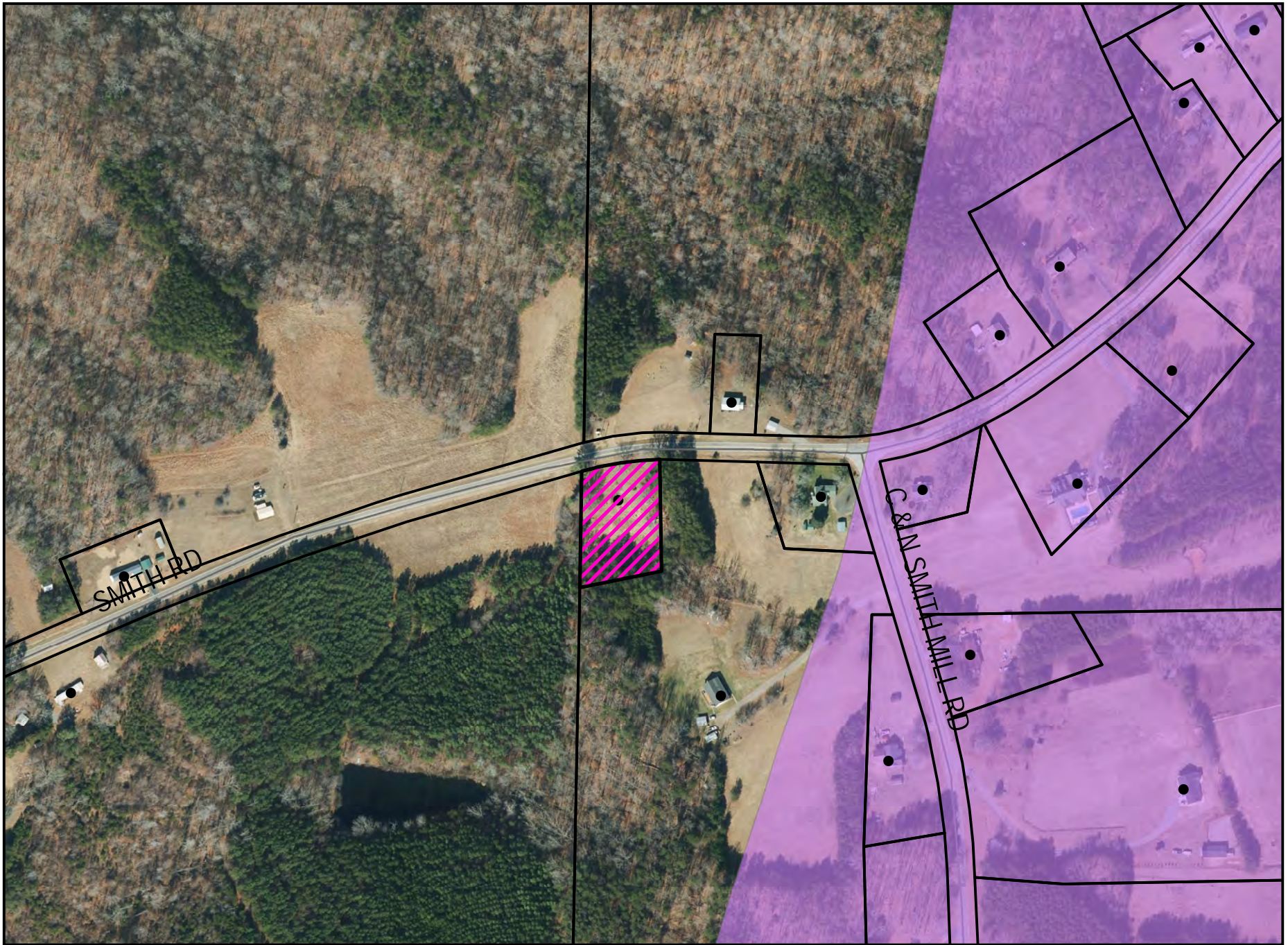


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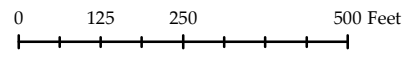




CASE 2024-06 HICKMAN REZ RP to RA LAND USE MAP, 0-2



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY



USES IN THE RESIDENTIAL AGRICULTURAL ZONING DISTRICT (RA)

Uses permitted by-right within zoning district (zoning permit may be required):

- Agricultural uses (unregulated)
- Agriculture related research and development
- Athletic fields, parks, recreation buildings, playgrounds, swim and racquet clubs (no commercial gain)
- Auction sales, temporary, one-time use
- Club and lodges, private, non-profit
- Community centers, public or private non-profit, for assembly and recreation
- Dwelling, single-family detached
- Dwelling, two-family (duplex)
- Farm supplies sales (feed, seed, fertilizer etc.)
- Golf Courses with or without ranges
- Library, Public
- Lumber yard
- Nursery and plant cultivation
- Places of worship and their customary uses, including childcare on premises
- Poultry Breeding Facility (dry litter)
- Pottery Crafting and Sales
- Produce/Roadside Stand
- Riding academy, commercial stables
- Short-term Rentals
- Sign, on premises
- Use of Open Land (see definitions)

Uses permitted by-right that require development standards:

- Agritourism Activities (regulated, not applicable to exempt farms)
- Animal Facility - Kennel (8 or less domesticated animals)
- Animal Facility – public stable
- Brewery, Winery, Distillery
- Campground / Recreational Vehicle Park
- Care Facility -- Hospice house/palliative
- Cemetery, human (public)
- Cemetery, pet (public)
- Cottage Business
- Dwelling, accessory unit
- Dwelling, Class AA manufactured home
- Dwelling, Class A manufactured home
- Dwelling, manufactured home (Class AA, A or B), temporary use – for Custodial Care
- Dwelling, manufactured housing on lot during construction of new dwelling
- Family care home
- Greenhouse, commercial
- Guest House
- Home Occupations
- Landfill, beneficial fill
- Manufactured home, temporary custodial care

- Manufactured home, temporary during residential construction
- Museum
- Outdoor Storage Area (Residential)
- Public utility, minor
- Recreational Vehicle, temporary stay during new home construction
- Rural Guest Establishment
- Rural Tourism Activities
- Sales Office/Model dwelling unit
- Shipping/Storage Container for Non-Residential Outdoor Storage
- Special Event Permit
- Stand-Alone Storage Unit
- Turkey shoots (associated with non-profit organizations)
- Wireless Telecommunications Facilities, colocation

Uses permitted only as an accessory to another permitted use on same lot:

- Accessory structure
- Greenhouse, private

Temporary use:

- Sawmills, portable
- Temporary buildings, incidental to development
- Temporary Storage Unit

Uses requiring a special use permit:

