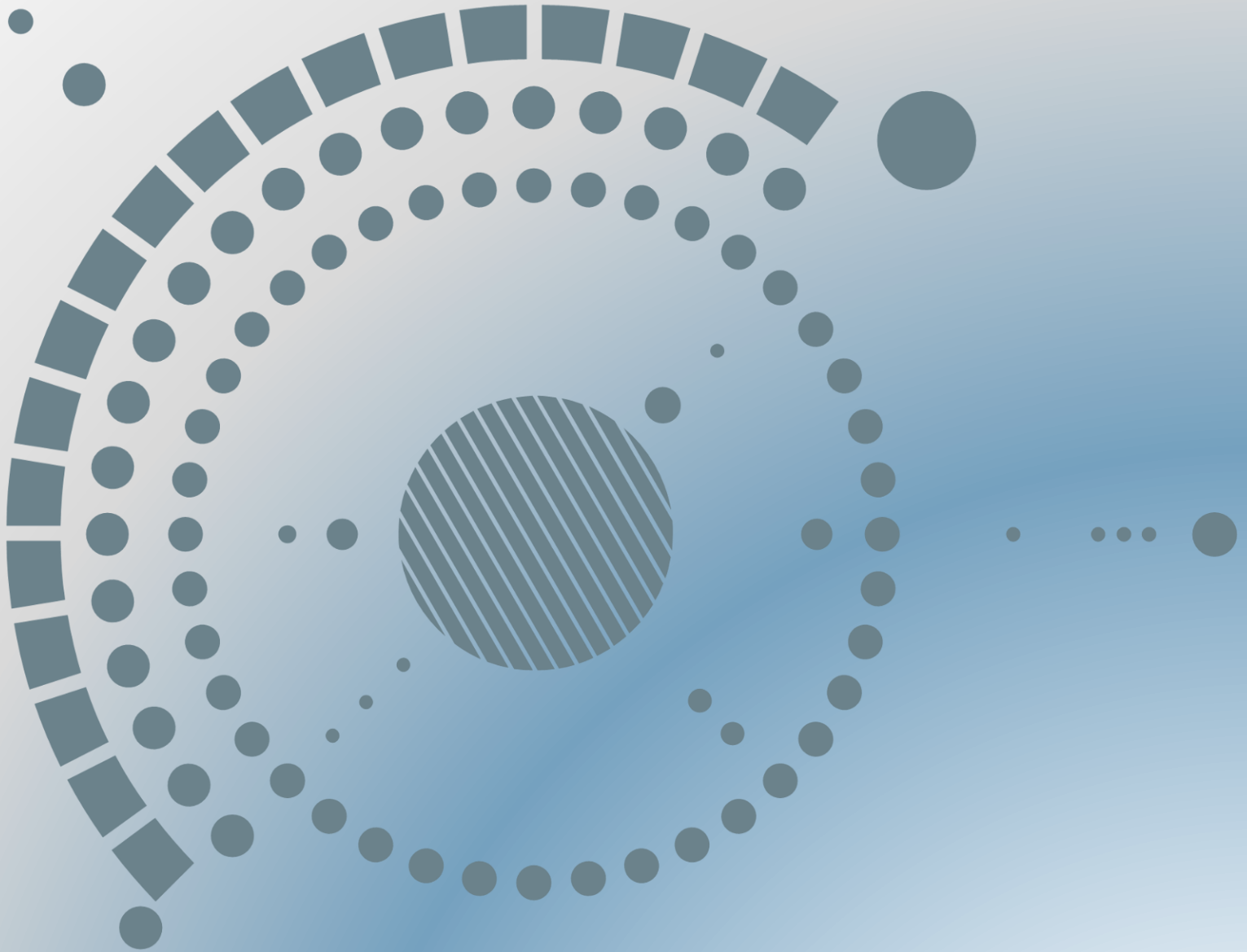


Board of Adjustment – Staff Report
5:30 p.m. Monthly Meeting
September 5, 2023



ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL



AGENDA
ROCKY MOUNT BOARD OF ADJUSTMENT MEETING
SEPTEMBER 5, 2023, AT 5:30 P.M.
GEORGE W. DUDLEY CITY COUNCIL CHAMBER, FREDERICK E. TURNAGE MUNICIPAL BUILDING

Voting Members: Apryl Davison-Cobb, Benjamin E. Moore Jr., Mark Oosterhout, Tonya Parker, Carl Revis, James Tharin

Alternate: Tilda Whitaker-Bailey

Edgecombe County: Vacant

Nash County: Vacant

1. **Call to Order**
2. **Approvals**
 - a. **Agenda**
 - b. **Minutes**
3. **Explanation of Rules of Procedure**
4. **Review of Application for Special Use Permits Relative to Public Hearings**
5. **Review of Variance Requests**

5.1 Variance Request #09-05-23-02

Requested Action:	To allow a variation from freestanding sign regulations
Location:	650 English Road
Existing Land Use:	Commercial
Proposed Land Use:	Commercial
Zoning:	B-5, Commercial Services District
Applicable Regulations:	LDC Sec. 509: Zoning Variance Provisions LDC Sec. 709: Signs LDC Sec. 1104: Nonconforming Signs
Property Owner:	Davenport Motor Co of Rocky Mount Inc
Applicant:	Scott Levine; Signsmith Inc.
Case Manager:	Bernetta Smith, Planner
Voting Representatives:	City Members

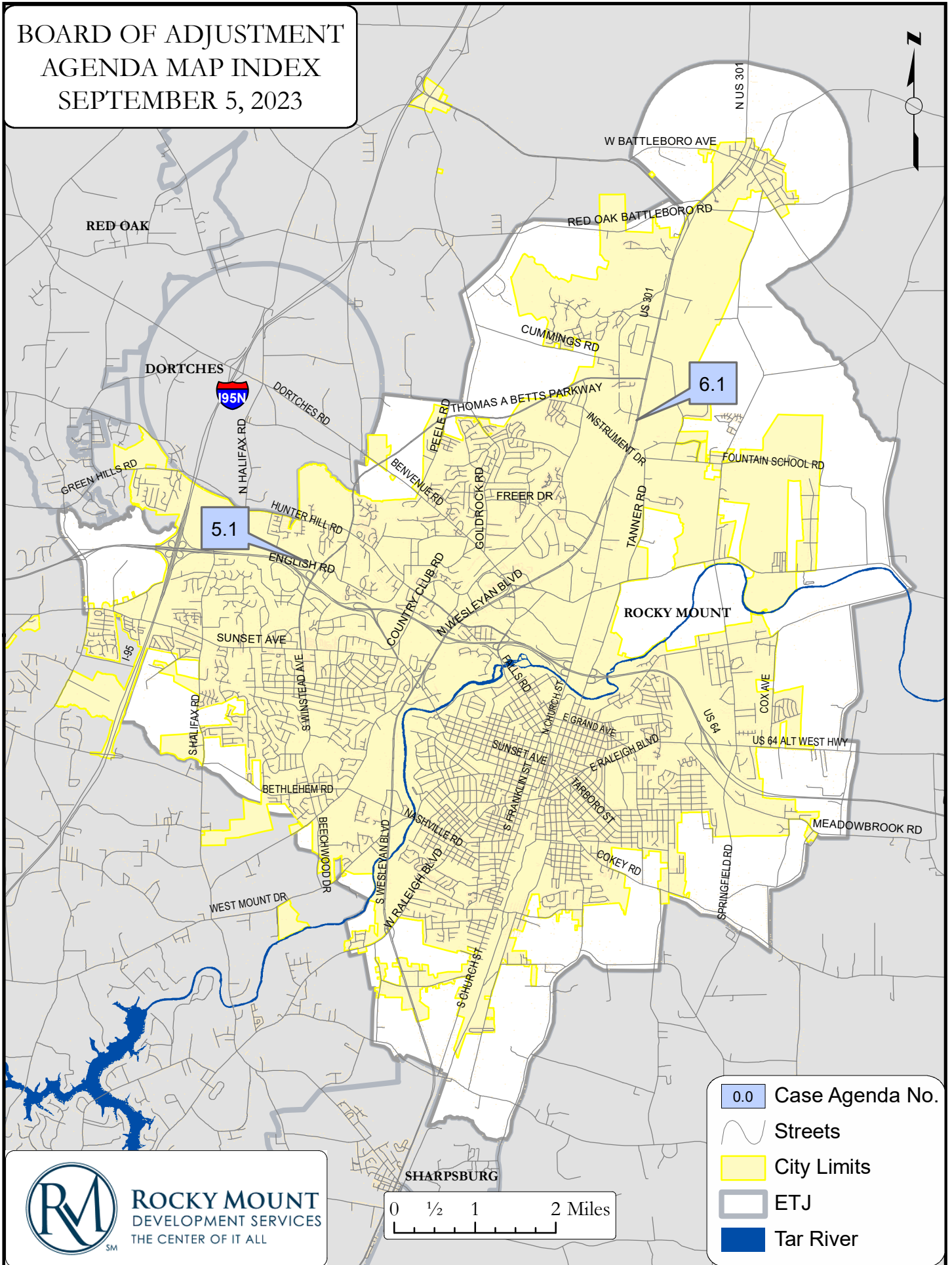
6. Review of Requests for Appeals

6.1 Appeal of Decision: #09-05-23-03

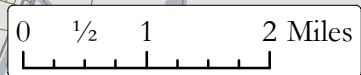
Requested Action:	Appeal of City Official's Decision
Location:	2760 N. Wesleyan Boulevard
Existing Land Use:	Commercial
Proposed Land Use:	Commercial
Zoning:	B-5CD, Conditional Commercial Services District
Applicable Regulations:	LDC Sec. 503: Zoning Use Tables LDC Sec. 510: Appeal of Administrative Officer's Decision LDC Sec. 703: Certification of Occupancy
Property Owner:	Club Way LLC
Appellant:	J. Richard Hamlett, II for Royal Dane Holdings LLC
Case Manager:	JoSeth Bocook, Deputy Director of Development Services
Voting Representatives:	City Members

7. **Review of Requests for Interpretations**
8. **Unfinished Business**
9. **New Business**
 - a. **Items from the Board**
 - b. **Items from the Secretary**
10. **Adjournment** [Next meeting: October 3, 2023]

BOARD OF ADJUSTMENT
 AGENDA MAP INDEX
 SEPTEMBER 5, 2023



- Case Agenda No.
- Streets
- City Limits
- ETJ
- Tar River



**MINUTES OF THE
ROCKY MOUNT BOARD OF ADJUSTMENT MEETING
HELD ON TUESDAY, JULY 18, 2023, AT 5:30 PM
IN THE FREDERICK E. TURNAGE MUNICIPAL BUILDING, GEORGE W. DUDLEY CITY COUNCIL CHAMBER**

MEMBERS PRESENT

Apryl Davison-Cobb, Rocky Mount
Tonya Parker, Rocky Mount
James Tharin, Rocky Mount
Tilda Whitaker-Bailey, Rocky Mount, Alternate

MEMBERS ABSENT

Mark Osterhout, Rocky Mount
Benjamin E. Moore, Jr., Rocky Mount
Carl Revis, Rocky Mount

MEMBERS SEATED

Apryl Davison-Cobb, Rocky Mount
Tonya Parker, Rocky Mount
James Tharin, Rocky Mount
Tilda Whitaker-Bailey, Rocky Mount, Alternate

STAFF PRESENT

Samantha Andelin, Administrative Assistant
JoSeth Bocook, Interim Director of Development Services
Bernetta Smith, Planner
Tiffany Wright, Planning Technician

ATTORNEY TO THE BOARD

William S. Hoyle

1. Call to Order

Mr. Tharin called the meeting to order at 5:34pm

Mr. Tharin requested Board members to identify themselves and state what ward they represented. He also asked staff to identify themselves.

2. a. Approval of the Agenda

Mr. Tharin presented the agenda and staff advised there were no changes; therefore, the Board approved the agenda as presented.

b. Approval of the June 6, 2023, Meeting Minutes

Mr. Tharin presented the June 6, 2023, meeting minutes to the Board.

Board action: A motion was made by Mr. Tharin seconded by Ms. Parker and unanimously carried to approve the minutes as submitted.

3. Explanation of Rules of Procedure

Mr. Tharin stated that the Board of Adjustment is a quasi-judicial board and explained the Rules of Procedure. Mr. Tharin explained that the case will be announced, and a representative from the city will be sworn in and present a general description of the case. The appellant/petitioner will be sworn and present facts in support of their request. Mr. Tharin will call for witnesses to speak in favor of the request, and then witnesses to speak who oppose the request. When both sides have completed their presentation, he will call for the city's recommendation relative to conformance with the City of Rocky Mount Land Development Code. The appellant will have an opportunity to present any rebuttal to the city's recommendation. After the Board has heard each appeal/request and discussion, the public hearing will be closed and the Board will hold an executive session, which is open to the public, to reach a decision as to the appeal or request. The Board will not entertain any additional comments from the public during this portion of the meeting. The Board will discuss the case and then call for the vote.

4. Review of Application for Special Use Permit Relative to Public Hearing.

None

5. Review of Variance Requests

5.1 Variance Request #07-18-23-05

Mr. Tharin called for a representative from the city to present the case. Ms. Smith was sworn in and presented the petition to allow a variation from minimum yard requirements.

Ms. Smith stated the subject site is a single parcel with an area of .07 of an acre located at 824 S. Grace Street is currently the home of Rocky Mount Fire Station 2; the property is zoned R-6MFA (Medium Density Residential District). To the north are parcels zoned R-6MFA (Medium Density Multifamily Residential District). To the south, are parcels zoned R-6MFA and O-I. To the west are parcels zoned R-6MFA and B-I and to the east are parcels zoned B-2CD and R-6MFA.

Ms. Smith stated that the appellant has requested a variance from the required side setbacks to construct a new fire department and maintain the 12.5 feet landscape buffer

along the adjacent residential property. The minimum yard regulations for the R-6MFA zoning district call for a structure to be setback from the property lines 25 feet in the front, 10 feet on each side, and 20 feet in the rear. The appellant has provided a site plan with the proposed location of the building. To locate the building as indicated, a variance will need to be granted allowing for up to +/-1.83 feet of relief from the required side yard requirement.

In approving the permit, the Board of Adjustment shall find that all the following conditions exist in conformance with Section 509. Zoning Variance Provisions of the Land Development Code:

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) or practical difficulty because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards.
4. The variance is the minimum action necessary to alleviate the hardship or practical difficulty and observes the spirit of this LDC; and
5. The variance desired will not adversely affect the public health, safety or general welfare or impair the purposes or intent of this LDC or the comprehensive plan.

Ms. Smith concluded her presentation.

Mr. Tharin called for questions from the Board. Mr. Tharin asked does staff hold a position on the request as in speaking for or against it, or if it is more like relaying a message from the Fire Department. Ms. Smith advised that staff are just presenting the request.

Mr. Tharin asked if the request is to tear down the existing fire station and rebuild from scratch. Ms. Smith advised that the plan is to build a new one, therefore there would be a landscape buffer on the side between the residents and Fire Department and to maintain the width they would need to encroach into the side setback.

Mr. Tharin called for anyone to speak in favor of the request. A representative for the applicant was present. Kevin Varnell with Stocks Engineering was sworn in. Mr. Varnell stated that the subject site is an existing fire station on South Grace Street that has traveled beyond its ability to serve the community, therefore, the city has decided to move forward with removing the existing structure and build back a new one that will meet all the current code regulations such as sleeping quarters and bays. With the code regulations when building the new structure there must be a 12-foot landscape buffer to the left of the property. He stated that there are constraints on where fire stations are built in a community. Specific response time and insurance ratings must be met, giving a small radius of a location in that area and since this site has met the community needs the city wants to rebuild at that location.

Mr. Tharin asked for clarification on the buffer and space that is currently a driveway. Mr. Varnell stated that the city's requirement is to provide a landscape buffer anytime there is different land use. Adjacent to the fire station is residential to the west. The existing fire station does not provide a buffer at all, the driveway goes right to the property line. Since the existing building will be torn down and replaced with a new structure the city requires the current code to be met. Mr. Tharin stated that it would be more attractive. Mr. Varnell agreed and stated that evergreen vegetation would be planted as the buffer and within 10 years the trees would be as tall as the building.

Mr. Tharin asked for clarification of the shaded area of the map, asking if it was the existing building or the proposed building. Mr. Varnell stated that the dark grey was the current building, and the light grey is the driveway. Mr. Varnell shared with the Board, visually, the proposed sketch of the new fire station, as some board members did not have it in their packets.

Ms. Whitaker-Bailey asked how many levels the proposed fire station will be. Mr. Varnell stated that it is just one level, however, to accommodate the fire engines it is a tall building.

Mr. Tharin asked if there would be more than 10.5 feet from the building to the property line. Mr. Varnell stated that it is exactly 10.5 feet.

Mr. Tharin asked what is unique about this property opposed to any other property. Mr. Varnell stated that the property is an existing fire station that meets the radius requirements and insurance rating and response time to the community it serves. This fixes us to a tight location and because of the buffer in the back and to bring the fire station current code we cannot use the property as it has been.

Mr. Tharin asked when did the zoning requirement of the landscape buffer go into effect. Mr. Bocook was sworn in and stated it would have been between 2000-2004. Mr. Bocook stated that in lieu of this request, he and Mr. Varnell discuss a request to minimize the landscape buffer, however, they were in agreement that this would be more of a disservice to the neighbors and more impactful. Mr. Varnell stated that this request will shift the building closer to the street and would eliminate the driveway going onto Raleigh Road Blvd. and should help with traffic control not being as close to the intersection. Mr. Tharin asked how close the existing building is to the property line. Mr. Varnell advised that per the survey it is 19.6 feet. Mr. Tharin asked how far the proposed building will be from the property line. Mr. Varnell advised that it would be 12 feet.

Mr. Tharin asked if both abutting properties were residential. Mr. Varnell stated that the property facing Raleigh Road (east to west) is a church, one is a vacant lot, which is zoned residential and the other two are residential.

Ms. Davidson-Cobb asked for clarity as what is being proposed is best for the community, church and residential area that is there. Mr. Varnell stated that currently there is no vegetation or any landscaping and do go over the property line. With the proposed design there will be a nice landscape buffer that separates the residential area from the commercial area.

Mr. Tharin asked if there has been any push back from the church. Mr. Varnell stated none that he is aware of.

Mr. Tharin called for anyone else to speak in favor of the request; there were none.

Mr. Tharin called for anyone to speak in opposition of the request; there being none, Mr. Tharin declared the public hearing closed.

After discussion among the board members the executive portion of the meeting was closed.

Mr. Tharin stated that he believes the five (5) criteria's have been met to move forward with this application.

Mr. Tharin made a motion to accept the request to allow the variance request from the minimum yard regulations at 824 S Grace Street. Mr. Tharin seconded the motion.

Board Action: The Board voted with all members seated voting in favor of the request to allow a variance from the minimum yard regulations. Attorney Bill Hoyle advised that there were enough members seated to have a quorum on the request; therefore, the motion passes.

Findings of Fact:

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action. For this specific request due to insurance ratings, response time and limited ability to move the fire station to a different location, as well as the length of time it has been on the specific site. Also, zoning regulations have changed since the time the original fire station was built.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The construction of a new fire station will add an aesthetic upgrade to the neighborhood. Eliminating and moving driveways will improve the traffic flow.
3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) or practical difficulty because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards.
4. The variance is the minimum action necessary to alleviate the hardship or practical difficulty and observes the spirit of this LDC; and
5. The variance desired will not adversely affect the public health, safety or general welfare or impair the purposes or intent of this LDC or the comprehensive plan.

6. Review Requests for Appeals

None.

7. Review of Requests for Interpretations

None.

8. Unfinished Business

None.

9. New Business

a. Items from the Board

None.

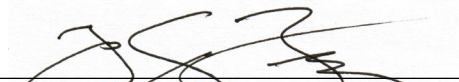
b. Items from the Secretary

JoSeth Bocook stated that he wanted to extend his gratitude to those who attended the Boards and Commissions Appreciation Dinner in June. He stated that the city's budget for fiscal year 2024 was approved by the city council and became effective July 1, 2023. Funding was set aside for a new comprehensive plan, downtown plan, and housing study. Naturally, with the board being a liaison to the Development Services Department there is a high likelihood that the board will have a role in the planning processes of the new studies, such as being on committees looking at different elements of the plan, recruitment of others from the public for input, etc. He noted that the planning process very well may stretch beyond the coming year. The previous comprehensive planning process started in 1998, but the plan was not adopted until 2003, after the process was interrupted by the flooding disaster associated with Hurricane Floyd, in 1999. Mr. Bocook stated this is a big undertaking that we want to get right as we project how Rocky Mount will develop in the next 25 years. Board members participation is expected and very appreciated.

10. Adjournment [Next meeting; August 1, 2023]

There being no further business Mr. Tharin adjourned the meeting at 6:01p.m.

Respectfully submitted,
James Tharin



JoSeth Bocook, Secretary
Rocky Mount Board of Adjustment

Variance Requests

Requested Action: To allow a variation from freestanding sign regulations
Location: 650 English Road
Existing Land Use: Commercial
Proposed Land Use: Commercial
Zoning: B-5, Commercial Services District
Applicable Regulations: LDC Sec. 509: Zoning Variance Provisions
LDC Sec. 709: Signs
LDC Sec. 1104: Nonconforming Signs
Property Owner: Davenport Motor Co of Rocky Mount Inc
Applicant: Scott Levine; Signsmith Inc.
Case Manager: Bernetta Smith, Planner
Voting Representatives: City Members

ANALYSIS:

a) Land uses: Subject site and vicinity

The subject site is a single parcel with an area of 3.88 acres located at 650 English Road; it is currently occupied by Davenport Motor Company. The property is zoned B-5 (Commercial Services District). The subject sites adjoining parcels to the north and east are zoned B-5. To the west, are parcels zoned I-2 (Heavy Industrial District) and B-5CD (Conditional Commercial Services District). To the south and across Highway US64 West are parcels zoned MA (Medical Arts District).

b) Background

The appellant is requesting a variance from the city’s sign regulations to replace existing signage for the purpose of updating the color scheme. The existing sign is 30 feet tall. The city’s Land Development Code (LDC) Section 709.F. [Table 7-6] states that the maximum height for freestanding signage in the B-5 district is 16 feet.

Currently, LDC Section 709.O.1 states “If any sign becomes nonconforming as a result of the adoption of this LDC or an amendment thereto, that sign shall be removed in accordance with section 1104A. of this LDC, as may be amended from time to time, and the owner of the property where the sign is located shall bear the cost of removal.” [LDC Section 1104.A reads: “Any sign existing on the date of the adoption of this LDC or any amendment thereto ("adoption date") and not conforming to its provisions shall be considered a presently existing, nonconforming sign, and may continue to be used for a period of three (3) years from the adoption date...”]

The appellant has provided a documentation containing details of the proposed sign.

c) Conformance with Section 509. Zoning Variance Provisions

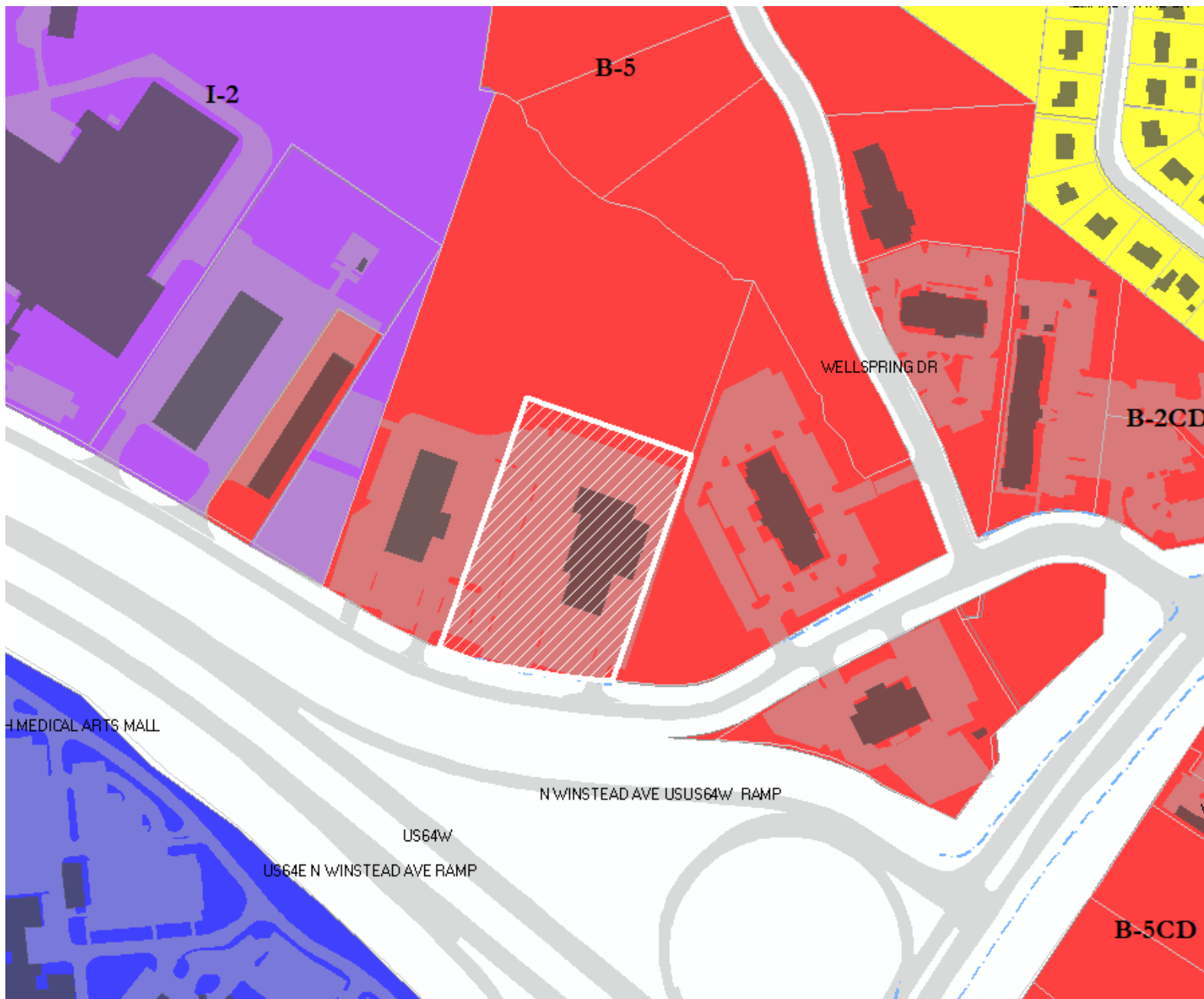
In approving the permit, the Board of Adjustment shall find that all the following conditions exist:






1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) or practical difficulty because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards.
4. The variance is the minimum action necessary to alleviate the hardship or practical difficulty and observes the spirit of this LDC; and
5. The variance desired will not adversely affect the public health, safety or general welfare or impair the purposes or intent of this LDC or the comprehensive plan.