- Airport/airstrip/runway/taxiway
- Animal Facility - Kennel (more than 8 domesticated animals)
- Bed & Breakfast Home
- Commercial Feeder Operation
- Conference/retreat/event/reception/banquet center
- Group Homes (more than 6 living as a family with manager on-site)
- Landfill, land-clearing and inert debris (LCID)
- Landfill, sanitary/ solid waste
- Mining of earth products (sand, soil, clay)
- Nursery/landscaping business, commercial
- Nursing and rest homes
- Paintball/Airsoft Facility (Outdoor)
- Public utility, major (including public water/sewer plants)
- Schools, academic/ business/trade
- Shooting Range/Shooting Range Complex (Indoor/Outdoor)
- Skeet, Trap, and Sporting Clay Ranges
- Solar energy facility
- Turkey shoots (for profit, year- round)
- Wireless Telecommunications Facilities, new

USES IN THE RESIDENTIAL PROTECTED ZONING DISTRICT (RP)

Uses permitted by-right within zoning district (zoning permit may be required):

- Agricultural uses (unregulated)
- Athletic fields, parks, recreation buildings, playgrounds, swim and racquet clubs (no commercial gain)
- Auction sales, temporary, one-time use
- Club and lodges, private, non-profit
- Community centers, public or private non-profit, for assembly and recreation
- Dwelling, single-family detached
- Dwelling, two-family (duplex)
- Golf Courses with or without ranges
- Places of worship and their customary uses, including childcare on premises
- Produce/Roadside Stand
- Short-term Rentals
- Sign, on premises

Uses permitted by-right that require development standards:

- Cottage Business
- Dwelling, accessory unit
- Family care home
- Guest House
- Home Occupations
- Landfill, beneficial fill
- Manufactured home, temporary custodial care
- Manufactured home, temporary during residential construction
- Outdoor Storage Area (Residential)
- Public utility, minor
- Recreational Vehicle, temporary stay during new home construction
- Sales Office/Model dwelling unit
- Shipping/Storage Container for Non-Residential Outdoor Storage
- Special Event Permit

Uses permitted only as an accessory to another permitted use on same lot:

- Accessory structure
- Greenhouse, private

Temporary use:

- Temporary buildings, incidental to development
- Temporary Storage Unit

Uses requiring a special use permit:

- Bed & Breakfast Home
- Fire, sheriff and emergency services
- Public utility, major (including public water/sewer plants)
- Rural Tourism Activities
- Schools, academic/ business/trade



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CONSISTENCY AND REASONABLENESS DETERMINATION**

The Board has reviewed **Case 2024-06**, 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 common 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 majority of properties in this area are zoned for the same uses. Impacts among adjacent parcels would arguably be negligible.
 - 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, agricultural uses and open lands.



**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 COMMUNITY DEVELOPMENT
STAFF REPORT: PLANNING BOARD
CASE 2024-07: ZONING MAP AMENDMENT (REZONING)**



Request: A request for **Rezoning from Residential Agricultural (RA) to Neighborhood Commercial-Conditional District (NC-CD)**

Applicant: Steve Baker

Identification: Tax PIN: 7959-04-83-0644

Location: 6750 Smith Rd – Mayo Township

1. Acreage and Location of Parcel:

This parcel measures (+/-) 3.39 acres according to the Rockingham County Tax Map, located at 6750 NC Highway 770, approximately 0.8 miles east of the intersection with Settlement Loop.

2. Utilities: This property will be served by Dan River public water and individual septic system facilities.

3. Zoning Classification and Uses of Surrounding Parcels:

This parcel directly abuts others that are zoned Light Industrial (LI) and Residential Agricultural (RA). Nearby zoning includes Residential Protected (RP) and Neighborhood Commercial (NC).

4. Land Use Plan:

- a. This parcel is located in the G-1 Land Class according to the *Rockingham County Comprehensive Land Use Plan*, characterized as the county's low-density growth area. (p. 48)
- b. *The Rockingham County Land Use Plan* suggests that areas in the G-1 Land Class should generally be zoned Residential Agricultural (RA), though other types of zoning may be appropriate based on local factors and the Rural Crossroads concept. (p. 48-51)

5. Previous Zoning History:

1988: This property or its parent parcel was zoned Residential Protected (RP).

6. Staff Notes and Analysis:

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

- a. ***The size of the tract in question. Reasonableness.*** The parcel to be rezoned measures (+/-) 3.9 acres, which exceeds the minimum necessary size of 30,000 square feet in the Neighborhood Commercial (NC) zoning district. The size of the property is common in the area.
- b. ***The compatibility of the zoning action with the comprehensive plan. Consistency.*** A zoning change to Neighborhood Commercial (NC) is supported by *The Rockingham County Land Use Plan* and future land use map in the G-1 Land Class, particularly at identified Rural Crossroads. This property is located a bit less than a mile from one of these Crossroads.
- 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 only the approved conditional uses in the Neighborhood Commercial (NC) zoning district. Limiting the number of approved uses will help lessen any potential negative factors that might affect adjacent and nearby properties.
- d. ***The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness & Consistency.*** The mixed nature of zoning and allowed uses among adjacent and nearby properties lends

reasonableness to the uses requested for approval with this rezoning to Neighborhood Commercial-Conditional District (NC-CD). Historically, this property was used for legally nonconforming, lower impact commercial uses although the property was zoned Residential Agricultural (RA) when zoning districts were first created around the county.

7. Staff Recommendation:

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 the requested zoning amendment to be consistent with the intents and descriptions of the G-1 Land Class in the *Rockingham County Comprehensive Land Use Plan* and future land use map. Additionally, staff finds that the uses allowed in the Neighborhood Commercial-Conditional District (NC-CD) rezoning would be reasonable within the context of current zoning patterns and land uses among adjacent and nearby parcels in the area.

Therefore, staff recommends approval of Case 2024-07, a request for Rezoning from Residential Agricultural (RA) to Neighborhood Commercial-Conditional District (NC-CD).



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Date of Application/Fee: 2/12/24
 Property Address: 6750 NC 770 STONEVILLE NC 27048
 Parcel No / Tax Pins(s): 7590-04-83-0644
 Current District: RESIDENTIAL AG
 Proposed District: NEIGHBORHOOD COMMERCIAL CONDITIONAL
 Acreage requested for rezoning: 3.39
 Township: STONEVILLE

Owner(s): STEVEN C. BAKER
 Mailing Address: 6750 NC HWY 770 STONEVILLE 27048
 Telephone: 336 344 4422 email: SBAKER56BUICK@YAHOO

Applicant(s if different): _____
 Mailing Address: _____
 Telephone: _____ email: _____

SCC.BK
 Applicant/Owner Signature

 Applicant/Owner Signature

[Signature]
 Staff Signature

Notarial Certification

Rockingham County, North Carolina

I certify that Steven C. Baker personally appeared before me this the 12 day of Feb, 24 and acknowledged the due execution of the foregoing instrument.