5.1– Variance Request # 09-05-23-02

Zoning Map

650 English Road



-  Subject Property
-  Residential
-  Transitional
-  Commercial
-  Industrial



ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL



5.1– Variance Request # 09-05-23-03

Aerial Image & Adjacent Owners Notice Map

650 English Road



-  Subject Property
-  Property Owners Mailed Notice

650 English Rd – Property Owner(s) Notified

5.1

N4S LLC
672 English Rd
Rocky Mount NC 27804

Davenport Motor Co of Rocky Mount
Po Box 7696
Rocky Mount NC 27804

Nelson Joseph H Jean D
215 Piedmont Ave
Rocky Mount NC 27803



ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL

August 23, 2023

Reference: Request for Variance

Dear Citizen:

The City has received a request for a variance from the standard sign regulations located at 650 English Road [Parcel# 384113036219]. You are receiving this letter because, according to tax records, you are the owner of an adjoining or confronting property.

The request will be considered by the City of Rocky Mount Board of Adjustment at its meeting on Tuesday, September 5, at 5:30 p.m. The meeting will be conducted in person in the City Council Chamber located on the third floor of the Frederick E. Turnage Municipal Building (City Hall). This meeting is open to the public; if interested, you are welcome to attend. At this time, you will be granted an opportunity to present testimony to the board regarding the request on the subject site.

The Board of Adjustment is a quasi-judicial board with the authority to hear and make decisions concerning requests for special use permits and variances. Members of the Board of Adjustment are appointed by the elected officials of the City of Rocky Mount, Nash County, and Edgecombe County.

If you would like additional details about the case, please feel free to contact me directly at (252) 972-1102.

Sincerely,

Bernetta Smith
Planner

Notice of Request to Board of Adjustment for Variance

ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL



Street address of property: 650 English Road		
Parcel Identification Number (PIN): 106556		
Property Owner(s): Davenport Motor Co of Rocky Mount Inc		
Appellant Name: Scott Levine (Signsmith Inc)		Daytime Telephone: 252-752-4321
Mailing Address: 1709 Evans Street	City, State: Greenville NC	Zip Code: 27834
Appellant Email Address: Scott@signsmithinc.com		
Lot Dimensions: Width <u>345</u>	Length <u>515</u>	Total Area in Sq.Ft. <u>177675</u>
Nature of Request: We would like to request that the sign at 650 English Road for Davenport Honda have a variance to replace the existing sign like for like just reversed color scheme. The existing sign is 30 feet tall. the ordinance for signage has new freestanding signs height at 16 feet. The location of the dealership is seen from the highway quite well and installing a replacement sign smaller than what is already there would make it very hard to see being as far away the sign is from the highway. We just ask for permission to change the sign like for like. Thank you for your time.		

A fee of \$250.00 must be submitted with this application to the Department of Development Services so your request may be placed on the agenda


One (1) copy of the sketch plan drawn to scale on an 8.5" x 11" sheet is required to be submitted with the application.

NOTICE OF RIGHT TO HAVE MATERIALS FORWARDED TO MEMBERS OF ROCKY MOUNT BOARD OF ADJUSTMENT

Prior to each meeting of the Board of Adjustment, materials pertaining to each appeal request for a variance from the zoning ordinance, request for a special use permit, request for interpretation, and all other matters scheduled for hearing are forwarded to individual members of the Board of Adjustment for their review. If you are scheduled to appear before the Board, you are entitled to have forwarded to Members of the Board any written materials pertaining to your case, which can be duplicated and forwarded by U.S. Mail. To have your materials included in the packet of information, you must deliver the materials to the Department of Development Services at the same time the application is submitted. Materials must be reproduced on 8.5x11 sheets, except for surveys and maps.

You are reminded that you are not entitled to contact any Board of Adjustment Member in any attempt to discuss your case prior to the Board's scheduled meeting. If your written materials are not received by the date and time prior to the hearing, you will be deemed to have waived your right to have written materials of your choosing forwarded to Board Members.

I understand that all requests must be submitted *twenty-one (21) working days prior to the meeting date* of the Board of Adjustment (meetings are held the first Tuesday of each month). An incomplete application cannot be accepted.

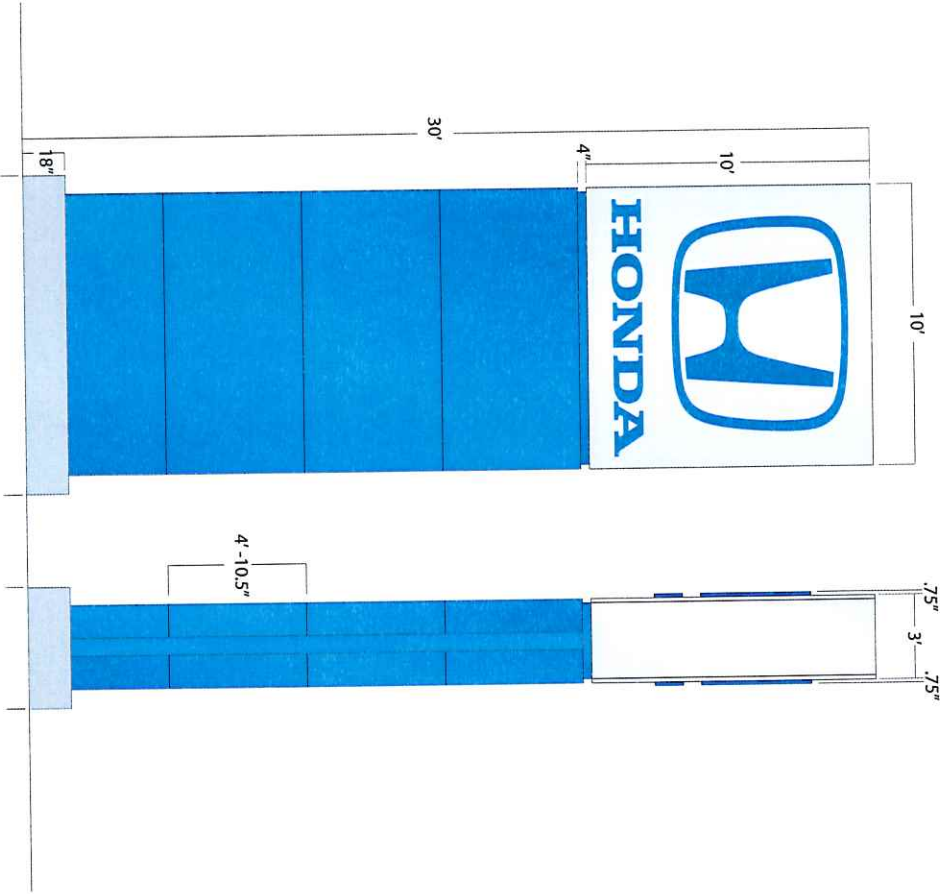
Applicant Signature:  Date: 8/7/23

(Do not write below this line. For office use only.)

Application Number: _____	Date Received: _____	Staff Initials: _____
Fee of \$ _____ paid on _____		Staff Initials _____

Revised 12/19

Gen IV Honda Brand Sign Pylon - 10x10x29'10"



Colors

- Blue ACM - Alpolic ACM HNB Blue 4-HNB-50 LRV 16.78
- White ACM - Alpolic ACM HWH White 4-HWH-50 LRV 80.8
- Perforated Blue Vinyl to Match Current Honda Blue Vinyl
- Pedestal - Stuc-O-Flex Steel Gray 362

Specifications

- Cladding (Both Retro and New Build) - 4MM Blue ACM
- Pedestal - Fabricated Aluminum with texture paint finish
- Sign Head - 4MM White ACM
- Copy/Logo - Push-thru 1" clear acrylic with first surface blue vinyl
- Illumination - 6500K LED Internal, Blue LED reveal, LED up-light fixture pedestal (6500k)

This sign to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable codes.

Fluorescent, Neon and HID lamps contain Mercury (Hg). Dispose of the lamps according to local, Provincial, State or Federal laws.

Project ID	GP2-53357
Date:	06-13-2023
Scale:	NTS
Sales:	C Farmer
Designer:	C. Miramontes
Rev. #:	
Date:	
Revision Note:	
Missing Information	
Required:	
<input checked="" type="checkbox"/> Electrical	
<input type="checkbox"/> 120V	<input type="checkbox"/> 347V
<input type="checkbox"/> Other	
Customer Approval	
Signature	
MM/DD/YYYY	

It is the Customer's responsibility to ensure that the structure of the sign is properly supported and anchored to accept the installation of the signs being ordered. Please ask FSG to provide further details if required.

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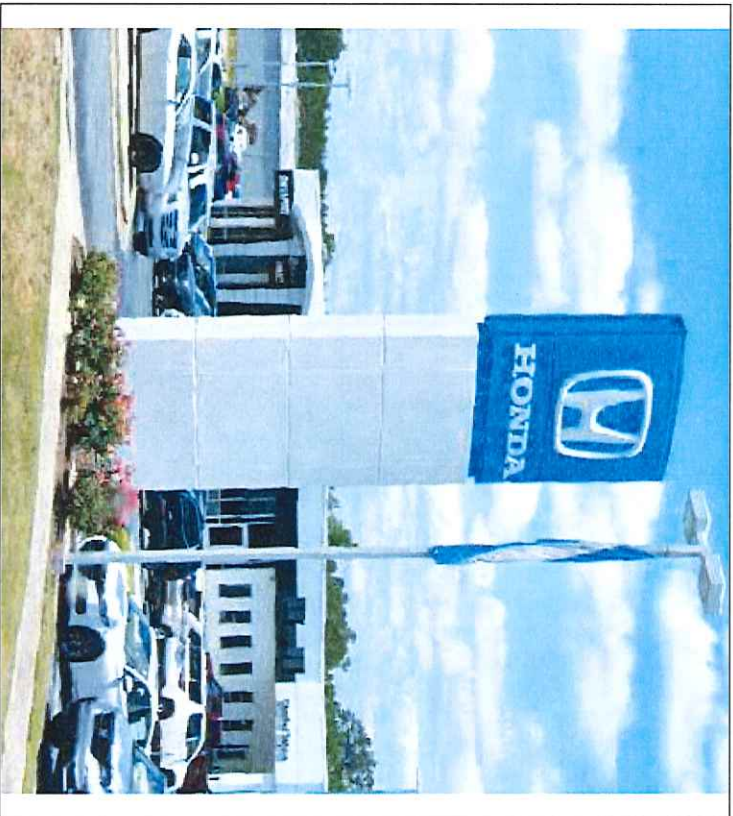
H206899
 Davenport Honda
 650 English Road
 Rocky Mount, NC 27804

Sign Item
 Pylon

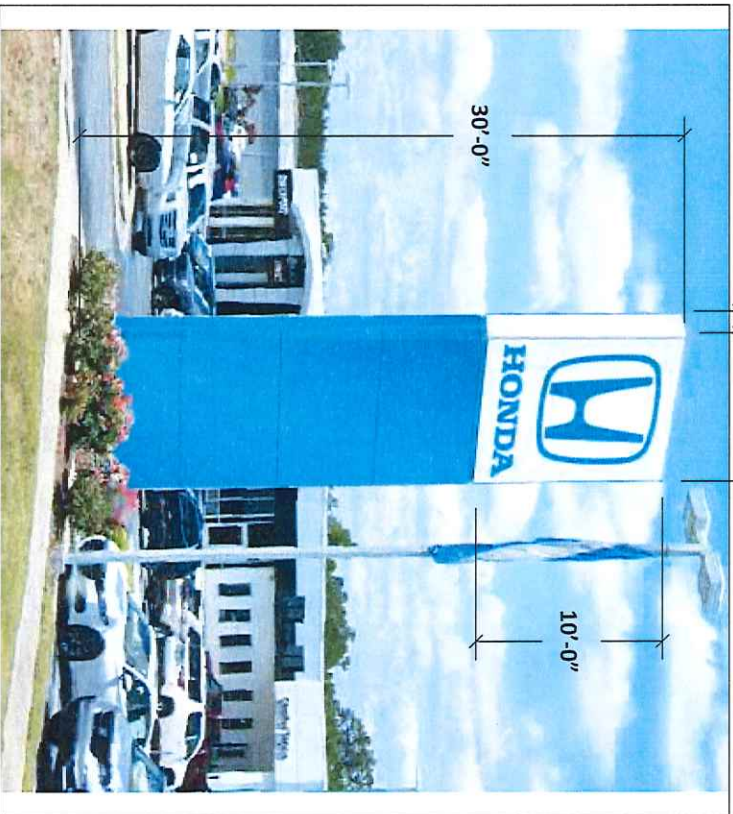


520 West Summit Hill Drive Suite 702 Knoxville TN 37902
 (Toll Free) 1.866.693.1110 (Fax) 1.899.694.1105
 www.pattisonsign.com

Photo Overlay



EXISTING



PROPOSED

Project ID
GP2-53357

Date: 06-13-2023
Scale: NTS
Sales: C.Farmer
Designer: C.Miramontes

Rev. #:
Date:

Revision Note:

Missing Information

Required:

Electrical

120V 347V

Other _____

Customer Approval

Signature _____

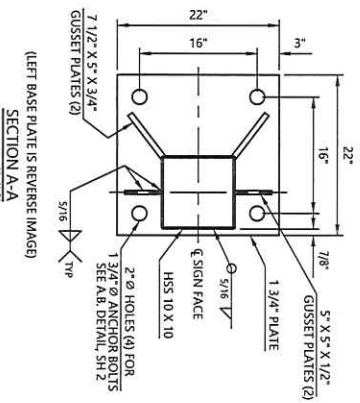
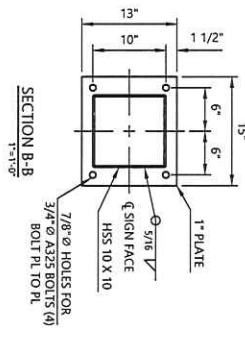
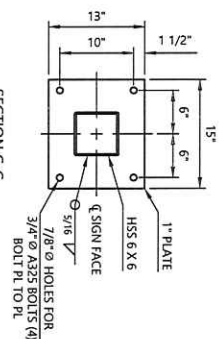
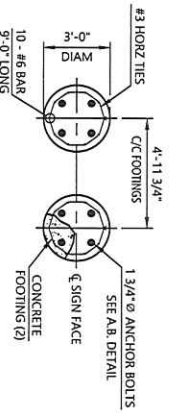
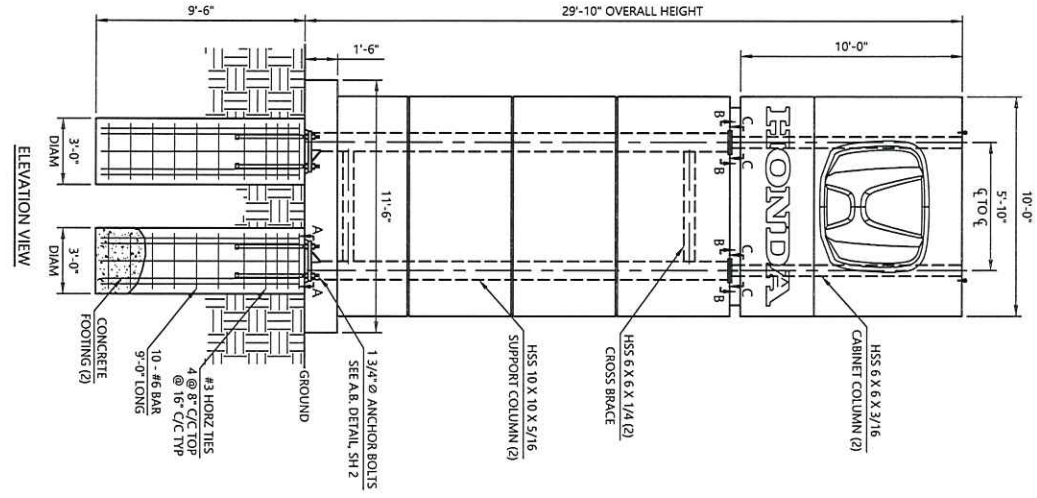
MM/DD/YYYY

In the Customer's responsibility to ensure that the structure of the building is designed and constructed to accept the installation of this sign to provide further details if required.

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GENERAL NOTES

1. All design, fabrication, installation and construction specifications shall be in accordance with the following:
 - The 2018 International Building Code
 - American Institute of Steel Construction, Inc. (AISC) Specification for Structural Steel Buildings (13th Edition)
 - American Institute of Steel Construction, Inc. (AISC) Specification for Structural Steel Buildings - Steel Decking
 - American Institute of Steel Construction, Inc. (AISC) Specification for Structural Steel Buildings - Steel Decking
2. All steel components shall be as listed below, unless noted otherwise:
 - ASTM A36, or equal
 - ASTM A572, or equal
 - All pipe shall meet the requirements of ASTM A53, Type S or E, Grade B, or equal
 - All reinforcement shall be made with ASTM A603, Grade 60, or equal
 - All bolts shall be made with ASTM A325, or equal
 - All exposed materials shall be properly protected from weathering and/or corrosion
3. All field welds shall be made by a welder certified in accordance with AWS D1.1, or equal.
4. All welds shall be made with E70XX electrode, or equal.
5. All welds shall be made in a sequence that will minimize distortion.
6. All concrete shall have a minimum compressive strength at 28 days of 2500 psi.
7. All concrete shall be placed and finished in accordance with ACI 318-14.
8. All reinforcement shall be placed in accordance with ACI 318-14.
9. All reinforcement shall be placed in accordance with ACI 318-14.
10. All reinforcement shall be placed in accordance with ACI 318-14.
11. All reinforcement shall be placed in accordance with ACI 318-14.
12. All reinforcement shall be placed in accordance with ACI 318-14.
13. All reinforcement shall be placed in accordance with ACI 318-14.
14. All reinforcement shall be placed in accordance with ACI 318-14.
15. All reinforcement shall be placed in accordance with ACI 318-14.
16. All reinforcement shall be placed in accordance with ACI 318-14.
17. All reinforcement shall be placed in accordance with ACI 318-14.
18. All reinforcement shall be placed in accordance with ACI 318-14.
19. All reinforcement shall be placed in accordance with ACI 318-14.
20. All reinforcement shall be placed in accordance with ACI 318-14.



STANDARD DESIGN:
 THE INFORMATION SHOWN ON THIS DRAWING IS
 INTENDED FOR GENERAL INFORMATION ONLY.
 WHEN ENGINEERING DRAWINGS ARE REQUIRED
 FOR INSTALLATION, SITE SPECIFIC DRAWINGS
 SHOULD BE OBTAINED.

This item has been electronically signed and
 sealed. The signature and seal are shown
 above on the time stamp using a digital
 signature.
 Printed copies of this document are not
 considered valid and sealed and the signature
 must be verified on any electronic copies.

NOTE:
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 SIBLE FOR COLUMN AND FOOTING DESIGN
 ONLY. SIGN CABINET COMPONENTS AND
 ATTACHMENT ARE THE RESPONSIBILITY OF
 THE SIGN MANUFACTURER.

ANDREW K. LEWIS
 REGISTERED PROFESSIONAL ENGINEER
 STATE OF TENNESSEE
 No. 030602
 LEWIS
 13-2608-04007
 T.N. P.E. # 104884

Project #:	220955	Drawn By:	CRS
Dwg #:	CA27313	Date:	06/02/23
Scale:	1/4"=1'-0"	Sheet:	1 of 2

PREPARED FOR:
PATTISON SIGN GROUP
 520 West Summit Hill Drive, Suite 702 - Knoxville, TN 37902
 10' X 10' Honda Pylon @ 29'-10" Overall Height
 115 mph - Standard Design

CORNERSTONE ENGINEERING, INC.
 1020 William Blount Drive - Maryville, TN 37801
 (865) 273-2688 - www.CornerstoneTN.com

Appeal of Decision

Requested Action:	Appeal of City Official’s Decision
Location:	2760 N. Wesleyan Boulevard
Existing Land Use:	Commercial
Proposed Land Use:	Commercial
Zoning:	B-5CD, Conditional Commercial Services District
Applicable Regulations:	LDC Sec. 503: Zoning Use Tables LDC Sec. 510: Appeal of Administrative Officer’s Decision LDC Sec. 703: Certification of Occupancy
Property Owner:	Club Way LLC
Appellant:	J. Richard Hamlett, II for Royal Dane Holdings LLC
Case Manager:	JoSeth Bocook, Deputy Director of Development Services
Voting Representatives:	City Members

ANALYSIS:

The appellant, Royal Dane Holdings LLC, doing business as “The Headquarters,” is appealing staff’s decision to deny issuance of a certificate of occupancy on the basis that the proposed use is not permitted within the city’s Land Development Code (LDC) Sec. 503.

The City Code Sec. 5-30 sets forth that no land or building may be used or occupied until a Certificate of Occupancy (CO) has been issued. Additionally, LDC Sec. 703 requires a CO to be issued when a change in existing use is proposed; likewise, this section of the LDC makes it unlawful to occupy a building without a valid CO.

The City of Rocky Mount issues a Certificate of Occupancy for a specific property address, designated by a parcel identification number. The CO confirms that a specific property is safe to be occupied by said business or individual applicant, and that the proposed use is permitted within the underlying zoning district, as outlined in LDC Sec. 503. The CO inspection consists of three separate inspections: building, fire, and zoning. A CO is non-transferable, meaning that an individual or business must submit a new application for a CO if the business moves locations or occupies a new tenant space within the City of Rocky Mount.

In this case, a Certificate of Occupancy application was submitted by Royal Dane Holdings LLC to the City of Rocky Mount on May 30, 2023 listing the proposed type of business as “Pre paid phone service” at the proposed business address 2760 N. Wesleyan Boulevard, Rocky Mount (the “subject property”).

The subject property is zoned B-5CD, conditional commercial services district, with specific permitted uses and conditions detailed in city ordinance O-96-13 adopted by city council in March 1996.

The City of Rocky Mount conducted an inspection of the subject property on June 2, 2023. The subject property failed the fire, zoning, and building inspection. The building contained non-compliant fire extinguishers and emergency lights in disrepair, and there was not a minimum 36” clearance at all electrical panels and exit pathways. The city further determined that the actual proposed use of the subject property was to operate gaming and sweepstakes machines based on the interior layout and dialogue and demonstration with/from the proprietor during the inspection. The city determined very little of the space was proposed to be used to sell phone cards or related accessories. The city informed the applicant of the above by letter dated June 22, 2023.

The operation of a gaming and sweepstakes gambling facility violates North Carolina law. The proposed use also violates the Land Development Code, as the operation of an internet-café [gaming and sweepstakes gambling facility] is not a permitted use in this district or in any district in the city. Therefore, a Certificate of Occupancy could not be issued for the applicant.

The City of Rocky Mount does not issue certificates of occupancy authorizing the operation of a business utilizing internet-based sweepstakes and gaming machines based predominantly on chance, as opposed to skill, judgment, and dexterity.

Since the Spring of 2022, Development Services staff has discouraged numerous inquirers from applying for a Certificate of Occupancy—informing the would-be proprietors that we do not allow the use in our jurisdiction.

In Spring 2022, the Rocky Mount Police Department (RMPD) worked in concert with the District Attorney's Office conducting enforcement based on a North Carolina Supreme Court ruling clarifying that the games/machines conflicted with the states gambling laws. RMPD ended up acting at approximately 25 locations, finding most of them possessed illegal games.

In 2019, Development Services began granting Certificates of Occupancy at locations that were obviously sweepstakes parlors. At the time, the city's legal counsel advised granting a CO if there was some retail activity at the location, and to treat the inspection process the same as any other use. This policy came about after a court settlement with the city and a sweepstakes owner. This led to the spread of sweepstakes facilities throughout Rocky Mount.

Between 2016 and 2019, Development Services coordinated with RMPD to have their officers present at CO inspections of suspected gaming and sweepstakes gambling facilities to inspect the games/machines to determine their lawfulness. This was usually effective. Even so, there were some locations that evaded our best efforts to prevent them from operating in the city.

In Spring 2010, the Rocky Mount amended the LDC to adopt internet cafes as a land use permitted in certain commercial zoning districts. In the years following, across North Carolina, several court rulings were issued questioning the legality of gaming and sweepstakes gambling facilities. Ultimately, in 2016, internet cafes were removed from the city's LDC—no longer permitting the use in Rocky Mount.

The operation of the subject property as a gaming and sweepstakes gambling business is not permitted under the City Code or the Land Development Code. The city properly denied the application submitted by Royal Dane Holdings LLC as the use is not permitted by the applicable zoning ordinance nor the LDC. Pursuant to LDC Sec. 510, an aggrieved party may file an appeal from a zoning related decision to the Board of Adjustment. Royal Dane Holdings LLC filed its Notice of Appeal to the Board of Adjustment on July 19, 2023.

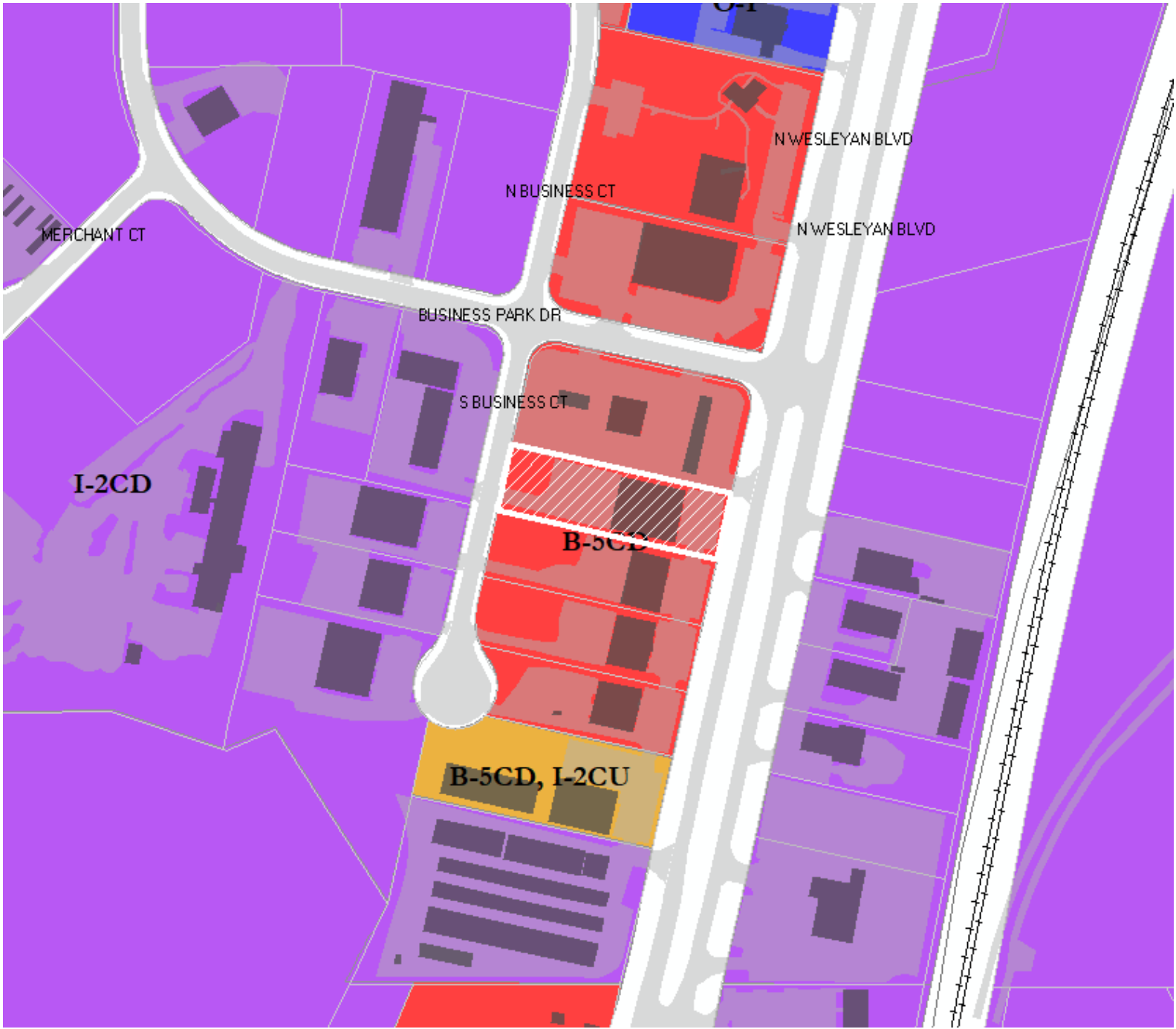
The purpose and intent of the city's Land Development Code is to promote public health, safety, convenience, and welfare. This is accomplished by encouraging the most desirable use of the land and density of population in all parts of the city, and by encouraging the most appropriate use and occupancy of buildings, and by promoting good land use planning. The development code clearly provides for these items. Upholding staff's decision in this case accounts for the best interest of the community and would be consistent with the spirit and interest of the city's Land Development Code.