Notary Signature: [Signature]
 Notary Printed Name: Darius D. Haith
 My Commission Expires: 12/28/2028

DARIUS D. HAITH
 Notary Public - North Carolina
 Rockingham County
 My Commission Expires 12/28/28
 (Seal)



ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
Department of Community Development

APPLICATION FOR ZONING MAP AMENDMENT

Owner Signature

(complete one for each owner)

I, STEVEN C. BAKER, owner (trustee, executor, etc.) of the property

denoted by Rockingham County Tax PIN 7590-04-83-0644, request that the property

be granted a rezoning from RESIDENTIAL - AG to NEIGHBORHOOD

COMMERCIAL CONDITIONAL DISTRICT. I agree with the conditions requested and understand that additional

conditions may be applied by the governing body. Also, I understand that if granted, the rezoning is

permanent and will run with the land. I feel this will serve my best interests.

SCB

Signature

02-12-24

Date

6750 NC 770

Mailing Address

STONEVILLE NC 27048

City, State, Zip

336-344-4422

Phone Number

[Signature]
Staff Signature

Notarial Certification

Rockingham County, North Carolina

I certify that Steven C. Baker personally appeared before me this the 12 day of Feb, 24

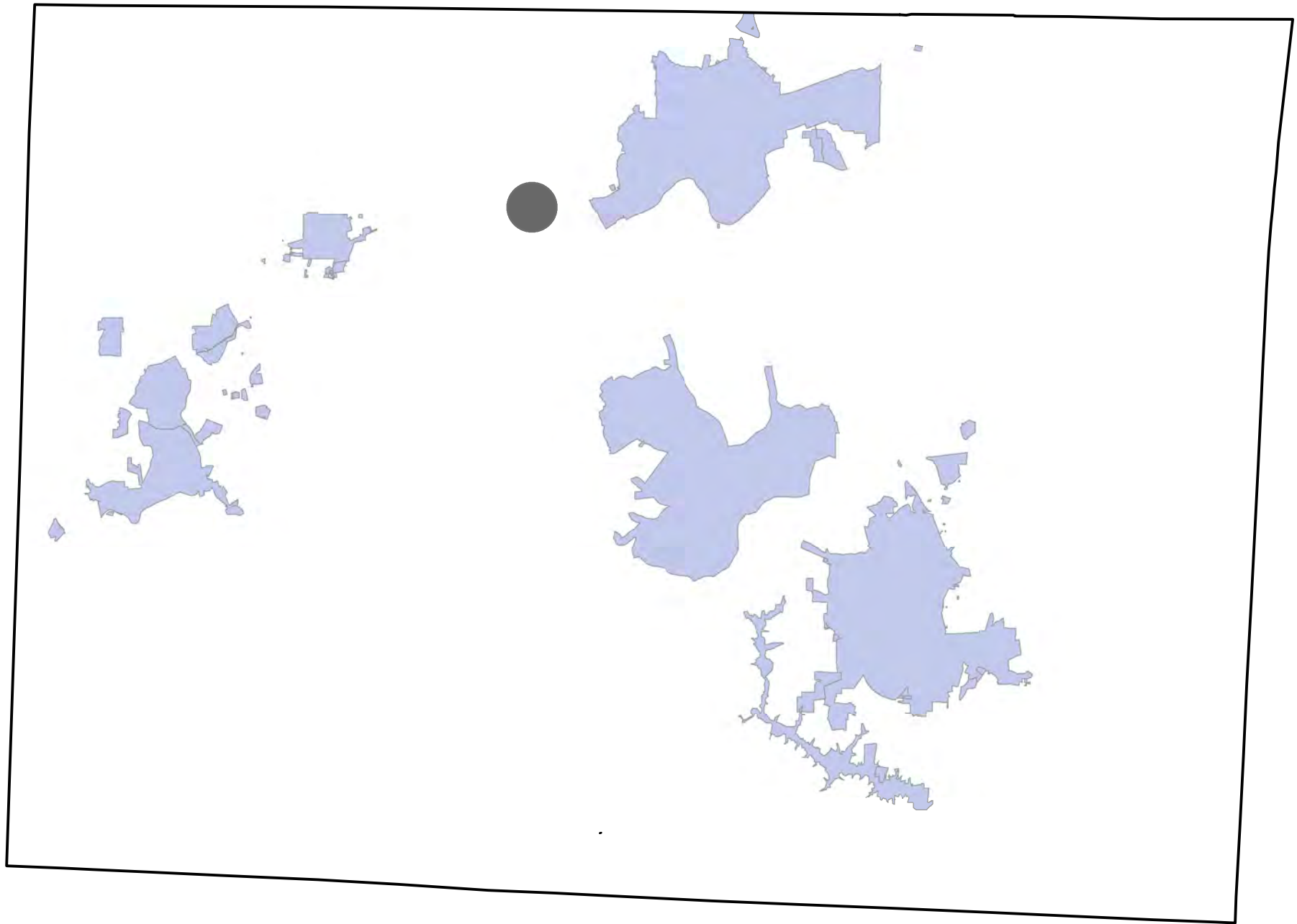
and acknowledged the due execution of the foregoing instrument.

Notary Signature: [Signature]
 Notary Printed Name: Darius D. Haith
 My Commission Expires: 12/28/2008

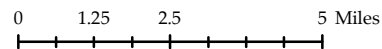
DARIUS D. HAITH
 Notary Public - North Carolina
 Rockingham County
 My Commission Expires 12/28/08
 (Seal)