APPEALS [from LDC. 510. – Appeal of administrative officer’s decision.]:

- A. *Applicability.* Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or commission of the city affected by any zoning related decision of the administrative officer. Such appeal shall be taken within thirty (30) days from the date of the decision by filing with the officer from whom the appeal is taken and with the city clerk at the time the notice is filed. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all of the papers constituting the record upon which the action appealed was taken.
- B. *Effect of appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in staff's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the board of adjustment or by a court record on application and notice to the officer from whom the appeal is taken and on the cause shown.
- C. *Review and action by board of adjustment.*
1. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the public hearing, any party may appear in person or by agent or by attorney.
 2. The board of adjustment shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
 3. In exercising the appeal power, the board of adjustment shall have all the powers of the official from whom the appeal is taken, and the board of adjustment may reverse or affirm wholly or partly or may modify the decision being appealed.
 4. If the board of adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.
 5. A concurring vote of ten (10) of the members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official. *
- * From LDC Sec. 308. - Board of Adjustment. G. Powers and duties.
6. *Appeals of city officials' decisions.* The board of adjustment shall hear appeals from any order, requirement, or decision made under this LDC as provided in [section 509](#) and section 510; provided, however notwithstanding the provisions of [section 509](#) and section 510 no vote greater than the number of members of the board of adjustment required to constitute a quorum for the appeal being heard shall be required to reverse any order, decision, or requirement made under this LDC.
- D. *Review criteria.* An appeal shall be sustained only if the board of adjustment finds that the administrative official erred factually in the decision.
- E. *Findings of fact.* Every decision of the board of adjustment shall be accompanied by written findings of fact specifying the reason for the decision. These findings shall be filed in the office of the board of adjustment within ten (10) days after the final action.

5.1— Appeal of Decision # 00-00-00-00 Zoning Map

2760 N. Wesleyan Boulevard

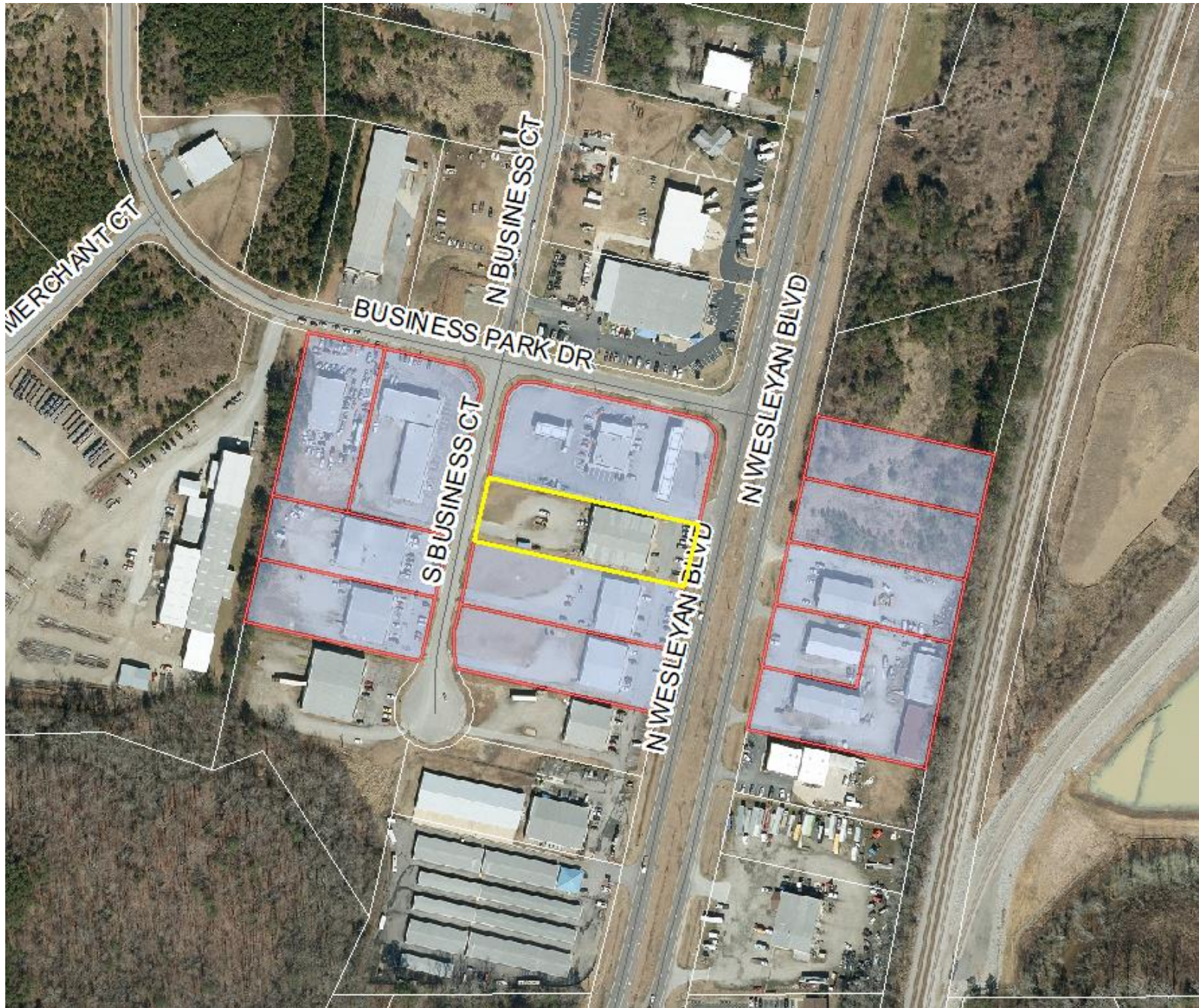


-  Subject Property
-  Residential
-  Transitional
-  Commercial
-  Industrial

6.1– Appeal of Decision # 09-05-23-03

2760 N. Wesleyan Boulevard

Aerial Image & Adjacent Owners Notice Map



-  Subject Property
-  Property Owners Mailed Notice

2760 N Wesleyan Blvd – Property Owner(s) Notified

6.1

Oriens LLC
900 South Mcdowell St
Charlotte NC 28204

Cobb Augustus L Constance O
2750 N Wesleyan Blvd
Rocky Mount NC 27804

Springbrook Press LLC
129 Jackson Walk
Rocky Mount NC 27801

CDC Properties II LLC
1701 Shallow Well Rd
Manakin Sabot VA 23103

Club Way LLC
Po Box 7066
Rocky Mount NC 27804

Cox James W
1812 St Andrews St
Tarboro NC 27886

New Dixie Real Estate LLC
1501 Marshall St
Roanoke Rapids NC 27870



August 25, 2023

Reference: Notice of Appeal to Board of Adjustment

Dear Citizen:

The City has received a request for an appeal of city officials' determination to deny a Certificate of Occupancy for a proposed "pre paid phone service" business at 22760 N Wesleyan Boulevard. You are receiving this letter because, according to tax records, you are the owner of property within 250' of the subject property.

The request will be considered by the City of Rocky Mount Board of Adjustment at its meeting on Tuesday, September 5, 2023, at 5:30 p.m. The meeting will be conducted in person in the City Council Chamber located on the third floor of the Frederick E. Turnage Municipal Building (city hall). This meeting is open to the public; if interested, you are welcome to attend. At this time, you will be granted an opportunity to present testimony to the board regarding the request on the subject site.

The Board of Adjustment is a quasi-judicial board with the authority to hear and make decisions concerning requests for special use permits, variances, and appeals of administrative decisions. Members of the Board of Adjustment are appointed by the elected officials of the City of Rocky Mount, Nash County, and Edgecombe County.

If you would like additional details about the case, please feel free to contact me directly at (252) 972-1179.

Sincerely,

JoSeth Bocook, AICP
Planning Administrator



Royal Dane Holdings, LLC
PO Box 10
Nashville, NC 27856

Dear Mr. Hamlett:

Reference: Appeal to the Board of Adjustment

This is a reminder that your appeal of an administrative decision to the Rocky Mount Board of Adjustment will be heard on Tuesday, September 5, 2023 at 5:30 pm. The meeting will be conducted at the Frederick E. Turnage Municipal Building [city hall; 331 S. Franklin Street] in the council chambers located on the third floor. This meeting is open to the public.

If you have additional questions, please do not hesitate to contact me at 972-1179.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JoSeth Bocook', is written over a light blue rectangular background.

JoSeth Bocook, AICP
Planning Administrator

ORDINANCE AMENDING THE ZONING ORDINANCE AND
MAP OF THE CITY OF ROCKY MOUNT

BE IT ORDAINED by the City Council of the City of Rocky Mount:

Section 1. That the Zoning Ordinance and Map of Rocky Mount, North Carolina, as amended, be further amended by changing the zoning classification of the following described premises, petition for which was submitted by Robbie Davis, from R-10 to I-2CU:

Beginning at a point in the line of Freedom Federal Credit Union (Nash County Tax Map Parcel 3862.13-23-3506) and the western right-of-way line of North Wesleyan Boulevard - US Highway 301; thence along the western right-of-way line of North Wesleyan Boulevard the following four courses and distances: south 19° 50' west 200.00 feet to a point; thence south 19° 54' west 460.85 feet to a point; thence south 19° 43' west 202.15 feet to a point; thence south 19° 59' west 552.37 feet to the point of beginning; thence from the point of beginning along the western right-of-way line of North Wesleyan Boulevard south 16° 15' west 21.84 feet to a point; south 20° 55' west 284.52 feet to a point; thence north 82° 45' west 500.85 feet to a point in Indian Branch; thence along Indian Branch the following twenty-one courses and distances: north 32° 50' east 165.49 feet to a point; thence north 25° 27' west 381.58 feet to a point; thence south 74° 53' west 99.95 feet to a point; thence north 63° 45' west 225.42 feet to a point; thence north 84° 03' west 304.34 feet to a point; thence north 59° 43' west 118.97 feet to a point; thence north 36° 40' west 302.82 feet to a point; thence north 17° 48' west 115.36 feet to a point; thence north 31° 38' east 155.46 feet to a point; thence north 11° 22' east 212.87 feet to a point; thence north 16° 52' west 121.69 feet to a point; thence north 12° 33' east 316.52 feet to a point; thence north 40° 53' east 210.33 feet to a point; thence north 38° 05' east 58.45 feet to a point; thence north 27° 06' east 177.76 feet to a point; thence north 07° 57' west 274.63 feet to a point; thence north 40° 50' west 70.04 feet to a point; thence north 47° 02' west 70.23 feet to a point; thence north 00° 03' west 33.16 feet to a point; thence north 00° 03' west 129.61 feet to a point; thence north 25° 00' west 177.59 feet to a point; thence along the line of Bishops Row Subdivision the following two courses and distances: south 86° 17' east 645.84 feet to a point; thence south 86° 18' east 835.12 feet to a point; thence along the line of Bishops Row and Mack B. Pearsall the following two courses and distances: south 86° 02' east 426.35 feet to a point; thence south 86° 09' east 196.59 feet to a point; thence along the line Maneer Yousef Ebrahim Abedalla Saffa south 19° 47' west 341.91 feet to a point; thence along the line of Barbara Haddon Nuckols and Freedom Federal Credit Union the following three courses and distances: north 70° 19' west 200.33 feet to a point; thence south 19° 50' west 310.00 feet to a point; thence south 19° 50' west 490.00 feet to a point; thence along a new line the following three courses and

distances: north 70° 06' west 11.66 feet to a point;
thence south 19° 54' west 1415.00 feet to a point;
thence south 70° 06' east 389.68 feet to the point of
beginning.