CASE 2024-07 BAKER REZ RA TO NC-CD ENVIRONMENTAL MAP

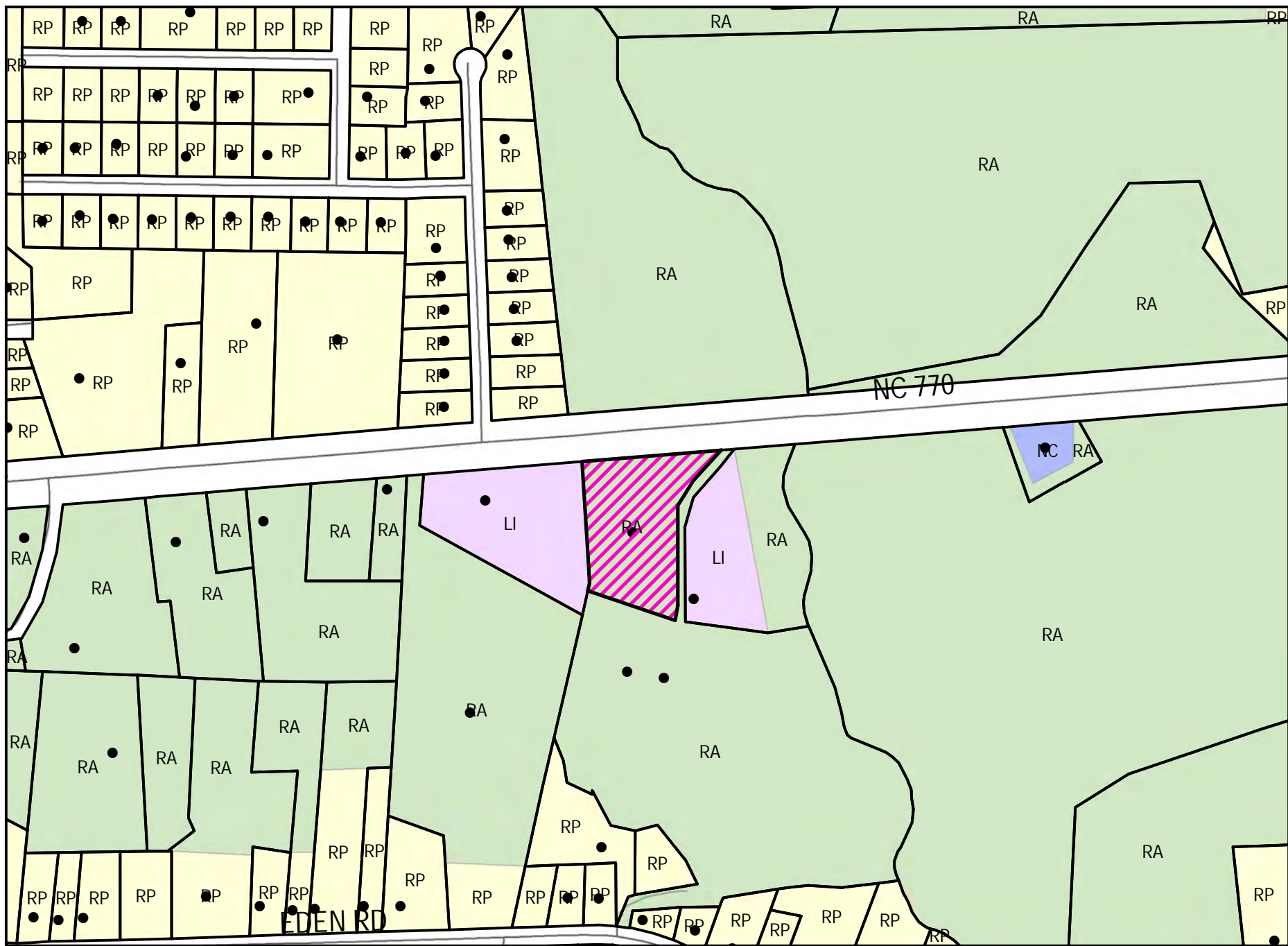


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

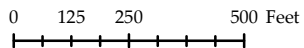




CASE 2024-07 BAKER REZ RA TO NC-CD ZONING MAP I

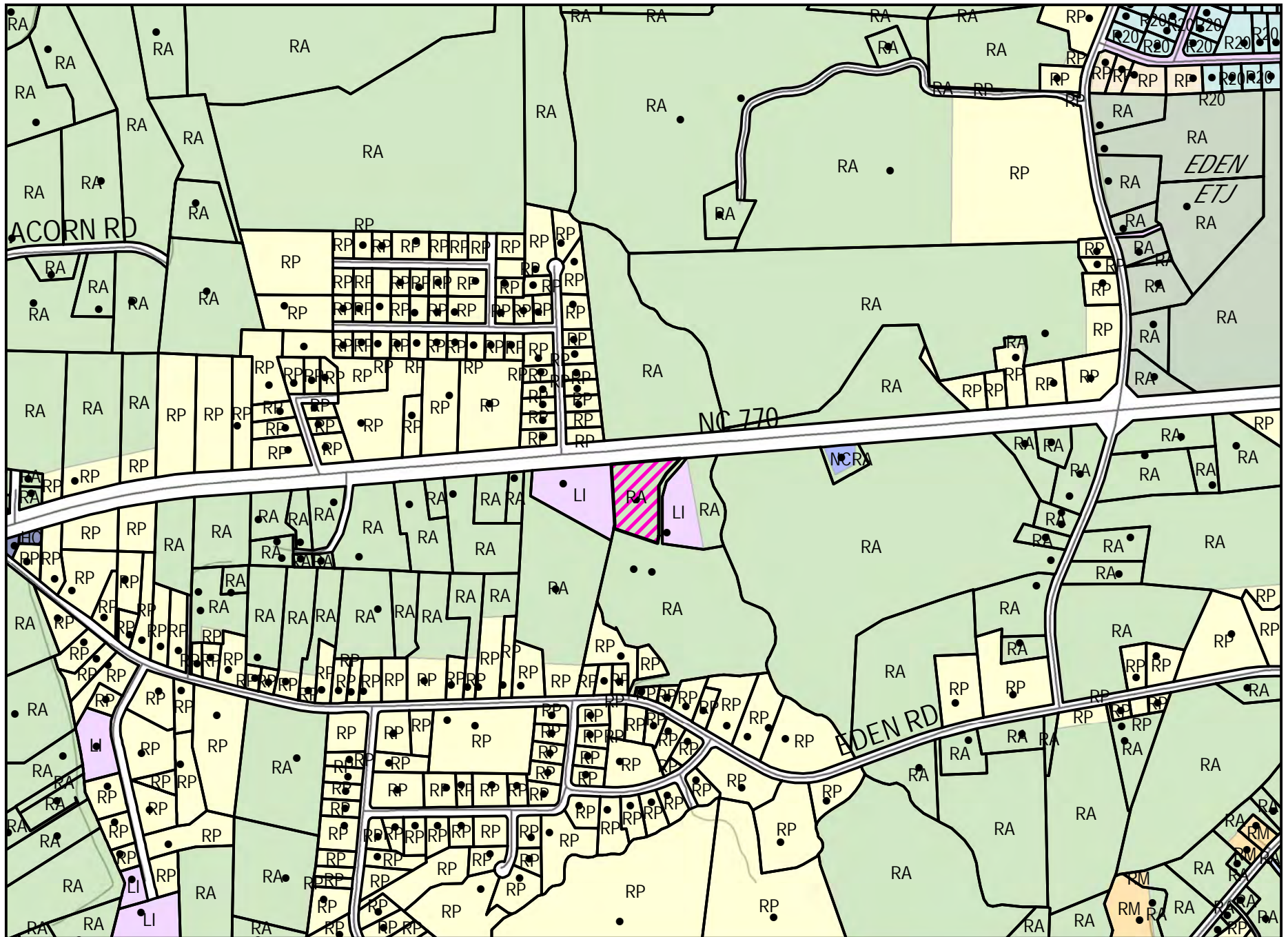


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

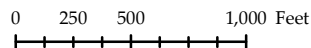




CASE 2024-07 BAKER REZ RA TO NC-CD ZONING MAP II

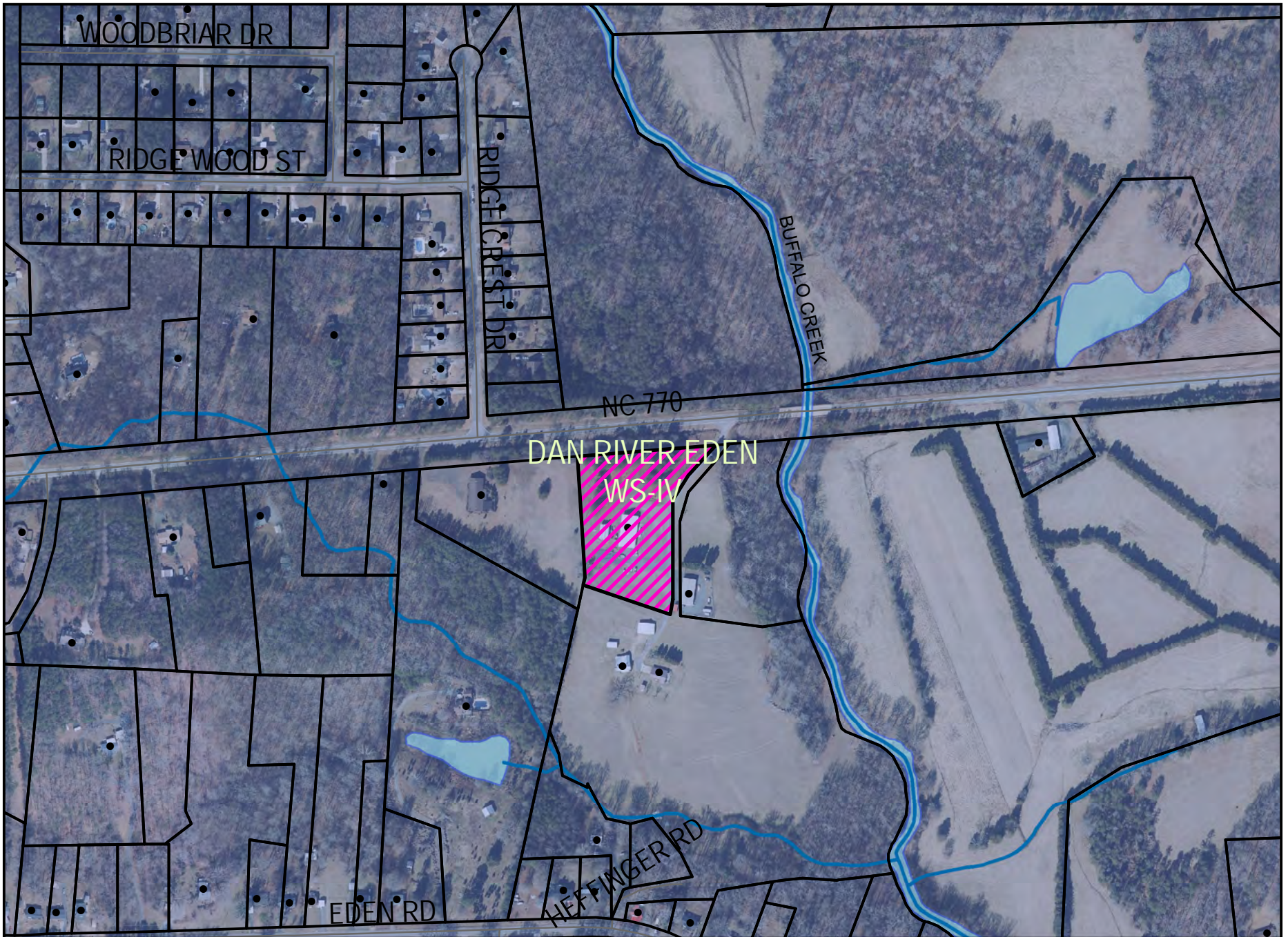


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

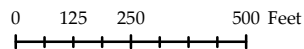




CASE 2024-07 BAKER REZ RA TO NC-CD ENVIRONMENTAL MAP

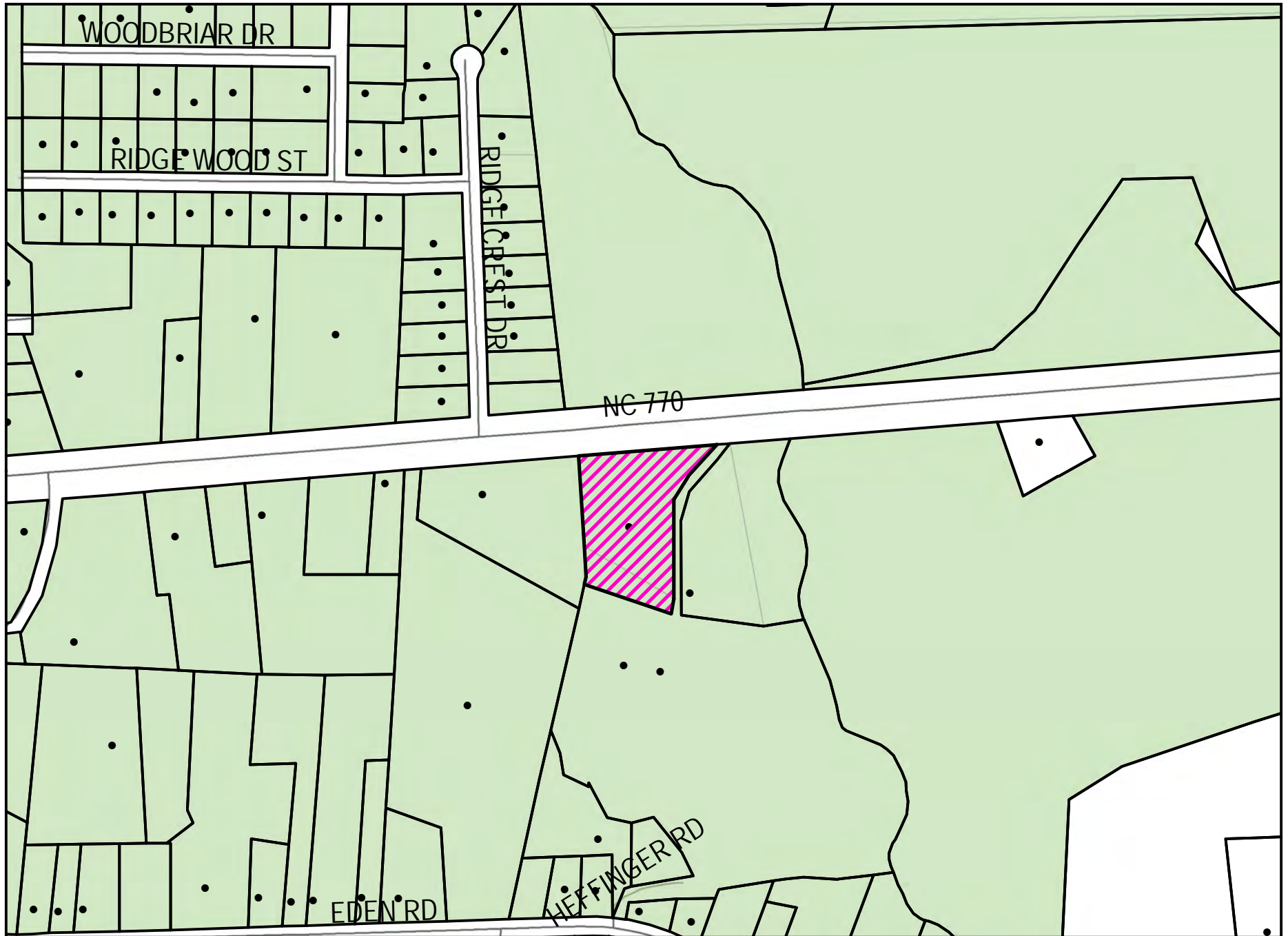


ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

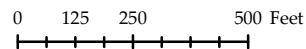




CASE 2024-07 BAKER REZ RA TO NC-CD LAND USE MAP, G-1



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY

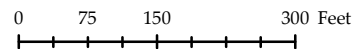




CASE 2024-07 BAKER REZ RA TO NC-CD PARCEL MAP



ROCKINGHAM COUNTY COMMUNITY DEVELOPMENT: FOR ILLUSTRATION PURPOSES ONLY



USES IN THE RESIDENTIAL AGRICULTURAL ZONING DISTRICT (RA)

Uses permitted by-right within zoning district (zoning permit may be required):

- Agricultural uses (unregulated)
- Agriculture related research and development
- Athletic fields, parks, recreation buildings, playgrounds, swim and racquet clubs (no commercial gain)
- Auction sales, temporary, one-time use
- Club and lodges, private, non-profit
- Community centers, public or private non-profit, for assembly and recreation
- Dwelling, single-family detached
- Dwelling, two-family (duplex)
- Farm supplies sales (feed, seed, fertilizer etc.)
- Golf Courses with or without ranges
- Library, Public
- Lumber yard
- Nursery and plant cultivation
- Places of worship and their customary uses, including childcare on premises
- Poultry Breeding Facility (dry litter)
- Pottery Crafting and Sales
- Produce/Roadside Stand
- Riding academy, commercial stables
- Short-term Rentals
- Sign, on premises
- Use of Open Land (see definitions)

Uses permitted by-right that require development standards:

- Agritourism Activities (regulated, not applicable to exempt farms)
- Animal Facility - Kennel (8 or less domesticated animals)
- Animal Facility – public stable
- Brewery, Winery, Distillery
- Campground / Recreational Vehicle Park
- Care Facility -- Hospice house/palliative
- Cemetery, human (public)
- Cemetery, pet (public)
- Cottage Business
- Dwelling, accessory unit
- Dwelling, Class AA manufactured home
- Dwelling, Class A manufactured home
- Dwelling, manufactured home (Class AA, A or B), temporary use – for Custodial Care
- Dwelling, manufactured housing on lot during construction of new dwelling
- Family care home
- Greenhouse, commercial
- Guest House
- Home Occupations
- Landfill, beneficial fill
- Manufactured home, temporary custodial care

- Manufactured home, temporary during residential construction
- Museum
- Outdoor Storage Area (Residential)
- Public utility, minor
- Recreational Vehicle, temporary stay during new home construction
- Rural Guest Establishment
- Rural Tourism Activities
- Sales Office/Model dwelling unit
- Shipping/Storage Container for Non-Residential Outdoor Storage
- Special Event Permit
- Stand-Alone Storage Unit
- Turkey shoots (associated with non-profit organizations)
- Wireless Telecommunications Facilities, colocation

Uses permitted only as an accessory to another permitted use on same lot:

- Accessory structure
- Greenhouse, private

Temporary use:

- Sawmills, portable
- Temporary buildings, incidental to development
- Temporary Storage Unit

Uses requiring a special use permit:

- Airport/airstrip/runway/taxiway
- Animal Facility - Kennel (more than 8 domesticated animals)
- Bed & Breakfast Home
- Commercial Feeder Operation
- Conference/retreat/event/reception/banquet center
- Group Homes (more than 6 living as a family with manager on-site)
- Landfill, land-clearing and inert debris (LCID)
- Landfill, sanitary/ solid waste
- Mining of earth products (sand, soil, clay)
- Nursery/landscaping business, commercial
- Nursing and rest homes
- Paintball/Airsoft Facility (Outdoor)
- Public utility, major (including public water/sewer plants)
- Schools, academic/ business/trade
- Shooting Range/Shooting Range Complex (Indoor/Outdoor)
- Skeet, Trap, and Sporting Clay Ranges
- Solar energy facility
- Turkey shoots (for profit, year- round)
- Wireless Telecommunications Facilities, new

USES IN THE NEIGHBORHOOD COMMERCIAL ZONING DISTRICT (NC)

Uses permitted by-right within zoning district (zoning permit may be required):

- Agricultural uses (unregulated)
- Amusements, indoor commercial (e.g. bowling alleys, skating rinks)
- Apparel and accessory sales
- Athletic fields, parks, recreation buildings, playgrounds, swim and racquet clubs (no commercial gain)
- Auction sales, yards, permanent
- Auction sales, temporary, one-time use
- Automobile car wash, drive through, requiring vehicle queueing
- Automobile parts sales
- Automobile sales, rentals
- Automobile service/repair stations
- Automobile, truck and trailer (hauling) rental