Section 2. That a conditional use permit be issued
authorizing the following uses for the above described premises,
subject to the following conditions:

THE FOLLOWING USES ARE PERMITTED IN THE I-2CU ZONE:

- Accessory building
- Accessory uses
- Automobile off-street parking (commercial lots)
- Automobile parts and accessory sales
- Automobile and truck rental
- Automobile repair and/or body work (excluding commercial wrecking, dismantling or storage of junked vehicles)
- Automobile sales, new and used
- Bakery production and wholesale sales
- Blacksmith services
- Books and printed matter, distribution
- Bookbinding
- Bottled gas distribution, bulk storage
- Bottling
- Builders supply (no outside storage)
- Builders supply (with outside storage)
- Bus repair and storage terminal activities
- Cabinetmaking
- Carpet and rug cleaning
- Coal sales and storage
- Contractor, general (excluding outside storage of equipment or supplies)
- Contractor, general (with outside storage of equipment or supplies)
- Construction storage
- Contractor, trades (excluding outside storage of equipment or supplies)
- Contractor, trades (with outside storage of equipment or supplies)
- Dairy products, sales and processing
- Elastic manufacture
- Employees' service (not designed for or available to public customers)
- Farm machinery sales and servicing
- Fill (earth elevation)
- Fire station operations
- Food freezer operations
- Historical preservation, commercial use - special use
- Ice manufacturing
- Industrial sales of equipment or repair service
- Industrial operations not otherwise listed herein (except the uses listed in note 8)
- Industry, pilot operation
- Kennel operations, care
- Laboratory research
- Machine tool manufacturing or welding
- Mobile home (individual for office and exhibition) - special use
- Monument sales
- Monument works
- Office use (with no on-premises stock of goods for sale to the general public and the operations and services of which are customarily conducted by means of written, verbal or mechanical reproduced communications material)
- Plating
- Printing and reproduction
- Public recreation (such as community center buildings, parks, museums, playgrounds, and similar facilities operated on a nonprofit basis)

- Public utility works, shops or storage yards
- Radio or television transmitting (commercial) - special use
- Railroad station operations
- Railroad yard operations
- Repair, rental and/or servicing (of any product the retail sale of which is a use-by-right in the same district and not otherwise listed herein)
- School, trade or vocational
- Sheet metal fabrication
- Sign, outdoor advertising
- Sign, public service information - special use
- Storage, flammables
- Storage, open
- Storage, warehouse
- Temporary construction building
- Tire recapping
- Tobacco sales warehousing
- Tobacco processing
- Trailer rentals
- Truck terminal activities, repair and hauling and/or storage
- Upholstering or furniture refinishing
- Utility stations or substations
- Wholesale sale (with operations conducted and merchandise stored entirely within a building and not otherwise listed herein)
- Women's minimal custody facility - special use
- Yard sale (attic sale, lawn sale or garage sale) as an accessory use to a residence or church; or civic, cultural, educational, charitable or similar organizations and regulated by note 19

ONLY THE FOLLOWING USES ARE PERMITTED TO OCCUPY A LOT THAT ABUTS THE BISHOPS ROW SUBDIVISION (FINAL PLATS 1 AND 2)

- Accessory building
- Accessory uses
- Automobile off-street parking
- Automobile parts and accessory sales (except no retail sales permitted)
- Books and printed matter, distribution
- Bookbinding
- Builders supply (no outside storage)
- Cabinetmaking
- Carpet and rug cleaning
- Contractor, general (no outside storage of equipment or supplies)
- Contractor, trades (no outside storage of equipment or supplies)
- Contractor, trades (outside storage of equipment or supplies permitted only with 6' solid fence)
- Employees' service (not available to public customers)
- Fill (earth elevation)
- Fire station operations
- Food freezer operations
- Ice manufacturing
- Industrial operations not otherwise listed herein
- Industry, pilot operation
- Laboratory research (excluding animal testing)
- Monument sales
- Printing and reproduction
- Public recreation
- Repair, rental and/or servicing (of any product the retail sales of which is a use-by-right in the same district and otherwise not listed herein)
- School, trade or vocational
- Storage, warehouse (excluding mini-storage operations)
- Upholstering or furniture refinishing
- Wholesale sales (with operations conducted and merchandise stored entirely within a building and not otherwise listed herein)

CONDITIONS:

- A thirty-foot buffer between the proposed I-2 property and the existing R-6S property will be installed by utilizing an earth berm with a minimum height of 5 feet and a hedge row planted on top of the berm with an expected height of 4 additional feet minimum. This will be done with plants like Red Tip Photinia or a similar plant 6' on center. Where natural trees exist as of March 11, 1996 on a lot that abuts the Bishops Row Subdivision (final plats 1 and 2), the adjoining property owner in the Bishops Row Subdivision may elect for the subject property's developer/owner to retain the natural trees within the designated 30' berm base in lieu of the earthen berm construction identified above. In order to have those existing trees preserved by the developer, the adjacent Bishops Row Subdivision property owner(s) must so advise the developer of the subject property by April 8, 1996.
- In the area adjacent to the stub street that comes into Bishops Row for approximately 60', the earth berm will be 8' high if the property owner chooses a berm in lieu of existing trees.
- Any chain link fences that are installed along the adjacent property line with Bishops Row Subdivision will be on the side of the berm away from Bishops Row Subdivision and will be no higher than the earth part of the berm.
- Any fences that are installed along the adjacent property line with Bishops Row Subdivision will be on the side of the berm away from Bishops Row Subdivision.
- There will be no structure built within 30 feet of the 30 foot buffer line.
- The subject property street layout will be a design that will not connect to the existing Bishop Road stub street from the Bishops Row Subdivision.

Section 3. That the Zoning Ordinance and Map of Rocky

Mount, North Carolina, as amended, be further amended by changing the zoning classification of the following described premises, petition for which was submitted by Robbie Davis, from R-10 to B-5CU:

Beginning in the City of Rocky Mount in the County of Nash in the State of North Carolina at a point in the line of Freedom Federal Credit Union and the western right-of-way line of North Wesleyan Boulevard; thence along the western right-of-way line of North Wesleyan Boulevard south 19° 50' west 200 feet to a point; thence south 19° 54' west 460.85 feet to a point; thence south 19° 43' west 202.15 feet to a point; thence south 19° 59' west 552.37 feet to a point; thence along a new line north 70° 06' west 389.68 feet to a point; thence north 19° 54' east 1415 feet to a point; thence along the line of Freedom Federal Credit Union south 70° 06' east 11.66 feet to a point; thence south 70° 10' east 378 feet to the point of beginning.

Section 4. That a conditional use permit be issued authorizing the following uses for the above described premises, subject to the following conditions:

PERMITTED USES:

- Accessory building
- Accessory uses
- Addressing service
- Alcohol beverages, package, retail sale
- Ambulance service
- Automobile service station operations
- Automobile laundry
- Automobile parts and accessory sales
- Automobile repair and/or body work (excluding commercial wrecking, dismantling or storage of junked vehicles)
- Bank, savings and loan company and other financial activities
- Bicycle sales and repair
- Books and printed matter, distribution
- Bookbinding
- Bottled gas distribution, bulk storage
- Bottling
- Building supply (no outside storage)
- Building supply (with outside storage)
- Cabinetmaking
- Carpet and rug cleaning
- Coal sales and storage
- Contractor, general (excluding outside storage of equipment or supplies)
- Contractor, general (with outside storage of equipment or supplies)
- Construction storage
- Contractor, trades (excluding outside storage of equipment or supplies)
- Contractor, trades (with outside storage of equipment or supplies)
- Dairy products, sales and processing
- Employees' service (not designed for or available to the public customers)
- Exterminating service
- Farm machinery sales and servicing
- Farm supplies merchandise (excluding farm machinery)
- Fill (earth elevation)
- Fire station operations
- Flower shop
- Food sales
- Food freezer operations
- Hardware, paint and garden supply sales
- Ice manufacturing
- Industrial sales of equipment or repair service
- Industry, pilot operation
- Janitorial service
- Kennel operations, care
- Locksmith, gunsmith
- Mobile home (individual for office and exhibition)
- Monument sales
- Newspaper publishing
- Nursery operation (plant)
- Office use (with no on-premises stock of goods for sale to the general public and the operations and services of which are customarily conducted by means of written, verbal or mechanically reproduced communications material)
- Office supplies and equipment sales and service
- Photography, commercial
- Printing and reproduction
- Public recreation (such as community center buildings, parks, museums, playgrounds, and similar facilities operated on a nonprofit basis)

- Public utility works, shops or storage yards
- Radio or television transmitting (commercial)
- Recreation or amusement enterprise (conducted inside a building and for profit, and not otherwise listed herein)
- Repair, rental and/or servicing (of any product the retail sale of which is a use-by-right in the same district and not otherwise listed herein)
- Sheet metal fabrication
- Sign, high-rise business identification-special use
- Sign, outdoor advertising
- Sign, public service information
- Storage, flammables
- Storage, open
- Storage, warehouse
- Teaching of art, music, dance, dramatics or other fine arts
- Temporary construction building
- Tire recapping
- Tobacco sales warehousing
- Trailer rentals
- Truck terminal activities, repair and hauling and/or storage
- Upholstering or furniture refinishing
- Utility stations or substations
- Variety, gift and hobby supply sales
- Vending machine rentals
- Warehouse sales, (with operations conducted and merchandise stored entirely within the building and not otherwise listed herein)
- Yard sale (attic sale, lawn sale or garage sale) as an accessory use to a residence or church; or civic, cultural, educational, charitable or similar organizations and regulated by note 19.

CONDITIONS:

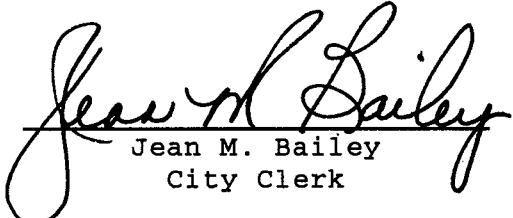
- There shall be vehicular access only onto North Wesleyan Boulevard for the three following identified locations: future southernmost lot that has frontage on North Wesleyan Boulevard from the entire 98 acre tract of land, and the two future corner lots to be subdivided having frontages on North Wesleyan Boulevard and a future public road to serve future interior lots.
- There shall be a nonaccess easement to North Wesleyan Boulevard established through final plat recordation for all remaining frontage of the property on that thoroughfare.

Section 5. (a) All ordinances or clauses of ordinances in conflict herewith are hereby repealed.

(b) This ordinance shall be effective from and after its adoption.

Introduced: 03-11-96

Adopted: 03-11-96


 Jean M. Bailey
 City Clerk

NOTICE OF APPEAL to the BOARD of ADJUSTMENT

ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL



Street address of property: 2740 N. Wesleyan Blvd.			
Property Owner(s): Rod Holloman			
NOTE: If the owner of the property is not the same as appellant, see attached form for the owner to signify their approval.			
Nature of appeal: See Attached Notice of Appeal			
Property Owner(s):			
Applicant Name: Royal Dana Holdings LLC			
Applicant Email Address: c/o rick@ehmlawyer.com			
Applicant Mailing Address: c/o PO Box 10			
City: Nashville	State: NC	Zip Code: 27850	Daytime Telephone: (252) 459-9000
Lot Dimensions: Width _____ Length _____ Total Area in Sq.Ft. _____			

A fee of \$250.00 must be submitted with this petition to the Office of Inspections Services, Department of Development Services so your appeal may be placed on the agenda.

All appeals must be submitted ten (10) days prior to the meeting date of the Board of Adjustment (meets the first Tuesday of each month).

NOTE: If the petitioner desires to submit any additional documentation to the Board of Adjustment members, such submissions may be made to the board members at the meeting when the appeal is presented.

Applicant Signature: *[Handwritten Signature]* Date: 7/19/23
attorney for applicant

(Do not write below this line. For office use only.)

Received on ___/___/___ by _____	Application Number: _____
Fee of \$ _____ paid on ___/___/___	Staff Initials: _____

Revised 12/19

Applicable sections of Zoning Ordinances are as follows: _____

Building Inspectors Determination: _____

Surrounding property owners notified (names and mailing address):

Notification to surrounding owners mailed via U.S. Postal Service: _____ Staff Initials: _____

**NORTH CAROLINA
EDGECOMBE COUNTY**

**APPEAL TO THE CITY OF ROCKY MOUNT
BOARD OF ADJUSTMENT**

IN THE MATTER OF:

**APPLICATION FOR CERTIFICATE
OF OCCUPANCY FOR 2760 N
WESLEYAN BLVD. ROCKY
MOUNT, NORTH CAROLINA 27804**

NOTICE OF APPEAL

Royal Dane Holdings LLC, d/b/a “The Headquarters” (“Applicant”) by and through its undersigned counsel, hereby gives notice of appeal to the Rocky Mount Board of Adjustment from the refusal of Interim Director of Development Services JoSeth BoCook to grant the application for Certificate of Occupancy made by Applicant on May 30, 2023 for the location of 2760 N Wesleyan Blvd, and in support thereof shows unto the Board the following:

1. Applicant made application for a Certificate of Occupancy for 2760 N Wesleyan Blvd Rocky Mount, North Carolina 27804 on May 30, 2023. A copy of the application for Certificate of Occupancy is attached hereto as Exhibit 1 and incorporated herein by reference.
2. On June 2, 2023, inspections on the subject property were completed by the City of Rocky Mount by three employees of the city, to wit: Stan Smith Jr., Shamir Mitchell and Phillip Joyner. A copy of the Stan Smith Jr. inspection field sheet is attached hereto as Exhibit 2 and incorporated herein by reference. A copy of the Shamir Mitchell inspection field sheet is attached hereto as Exhibit 3 and incorporated herein by reference. A copy of the Phillip Joyner inspection field sheet is attached hereto as Exhibit 4 and incorporated herein by reference.
3. The Stan Smith Jr. inspection resulted in a “FAIL” with two items being listed as the reason for the fail.
4. The Shamir Mitchell inspection resulted in a “FAIL” no reason being listed.
5. The Phillip Joyner inspection resulted in a “FAIL” with two items being listed as the reason for the fail.
6. The reasons stated for the “FAIL” in the Stan Smith Jr. and Phillip Joyner inspection were corrected by the Applicant on June 2, 2023.
7. Since June 2, 2023 the Applicant has made multiple request of the city’s inspection department to have the subject property reinspected so as to demonstrate that the areas of concern identified within the inspection field sheets have been corrected. Applicant’s requests have been ignored.
8. By letter dated June 6, 2023, legal counsel for the Applicant requested that Interim

Director of Development Services JoSeth Bocook either immediately issue the Certificate of Occupancy or provide a written statement as to why he would not do so. Said request was ignored by Joseth Bocook. A copy of the June 6, 2023 letter is attached hereto as Exhibit 5 and incorporated herein by reference.