- Banks & Savings and Loans
- Barber and Beauty Service
- Bed & Breakfast Home
- Boats, Recreation Vehicles, Outdoor Storage (primary use, short-term)
- Bottling Plants
- Brewery, Winery, Distillery
- Bus Station
- Car Wash
- Club and lodges, private, non-profit
- Clubs and places of entertainment (commercial)
- Clinics, medical, dental
- Coin operated laundry
- Community centers, public or private non-profit, for assembly and recreation
- Conference/retreat/event/reception/banquet center
- Convenience food stores with or without gas pumps
- Dry Cleaning or laundry (not coin-operated)
- Drive through window services (banks, laundries, fast food, etc.) where use is permitted in district
- Exterminating services
- Farmers markets (may include sale of locally made craft items)
- Fire, sheriff and emergency services
- Flea markets – indoor
- Florists
- Funeral home, crematorium
- Gift Shops
- Golf, Miniature
- Government Offices
- Greenhouse, private
- Grain and Grist Mills
- Grocery stores
- Hardware, Paint & Garden Supplies
- Health club, gym
- Home Furnishings & Appliance Sales
- Home health & home care agencies
- Hospital/medical facility
- Hotels & Motels
- Jewelry Store
- Laboratory, Medical & Dental
- Library, Public
- Locksmith, Gunsmith (not as home-occupation)
- Movie theater, indoor
- Museum
- Nursery and plant cultivation
- Offices, professional private and public
- Office Supplies Sales
- Pet Shop
- Pharmacy and drug store
- Places of worship and their customary uses, including childcare on premises
- Post Office
- Pottery Crafting and Sales
- Printing and Reproduction
- Radio, media, television studio
- Retail shops not exceeding 3,000 square feet of gross floor area and whose primary sales are agriculture related items, antiques, artisan gallery or studio, locally made crafts, items related to rural tourism, outdoor recreation and sporting goods equipment
- Retail sales not listed elsewhere
- Repair, rental and service of products sold at retail in same district where use is permitted
- Restaurant
- Restaurant, excluding drive in and fast food
- Rural family occupation of nonagricultural nature
- Service establishments including but not limited to barber and beauty shops, small item repair and rental
- Service stations
- Sign, on premises
- Social Services Centers
- Studios for artists, designers, musicians, photographers, sculptors (not as a home occupation)
- Tailor, sewing shop
- Taxi stand, including ride sharing
- Townhomes/condominiums, commercial
- Upholstering and furniture refinishing

USES IN THE NEIGHBORHOOD COMMERCIAL ZONING DISTRICT (NC)

Uses permitted by-right that require development standards:

- Agritourism Activities (regulated, not applicable to exempt farms)
- Animal Facility - Kennel (8 or less domesticated animals)
- Animal Facility - Kennel (more than 8 domesticated animals)
- Brewery, Winery, Distillery
- Cemetery, human (public)
- Cemetery, pet (public)
- Animal hospital/ veterinary clinic
- Assembly/theater facility — Outdoor or drive-in
- Campground / Recreational Vehicle Park
- Care Facility, Day – child, adult
- Greenhouse, commercial
- Home Occupations
- Landfill, beneficial fill
- Mobile Food Vendor, Temporary
- Nursery/landscaping business, commercial
- Nursing and rest homes
- Outdoor Display Area (Non-residential)
- Outdoor Storage Area (Non-residential)
- Public utility, minor
- Sales Office/Model dwelling unit
- Schools, academic/ business/trade
- Shipping/Storage Container for Non-Residential Outdoor Storage
- Special Event Permit

* Allow the use and operation of businesses licensed by the State, as defined and authorized by the State of North Carolina through license issued by a state agency, or other agency or commission designated by the State.



Owner

FEB 12-24

Date



Staff

2/12/24

Date

Uses requiring a special use permit:

- Group Homes (more than 6 living as a family with manager on-site)
- Public utility, major (including public water/sewer plants)
- State Licensed Uses*

Uses permitted only as an accessory to another permitted use on same lot:

- Accessory structure
- Automated bank teller/ ATM, portable concession stands, ice machines
- Live/work unit

Temporary use:

- Construction Trailer (Class AA, A or B), temporary use
- Temporary buildings, incidental to development
- Temporary Storage Unit



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CONSISTENCY AND REASONABLENESS DETERMINATION**

The Board has reviewed **Case 2024-07**, rezoning to **Neighborhood Commercial-Conditional District (NC-CD)**. 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 G-1 Land Class according to the *Rockingham County Comprehensive Land Use Plan*, characterized as the county's low-density growth area. (p. 48)
 - B. *The Rockingham County Land Use Plan* suggests that areas in the G-1 Land Class should generally be zoned Residential Agricultural (RA), though other types of zoning may be appropriate based on local factors and the Rural Crossroads concept. (p. 48-51)
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 (+/-) 3.9 acres, which exceeds the minimum necessary size of 30,000 square feet in the Neighborhood Commercial (NC) zoning district. The size of the property is common in the area.
 - B. *The compatibility of the zoning action with the comprehensive plan. Consistency.* A zoning change to Neighborhood Commercial (NC) is supported by The Rockingham County Land Use Plan and future land use map in the G-1 Land Class, particularly at identified Rural Crossroads. This property is located a bit less than a mile from one of these Crossroads.
 - 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 only the approved conditional uses in the Neighborhood Commercial (NC) zoning district. Limiting the number of approved uses will help lessen any potential negative factors that might affect adjacent and nearby properties.
 - D. *The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness & Consistency.* The mixed nature of zoning and allowed uses among adjacent and nearby properties lends reasonableness to the uses requested for approval with this rezoning to Neighborhood Commercial-Conditional District (NC-CD). Historically, this property was used for legally nonconforming, lower impact commercial uses although the property was zoned Residential Agricultural (RA) when zoning districts were first created around the county.



**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.”

Text Amendment 2024-09 a proposed change to the text of the Rockingham County Unified Development Ordinance (UDO) that will establish a set of administrative Development Standards for erecting a Class AA (doublewide) manufactured home in the Residential Protected (RP) zoning district. Currently, no manufactured homes of any kind are permissible in the RP district. They are permissible in the county's other residential zoning districts. This amendment defines the minimum development standards for placing a Class AA manufactured home in the RP district, which correlate with or exceed the standards for Modular Homes. This amendment does not allow for Class A or B (singlewide) manufactured homes in the RP district.

Dwelling, Class AA manufactured home	D	*D	D							D	62.53; *62.54
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***Sec. 62.54. Manufactured Home, Class AA on individual lots in the Residential Protected (RP) District.**

(This will necessitate renumbering the reference for Mini Warehouse to 62.55)

Class AA doublewide/multi-section manufactured homes in the Residential Protected (RP) zoning district are subject to the requirements of this Section. All class AA doublewide and multi-section manufactured homes must meet the following criteria:

- (a) **Site Plan.** A detailed site plan, as described in Sec. 32.02 of this ordinance is required at the time of application for development approval.
- (b) **Eaves.** The eave projection must measure no less than six inches, and may include gutters and downspouts.
- (c) **Roof construction and pitch.** The pitch of the main roof of the building must have a minimum rise of four (4) feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
- (d) **Exterior finish.** The exterior siding must consist of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or masonry board approved for outdoor construction, comparable in composition, appearance and durability to exterior siding commonly used in standard residential construction.
- (e) **Tongue removal.** The towing tongue must be removed upon final placement of the unit. Class AA Homes permanently attached to a towing apparatus are not allowed in the RP District.
- (f) **Underskirting** Class AA manufactured homes in the Residential Protected (RP) zoning district must be permanently placed on a brick, concrete block or other masonry foundation. The foundation must be continuous and unpierced except for ventilation as required by state regulations for manufactured/mobile homes.
- (g) **Porches and Decks.** All doublewide and multi-section manufactured homes placed in the RP zoning district must have a masonry porch or deck located on the front of the home. The deck or porch must be constructed as part of the foundation and measure a minimum of 36 square feet. The rear entrance to the home must also include a porch or deck measuring no less than 72 square feet. The rear deck may be constructed of masonry, treated wood, composite material or any other type of material approved by NC building code for deck construction. All steps, decks, porches and entrances must be installed and constructed in accordance with the NC state standards for manufactured/mobile homes or, when applicable, the building code.