9. By letter dated June 22, 2023, counsel for the Applicant again requested that Interim Director Bocook issue the Certificate of Occupancy. A copy of the June 22, 2023 letter is attached hereto as Exhibit 6 and incorporated herein by reference.

10. By letter dated June 22, 2023, Interim Director BoCook responded to Applicant's counsel refusing to issue the Certificate of Occupancy. A copy of said June 22, 2023 letter from Joseth Bocook is attached hereto as Exhibit 7 and incorporated herein by reference.

11. In essence, Interim Director BoCook's justification for refusing to issue the Certificate of Occupancy is that Applicant's proposed use is not permitted by the city's Land Development Code ("LDC").

12. Applicant believes and alleges that the reason stated by Interim Director BoCook is not supported by the LDC, is not supported in law or fact, and is arbitrary and capricious.

13. Twice previously the department currently headed by Interim Director BoCook issued Certificates of Occupancy for the Applicant's business and proposed use for two prior business locations at 2760 N Wesleyan Blvd and 711 Sutter's Creek Blvd. Upon information and belief, the LDC at the time of the issuance of the two prior Certificates of Occupancy was the same as it is currently, and there have been no changes to the LDC or the laws of this State since the prior Certificates of Occupancy to justify denial of the current application. The prior Certificates of Occupancy issued by the city to the business for the same use are attached hereto as Exhibits 8 and 9. The application for the Certificate of Occupancy issued on 07/16/2019 is attached hereto as Exhibit 10, which details the nature of the business.

14. Simply moving the location of its business from one location to another without a change in the LDC does not justify denial of a Certificate of Occupancy when the type of business has not changed and the new location and the old location permit the same activity under the LDC.

15. Upon information and belief, at the present time there are multiple similar businesses operating within Rocky Mount, including: Reel It In at 570 S Wesleyan Blvd.; No Limit at 412 Goldrock Rd.; Taps at 901 N. Wesleyan Blvd. Unit 105; and S Technology at 1268 Independence Blvd.; and 2551 N Wesleyan Blvd; of which Interim Director BoCook has knowledge.

16. As the result of the unlawful actions of Interim Director BoCook, agent for the City of Rocky Mount, North Carolina, the Applicant has suffered and continues to suffer harm and damages for which Interim Director BoCook and the City of Rocky Mount are responsible.

17. Pursuant to G.S. §160D-405, Applicant shows that the specific grounds for appeal are as follows:

a. Mr. Bocook's interpretation that the LDC does not permit Applicant's

intended use is erroneous. Applicant's business is that of retail sales. Within the June 11, 2019, application submitted by the Applicant attached hereto as Exhibit 10, Applicant fully describes the business use. That use was certified by the city as a permitted use. The building that is subject of the new application that was denied is located in the "B-5" district. Retailing or servicing not otherwise listed within the code are permitted as a matter of right within this district.

- b. Mr. BoCook's stated reason for the denial of the Certificate of Occupancy is that "North Carolina's courts routinely have found that sweepstakes are prone to violate state laws regulating gambling." This is an erroneous and overly broad assertion. Certain specific game promotions are prohibited by statute. The courts of this State have held that certain specific game promotions and game software that contain all of the elements of those prohibited by statute are illegal. Unless a sweepstakes promotion contains all of the elements of a crime prohibited by law, it is not illegal. Mr. BoCook has no basis upon which to believe that the Applicant's use of the property is a violation of law, as he has never seen the equipment or software to be used by the Applicant. Furthermore, many chain and retail businesses operating in Rocky Mount routinely engage in sweepstakes promotions including Chick-fil-a, McDonalds, Zaxby's, Burger King, Tractor Supply, Lowe's and Hobby Lobby, just to name a few. Nowhere in the Land Development Code are sweepstakes promotions prohibited.
- c. Mr. BoCook's denial of the Certificate of Occupancy exceeds his authority granted to Administrative staff under G.S. 160D-402 (b). He is not a "law making authority" and his duties are administrative only, and not to create or adopt policy for the City. His office on previous occasions granted Certificates of Occupancy to the Applicant and certified that the Applicant's use was "in compliance with the various ordinances of the City...". Absent some change in law, he has no authority to unilaterally make a decision that a use that was previously permitted is no longer permitted by the Code.
- d. The city is estopped from maintaining that the Applicant's use is not a permitted use under the legal doctrines of equitable estoppel and quasi estoppel.
- e. Mr. Bocook's denial of the Certificate of Occupancy is an unconstitutional violation of equal protection of law guaranteed by the Fourteenth Amendment of the United States Constitution and Article I, Sec 19 of the North Carolina Constitution. Upon information and belief, Mr. BoCook is aware that businesses like that of the Applicant are currently operating within the City at the following locations: Reel It In at 570 S Wesleyan Blvd.; No Limit at 412 Goldrock Rd.; Taps at 901 N. Wesleyan Blvd. Unit 105; and S Technology at 1268 Independence Blvd.; and 2551 N Wesleyan Blvd.; With

this knowledge, without taking affirmative enforcement action to close said businesses for violations of Code, while at the same time taking action to keep the Applicant from opening, he is using his office to the benefit of some and the detriment of others, which is not permitted under law.

WHEREFORE, the Appellant prays that this honorable Board review this matter, determine that no lawful reason exist to deny the Certificate of Occupancy and direct that the Certificate of Occupancy be granted forthwith.

This the 19 day of July, 2023.

ETHERIDGE, HAMLETT & MURRAY, LLP

BY: _____

J. Richard Hamlett, II
Attorney for Royal Dane Holdings, LLC
P.O. Box 10
Nashville, NC 27856
Telephone: (252) 459-9000
Fax: (252) 459-97997

CERTIFICATE OF SERVICE

The undersigned hereby certifies pursuant to Rule 5, North Carolina Rules of Civil Procedure, that on this date he served a copy of the foregoing Notice of Appeal upon the parties named below as indicated.

Department of Development Services
City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

Clerk for the City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

- by hand delivery to the attorney or to the party indicated;
- by leaving it at the attorney's office with a partner or employee;
- by facsimile;
- by deposit of the pleading or paper enclosed in a post paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

This 19 day of July, 2023.



J. Richard Hamlett, II
Attorney for Royal Dane Holdings, LLC
P. O. Box 10
Nashville, NC 27856
Telephone: (252) 459-9000

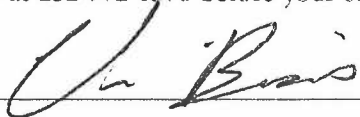
**Application for
CERTIFICATE OF OCCUPANCY**



Applicant's Name (please print clearly): <u>Royal Dane Holdings LLC</u>	
Proposed Business Address: <u>2760 N Wesleyan Blvd Rocky Mount NC 27804</u>	
Proposed Business Name: <u>DBA The Headquarters</u>	
Type of Business*: <u>Pre paid phone service</u>	
Applicant Address: <u>1019 West Mount Dr</u>	Applicant Telephone: <u>919 421-4376</u>
Applicant email: <u>RoyaldaneHoldings@gmail.com</u>	Alternate Telephone:
If known, what was the last date former business in operation: <u>N/A</u>	
What type of business was formerly at the location: <u>E-B Bargins The Discount store</u>	
Do you have another business location within the City of Rocky Mount? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
If yes, what is the address of other business:	
Are there any underground storage tanks at the new location? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
If yes, do you plan to utilize them? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

*If proposed use is residential care (family care home or group home) please submit completed Group Home Questionnaire with this application. If inspection finds location is not in compliance, you will have thirty (30) days to make corrections and request re-inspection. All requests not completed within thirty (30) days will become void.

NOTE: All businesses must provide fire extinguishers with a minimum rating of 2A:10BC or larger. Some businesses will need only one, most will need more. Please feel free to contact any Fire Inspector with the Life Safety Division of the Rocky Mount Fire Department at 252-972-1376 before your scheduled appointment for answers to questions you may have.

Applicant Signature:  Date: 5-30-23

\$75 Fee Due Upon Completion

This is an inspection only. If preliminary inspection reveals that the property will not comply with state and local ordinances you will be notified at the time of the inspection.

(Do not write below this line. For office use only.)

Received on <u>5/31/23</u> by <u>AW</u> (initials)	Property Zone: <u>B-5CU</u>	Application # <u>202301252</u>
Is property in a floodplain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is property in the Floodway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Is property in the Watershed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Checked by: <u>AW</u>	
Approved by _____		Date _____
Inspection Date: <u>6/2/2023</u>	Inspection Time:	
<input type="checkbox"/> Mon. <input type="checkbox"/> Tues. <input type="checkbox"/> Wed. <input type="checkbox"/> Thur. <input checked="" type="checkbox"/> Fri.	<input type="checkbox"/> 10:30 am	<input checked="" type="checkbox"/> 11:00 am
	<input type="checkbox"/> 2:00 pm	<input type="checkbox"/> 2:30 pm <input type="checkbox"/> 3:00 pm

Revised 10/20

INSPECTION FIELD SHEET

06/02/23
09:30:12

Printed by STAN SMITH JR

INSPECTION: 675184 CO EXISTING FIRE INSPECTION

PERMIT:
STATUS:
APPLICATION: 202301252

LOC: 2760 N WESLEYAN BLVD
2760 N WESLEYAN BLVD
ROCKY MOUNT

PROPERTY ID: 386213221616

OWNER: CLUB WAY LLC

CONTRACTOR: _____

REQUEST BY: _____

PROJ DESC: DBA THE HEADQUARTERS
WORK ORDER:

INSPECTOR: SSJ
REQUESTED: 05/30/23
SCHEDULED: 06/02/23 11:00
UNPAID FEES: 75.00

RESULT: Fail
PRIORITY: _____
COMPLETED: 6/2/2023
Date Time

MILEAGE: _____

TIME: TRAVEL _____ ONSITE _____

COMMENTS:

- Remove all non compliant fire extinguishers
- Repair all emergency egress lights in building

0 258 972-1109
1110
1111

Joe Seth

INSPECTION FIELD SHEET

06/02/23
08:36:29

Printed by SHAMIR MITCHELL

INSPECTION: 675185 CO ZONING FINAL

PERMIT:
STATUS:
APPLICATION: 202301252

LOC: 2760 N WESLEYAN BLVD
2760 N WESLEYAN BLVD
ROCKY MOUNT

PROPERTY ID: 386213221616

OWNER: CLUB WAY LLC

CONTRACTOR: _____

REQUEST BY: _____

PROJ DESC: DBA THE HEADQUARTERS
WORK ORDER:

INSPECTOR: SM *SM*
REQUESTED: 05/30/23
SCHEDULED: 06/02/23 11:00
UNPAID FEES: 75.00

RESULT: Fail
PRIORITY: _____
COMPLETED: _____
Date Time

MILEAGE: _____

TIME: TRAVEL _____ ONSITE _____

COMMENTS:

EXHIBIT

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INSPECTION FIELD SHEET

06/02/23
10:00:33

Printed by PHILLIP JOYNER

INSPECTION: 675183 CO EXISTING BLDG

PERMIT:
STATUS:
APPLICATION: 202301252

LOC: 2760 N WESLEYAN BLVD
2760 N WESLEYAN BLVD
ROCKY MOUNT

PROPERTY ID: 386213221616

OWNER: CLUB WAY LLC

CONTRACTOR: _____

REQUEST BY: _____

PROJ DESC: DBA THE HEADQUARTERS
WORK ORDER:

INSPECTOR: PJ
REQUESTED: 05/30/23
SCHEDULED: 06/02/23 11:00
UNPAID FEES: 75.00

RESULT: Fail/AJ
PRIORITY:
COMPLETED: 6-2-23 _____
Date Time

MILEAGE: _____ TIME: TRAVEL _____ ONSITE _____

COMMENTS:

1. All emergency lights shall function properly
2. Maintain min. 36" clearances at elec panel & exit pathways

ALL INSPECTIONS:

INSPECTED	INSPECTOR	RESULT	INSP	DESCRIPTION
	SSJ		XC05	CO EXISTING FIRE INSPECTION
	SM		XC07	CO ZONING FINAL

ETHERIDGE, HAMLETT & MURRAY, LLP

Attorneys at Law

William D. Etheridge
J. Richard Hamlett, II
Ernie K. Murray
J. Michael Eatmon

212 West Church Street
Post Office Drawer 10
Nashville, N.C. 27856

Telephone: (252) 459-9000
Facsimile: (252) 459-9797

EXHIBIT

5

Sent via Mail
Email to Joseth.Bocook@rockymountnc.gov
Fax to (252) 972- 1590

June 6, 2023

Mr. Joseth Bocook, Acting Planning Administrator
City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

RE: 2760 N. Wesleyan Blvd Rocky Mount, NC 27804

Dear Mr. Bocook:

This Law Firm represents Royal Dane Holdings LLC which recently made an application for a Certificate of Occupancy for 2760 N. Wesleyan Blvd. On June 2nd, 2023 final inspections for the property were completed and the Certificate of Occupancy was denied. Attached are copies of three Inspection Field Sheets completed by Phillip Joyner, Shamir Mitchell and Stan Smith, Jr. The Phillip Joyner sheet failed the property for what appear to be improper emergency lighting and clearance issues at the electrical panel and exit pathways. Stan Smith Jr. failed the property related to non-compliant fire extinguishers and emergency egress lights. Shamir Mitchell provided no reason for failing the property.

All issues identified by Stan Smith Jr. and Phillip Joyner have been corrected. The problems were corrected shortly after the issues were brought to our client's attention on June 2nd, 2023. Despite this fact, your office has refused to issue the Certificate of Occupancy.

We respectfully request that you issue the Certificate of Occupancy immediately. In the event that you will not do so, we request that you provide us with a written statement as to why you will not do so. If you will not issue this Certificate of Occupancy and will not provide us with further written clarification of the reason for the denial, please consider this letter as Notice of Appeal of your decision to deny the Certificate of Occupancy pursuant to the Rocky Mount Code of Ordinances and provide us with the date, time and place of the Appeal Hearing so that we may issue the appropriate subpoenas.

I look forward to your response.

Very Truly Yours,


J. Richard Hamlett, II

ETHERIDGE, HAMLETT & MURRAY, LLP

Attorneys at Law

William D. Etheridge
J. Richard Hamlett, II
Ernie K. Murray
J. Michael Eatmon

212 West Church Street
Post Office Drawer 10
Nashville, N.C. 27856

Telephone: (252) 459-9000
Facsimile: (252) 459-9797

EXHIBIT 6

Sent via Mail
Email to Joseth.Bocook@rockymountnc.gov
Fax to (252) 972- 1590

June 22, 2023

Mr. Joseth Bocook, Interim Director of Development Services
City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

RE: Certificate of Occupancy Application for 2760 N. Wesleyan Blvd

Dear Mr. Bocook:

As you may recall this Law Firm represents Royal Dane Holdings LLC which made application for a Certificate of Occupancy for 2760 N Wesleyan Blvd in Rocky Mount on May 30, 2023. Inspections were completed on the property on June 2, 2023 by your office. The result of the inspections was "FAIL". The reasons given by the inspectors for the failure of the inspection were remedied on the same day. Your office was notified of this fact and another request for inspection was made, but your office has refused to reinspect the property.

You may recall, you and I spoke by telephone regarding this matter on June 2, 2023 at which time you informed me that you would not issue a Certificate of Occupancy because you consider my clients business to be "illegal gambling". By letter to you dated June 6, 2023, I asked that you reconsider your position. I have had no response from you to the June 6th letter. Attached is a Court Order issued by Superior Court Judge L. Todd Burke which issues a Preliminary Injunction against any party acting on behalf or under color of authority of the State of North Carolina, which includes your office, from interfering any business utilizing BST USA skill Sweepstakes System, which is the system our client uses. Aside from your "illegal gambling" reason, which this Court Order addresses, there is no reason to deny my client a Certificate of Occupancy. Again, I respectfully request that you issue the Certificate of Occupancy immediately.

Please let me know your position on this as soon as possible. If the Certificate of Occupancy has not been issued by 5:00 PM Friday June 23, 2023 it is my intent to appeal your decision to the Board of Adjustment.

Very Truly Yours,

J. Richard Hamlett, II



ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL

June 22, 2023

J. Richard Hamlett, II
Etheridge, Hamlett & Murray, LLP
212 West Church Street, PO Drawer 10
Nashville, NC 27856

EXHIBIT 7

Dear Mr. Hamlett:

On May 31, 2023, a Certificate of Occupancy application [enclosed] dated May 30, 2023 was received by the Department of Development Services listing the applicant as Royal Dane Holdings LLC doing business as “The Headquarters” and the proposed use being “prepaid phone service” at 2760 N. Wesleyan Boulevard.

The Certificate of Occupancy inspection was scheduled for and subsequently performed on June 2, 2023. The Certificate of Occupancy inspection consists of three separate inspections: building, fire, and zoning. Each inspection failed. Specifically, the zoning inspection failed because Zoning Officer Shamir Mitchell determined the actual proposed use was operating a sweepstakes based on the interior layout, dialogue with the proprietor present during the inspection, and a demonstration from the proprietor of the business/service. Sweepstakes are not a permitted use within the city’s Land Development Code (LDC) Sec. 503.

Primarily, the use is not permitted within our LDC as North Carolina’s courts routinely have found that sweepstakes are prone to violate state laws regulating gambling.

LDC Sec. 510 [enclosed] sets forth the right to pursue an appeal of this determination before the Rocky Mount Board of Adjustment. I’ve enclosed the application for your convenience. All appeals to the Rocky Mount Board of Adjustment must be filed to the Department of Development Services within 30 days of receiving this notice.

Feel free to contact me at (252) 972-1179, or email joseth.bocook@rockymountnc.gov should you need any additional information.

Sincerely,

JoSeth Bocook
Interim Director of Development Services

EXHIBIT

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ROCKY MOUNT

331 S. Franklin Street

Rocky Mount, NC 27802

OFFICE: 252-972-1109/1110 FAX: 252-972-1590

CERTIFICATE OF OCCUPANCY

This certificate is issued pursuant to the requirements of the Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City regulating building construction and Land Development. For the following:

Application: 202200152
Issued: 01/28/2022
Parcel ID: 385117104351

Name of Business: THE HEADQUARTS

Location: 711 SUTTERS CREEK BLVD

Owner: MOSLEY MICHAEL
508 WILDWOOD AVE
ROCKY MOUNT, NC 27803

PHILLIP JOYNER

1/28/2022

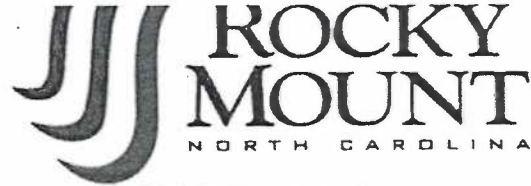
Building Official Signature

Date Signed



EXHIBIT

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331 S. Franklin Street
Rocky Mount, NC 27802
OFFICE: 252-972-1109 FAX: 252-972-1590

CERTIFICATE OF OCCUPANCY

This certificate is issued pursuant to the requirements of the Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City regulating building construction and Land Development. For the following:

Application: 201901672
Issued: 07/16/2019
Parcel ID: 384016748328-17373A

Name of Business: THE HEADQUARTERS

Location: 159 S WESLEYAN BLVD

Owner: THE HEADQUARTERS
159 S WESLEYAN BLVD
ROCKY MOUNT, NC 27804

Occupancy Type: RETAIL SALES OF TELEPHONES PROMOTED BY GAMBLING

JUSTIN FLOYD

07/16/2019

Building Official Signature

Date Signed

CERTIFICATE OF OCCUPANCY/COMPLIANCE Application

City of Rocky Mount
 Department of Development Services
 Inspection Services Division

EXHIBIT 10

Applicant's Name: <u>Bobby Joe Pearden Jr</u>		Date: <u>06/11/2019</u>
Proposed Business Address: <u>159 S Wesleyan Blvd Rocky Mount NC, 27804</u>		
Proposed Business Name: <u>The Head Quarters</u>		
Type of Business: <u>See attached</u>		
Applicant Address: <u>16069 NC Hwy 33E Tarboro NC, 27880</u>	Applicant Telephone: <u>252-567-6301</u>	
Applicant email: <u>Bobby.Pearden007@gmail.com</u>	Alternate Telephone: <u>252-442-2784</u>	
If known, what was the last date former business in operation:		
What type of business was formerly at the location:		
Do you have another business location within the City of Rocky Mount? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
If yes, what is the address of other business:		
Are there any underground storage tanks at the new location? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
If yes, do you plan to utilize them? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		

If proposed use is residential care (family care home or group home) please submit completed Group Home Questionnaire with this application. If inspection finds location is not in compliance, you will have thirty (30) days to make corrections and request re-inspection. All requests not completed within thirty (30) days will become void.
 NOTE: All business must provide fire extinguishers with a minimum rating of 2A:10BC or larger. Some businesses will need only one, most will need more. Please feel free to contact any Fire Inspector with the Life Safety Division of the Rocky Mount Fire Department at 252-972-1376 before your scheduled appointment for answers to questions you may have.

Applicant Printed Name & Signature: Bobby Joe Pearden Jr *Bobby J. Pearden Jr*

This is an inspection only. Fee for CO Inspection: \$75.00

If preliminary inspection reveals that the property will not comply with state and local ordinances you will be notified at the time of the inspection.

(Do not write below this line. For office use only.)

Received by: _____ Received Date: _____ Zoned: _____

Is this property in a Floodplain? <input type="checkbox"/> YES <input type="checkbox"/> NO	Is this property in the Floodway? <input type="checkbox"/> YES <input type="checkbox"/> NO
Checked By: _____ Fee Paid: <input type="checkbox"/>	Application #: _____
Inspection Date: _____ <input type="checkbox"/> Mon. <input type="checkbox"/> Tues. <input type="checkbox"/> Wed. <input type="checkbox"/> Thur. <input type="checkbox"/> Fri.	Time: <input type="checkbox"/> 10:30 am <input type="checkbox"/> 11:00 am <input type="checkbox"/> 2:00 pm <input type="checkbox"/> 2:30 pm <input type="checkbox"/> 3:00 pm

TYPE OF BUSINESS: retail sales promoted by gaming promotions. Applicant's business is the selling of telephone calling time/minutes to customers promoted by a skill and dexterity based game promotion to encourage the purchase of Applicant's product. When Applicant's products are purchased, customers receive the right to participate in the game promotion. Additionally, free opportunity to participate in the game promotion is also available without required purchase.



ROCKY MOUNT
DEVELOPMENT SERVICES
THE CENTER OF IT ALL

Property Owner's Appointment of Representative

The undersigned hereby certifies that he/she/they own(s) the property known as/located at
2700 N. Wesleyan Blvd. which is the subject of an appeal before the Board of
Adjustment for the issuance of Certificate of Occupancy

I/We do not desire to personally appear before the Board of Adjustment and I/we authorize
Rick Hamlett to appear and present
the appeal on my/our behalf.

Club Way, LLC
Manager Maria P. Holloman
Owner/Co-owner

Owner/Co-owner

North Carolina
Nash County

I, Linda S. Batt, a Notary Public for said County and State, do hereby
certify that Club Way, LLC Maria P. Holloman personally appeared before me
this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 18th day of July, 2023.

Linda S Batt
Notary Public

My commission expires August 2, 2025

Linda S. Batt
NOTARY PUBLIC
Nash County, NC

NORTH CAROLINA

**APPEAL TO THE CITY OF ROCKY MOUNT
BOARD OF ADJUSTMENT**

EDGECOMBE COUNTY

IN THE MATTER OF:

**APPLICATION FOR CERTIFICATE
OF OCCUPANCY FOR 2760 N WESLEYAN BLVD.
ROCKY MOUNT, NORTH CAROLINA 27804**

REQUEST FOR ISSUANCE OF SUBPOENAS (G.S. § 160D-406)

To: The Honorable Chair of the Board of Adjustment, City of Rocky Mount

Applicant requests that subpoenas be issued compelling the production at the hearing before the Board of the following:

Complete copy of the Rocky Mount Department of Development Services files, including but not limited to applications for Certificates of Occupancy, granted and/or current Certificates of Occupancy, and Notices of Violations for the past five years through the date of the hearing, for the following locations:


570 S Wesleyan Blvd;
412 Goldrock Rd;
901 N. Wesleyan Blvd Unit 105;
1268 Independence Blvd;
2551 N Wesleyan Blvd;
711 Sutters Creek Blvd;
159 S Wesleyan Blvd.

In support thereof, Applicant shows that said information is relevant to the issues raised in Applicant's Notice of Appeal, is in the possession and control of the city, and upon information and belief will support the Applicant's position and request the issuance of the Certificate of Occupancy.

This the 19 day of July, 2023.

ETHERIDGE, HAMLETT & MURRAY, LLP

BY:


J. Richard Hamlett, II
Attorney for Royal Dane Holdings, LLC
P.O. Box 10
Nashville, NC 27856
Telephone: (252) 459-9000
Fax: (252) 459-9797

CERTIFICATE OF SERVICE

The undersigned hereby certifies pursuant to Rule 5, North Carolina Rules of Civil Procedure, that on this date he served a copy of the foregoing Request for Issuance of Subpoenas upon the parties named below as indicated.

Department of Development Services
City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

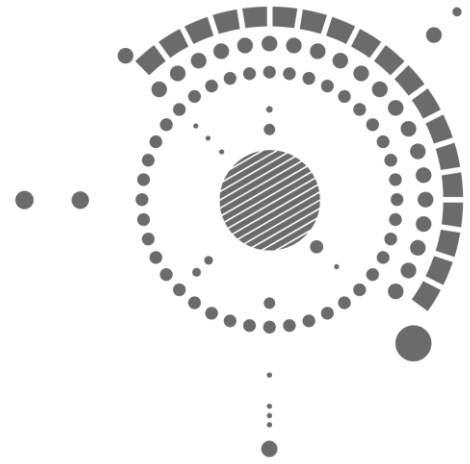
Chair of the Board of Adjustment
C/O Clerk for the City of Rocky Mount
331 S Franklin Street
Rocky Mount, NC 27802

- by hand delivery to the attorney or to the party indicated;
- by leaving it at the attorney's office with a partner or employee;
- by facsimile;
- by deposit of the pleading or paper enclosed in a post paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

This 19 day of July, 2023.



J. Richard Hamlett, II
Attorney for Royal Dane Holdings, LLC
P. O. Box 10
Nashville, NC 27856
Telephone: (252) 459-9000



ATTENTION:

The next regular meeting of the
City of Rocky Mount
Board of Adjustment
is scheduled for
Tuesday, October 3, 2023 at 5:30 p.m.