Text Amendment 2024-09 a proposed change to the text of the Rockingham County Unified Development Ordinance (UDO) that will establish a set of administrative Development Standards for erecting a Class AA (doublewide) manufactured home in the Residential Protected (RP) zoning district. Currently, no manufactured homes of any kind are permissible in the RP district. They are permissible in the county's other residential zoning districts. This amendment defines the minimum development standards for placing a Class AA manufactured home in the RP district, which correlate with or exceed the standards for Modular Homes. This amendment does not allow for Class A or B (singlewide) manufactured homes in the RP district.

Dwelling, Class AA manufactured home	D	*D	D							D	62.53; *62.54
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Class AA doublewide/multi-section manufactured homes in the Residential Protected (RP) zoning district are subject to the requirements of this Section. All class AA doublewide and multi-section manufactured homes must meet the following criteria:

- (a) *Site Plan.* A detailed site plan, as described in Sec. 32.02 of this ordinance is required at the time of application for development approval.
- (b) *Eaves.* The eave projection must measure no less than six inches, and may include gutters and downspouts.
- (c) *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of four (4) feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
- (d) *Exterior finish.* The exterior siding must consist of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or masonry board approved for outdoor construction, comparable in composition, appearance and durability to exterior siding commonly used in standard residential construction.
- (e) *Tongue removal.* The towing tongue must be removed upon final placement of the unit. Class AA Homes permanently attached to a towing apparatus are not allowed in the RP District.
- (f) *Underskirting* Class AA manufactured homes in the Residential Protected (RP) zoning district must be permanently placed on a brick, concrete block or other masonry foundation. The foundation must be continuous and unpierced except for ventilation as required by state regulations for manufactured/mobile homes.
- (g) *Porches and Decks.* All doublewide and multi-section manufactured homes placed in the RP zoning district must have a masonry porch or deck located on the front of the home. The deck or porch must be constructed as part of the foundation and measure a minimum of 36 square feet. The rear entrance to the home must also include a porch or deck measuring no less than 72 square feet. The rear deck may be constructed of masonry, treated wood, composite material or any other type of material approved by NC building code for deck construction. All steps, decks, porches and entrances must be installed and constructed in accordance with the NC state standards for manufactured/mobile homes or, when applicable, the building code.



**ROCKINGHAM COUNTY
COMMUNITY DEVELOPMENT
CONSISTENCY DETERMINATION**

The Board has reviewed **Case 2024-09**, a proposed text amendment to establish development standards for Class AA manufactured homes in the Residential Protected (RP) zoning district. As required by NCGS § 160D the Board makes the following findings:

1. The proposed action is found to be consistent with the goals and policies of 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.”

In the Matter of:

BRANDON PETTITT & ANDY PATEL

**APPEALING A DETERMINATION OF
THE COMMUNITY DEVELOPMENT
DIRECTOR: REVOCATION OF ZONING
PERMIT: ZMISC2309-001.**

**ORDER
DENYING APPEAL**

This matter came forward for hearing before the Rockingham County Board of Adjustment at its regularly scheduled meeting, February 12th, 2024 upon the application of Brandon Pettitt and Andy Patel, represented by legal counsel Jonathan Trapp, to Appeal the Revocation of ZMISC2301-001, a Determination of the Community Development Director, regarding the business located at 3998 US Highway 220, Madison NC - Gallent Rd, Reidsville NC – Huntsville Township. This property where the business is located is denoted by Tax PIN 792400099804.

The members of the Rockingham County Board of Adjustment present for the hearing were Paul Ksieniewicz (Chair), Julie Talbert (Vice-Chair). Keith Duncan, Quint Haley, Bernie Parnell, Cory Scott, and Jeff Kallam. Members of Rockingham County staff present for the hearing were Hiram Marziano (Community Development Director), Clyde Albright (County Attorney) A. Lynn Cochran (Senior Planner), Victoria Pedigo (Planner), and Bricen Wall (Code Enforcement Officer).

All persons giving evidence at the hearing were sworn in by Board Chair Paul Ksieniewicz.

Having heard the sworn evidence presented, and having received into evidence such exhibits as were presented by the participants during the hearing, and affording those who wished to be heard the opportunity to testify, examine, and cross-examine witnesses and to make arguments, the Rockingham County Board of Adjustment, in reliance upon all relevant documents in the public record and upon substantial, relevant, and credible evidence presented to the Board, hereby makes the following:

FINDINGS OF FACT

A verbatim transcript detailing the findings of facts follows:

STATE OF NORTH CAROLINA
COUNTY OF ROCKINGHAM

BEFORE THE BOARD OF
ADJUSTMENT

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

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

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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TABLE OF CONTENTS

PAGE NO.

OPENING REMARKS BY CHAIRMAN.....	5
PRESENTATION BY LYNN COCHRAN.....	7
PRESENTATION ON BEHALF OF THE APPELLANT.....	11
PRESENTATION ON BEHALF OF THE APPELLEE.....	35
CERTIFICATE OF REPORTER.....	53

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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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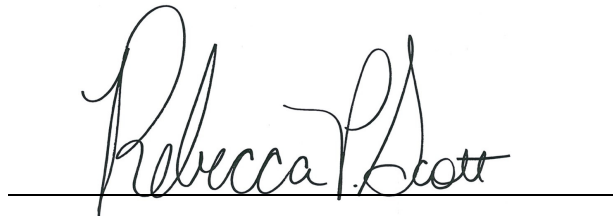
CERTIFICATE OF REPORTER

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

CONCLUSIONS OF LAW

The Rockingham County Unified Development Ordinance (*UDO*) *Article III, Division 2* defines the permit approvals that are necessary to develop and use property in Rockingham County:

Sec. 32.03. - Zoning authorization.

(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.

Based on the foregoing findings of fact and the evidence of record, the Board of Adjustment concludes that the applicant, on appeal, has not met his burden to prove that the activities taking place on the subject parcel meet the minimum standards to be permitted according the regulations established in the Rockingham County Unified Development Ordinance.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, based on the foregoing findings of fact and conclusions of law, that the application from Brandon Pettitt and Andy Patel, represented by counsel Jonathan Trapp, appealing the Revocation of Zoning Permit ZMISC2309-001, regarding activities taking place at 3998 US Highway 200 on the property denoted by Tax PIN 792400099804, described herein and located in the Huntsville Township is **DENIED**.

This the 11th day of March, 2024.

Paul Ksieniewicz
Chairperson, Rockingham County Board of Adjustment

A. Lynn Cochran
Secretary to the Board of Adjustment