

**TOWN OF ZEBULON
JOINT PUBLIC HEARING AGENDA
BOARD OF COMMISSIONERS AND PLANNING BOARD
June 11, 2018
7:00pm**

I. CALL TO ORDER

II. PUBLIC HEARING

A. SU 2018-03 – A request by Joe Wagner to obtain a Special Use Permit for an Internet Café located at 1405 N. Arendell Avenue. The parcel is currently owned by LPN Inc. The zoning is Heavy Business (HB). [NC PIN: 1796 90 9941].

III. ADJOURNMENT

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A. SU-2018-03 – A request by Joe Wagner to obtain a Special Use Permit for an Internet Café located at 1405 N. Arendell Avenue. The parcel is currently owned by LPN Inc. The zoning is Heavy Business (HB). [NC PIN: 1796 90 9941].

Case Information:

Applicant(s): Joe Wagner, Vending Plus, LLC

Property Owner(s): LNP, INC

Property Information:

Location:	Acreage	Current Zoning	Existing Conditions
1405 N. Arendell Avenue	0.46	HB	Realtor Office

Surrounding Property Owners, Land Use and Current Zoning:

	Property Owner	Current Land Use	Current Zoning
North	Parrish Realty Co of Zebulon INC	Commercial	HB
South	DVM Services Realty LLC LNP INC	Commercial	HB
East	Old Heritage Properties, LLC (Sheetz)	Commercial	HB
West	Parrish Realty Co of Zebulon INC	Vacant	HB

Staff Report:

This agenda, including staff report plus attachments, is to be entered into the record for this hearing.

1. Background Information

- A. This request is for a special use permit for an internet café commonly known as a sweepstakes.
- B. The request area is located within the corporate limits.

2. Application Information

- A. The applicant submitted their application, supplemental information, and attachments.
- B. The attorneys reviewed the application for completeness and form as to submittal.

3. Zoning

- A. Most of the surrounding properties are zoned heavy business (HB) districts.
- B. Heavy business zoned districts are designed to accommodate the widest range of commercial activities.

- C. The purpose of the Special Use Districts (SUD) is to promote greater land use compatibility by allowing land owners to voluntarily place their properties within classifications in which a special use permit is required as a prerequisite to any use or development.
- D. The proposed Special Use District is located on a parcel and surrounded by parcels zoned for such a use.

4. Land Use

- A. The Comprehensive Plan suggests the parcels and surrounding areas should be used as Highway Business.
- B. Highway Business areas are the most intensive form of commercial development, largest in both size and traffic generation. Market orientation tends to be regional in nature and can include shopping centers and big-box development. Requires access to regional transportation routes or corridors and planned internal circulation patterns while accommodating pedestrian access. Footprints may exceed 50,000 square feet. Heavily landscaped parking and buffer areas with priority given to pedestrian access and connections.
- C. The proposed Special Use District conforms to the intent of the Comprehensive Plan.

5. Transportation

- A. The Multimodal Transportation Plan shows improvements to the section of Pippin Road near the proposed site to be consistent with the NC 96 Study.
- B. The Town has secured Locally Administered Projects Program (LAPP) funding from Capital Area Metropolitan Planning Organization (CAMPO) and North Carolina Department of Transportation (NCDOT). Plans are being finalized and budget discussions are ongoing.
- C. The increase in density requested will not add over 100 trips during a weekday peak hour. The Town's Code of Ordinances requires that a Traffic Impact Analysis (TIA) be submitted for proposed developments that will add over 100 trips. A TIA is not required.

6. Greenway, Bicycle & Pedestrian Master Plan

- A. The Town's adopted Greenway, Bicycle and Pedestrian Master Plan shows bicycle and pedestrian improvements along N. Arendell Avenue.
- B. These improvements are incorporated into the NC 96 Study LAPP funding in section 5 of this agenda.

7. Water and Sewer Allocation Policy

- A. The building the sweepstakes will occupy has been a business space before and therefore already has allocation granted for the site.
- B. No additional allocation is being requested.

8. Ordinance Requirements

- A. North Carolina General Statute 14-306.4 prohibits the conduction or promotion of a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize. Any sweepstakes establishment must be able to provide evidence that the sweepstakes is operating legally.
- B. The Town of Zebulon Code of Ordinances §152.1466 includes hours of operation, screen restrictions, age restrictions, a maximum number of terminals, alcoholic beverages restrictions, and location restrictions.

9. Site Plan Approval

- A. The development shall be subject to site plan approval through the Zebulon Technical Review Committee.
- B. The site plan approval process requires compliance with all plans, policies, and ordinances including parking, landscape buffers, and signage.

Attachments:

- (1) Special Use Permit Application – Provided by Applicant
- (2) Wake County Tax Card
- (3) Deeds
- (4) Notice of Public Hearing
- (5) Quasi-Judicial Handout Mailed to Adjoining Property Owners
- (6) Certification of Notice to Property Owners
- (7) Notified Property Owners List
- (8) Maps - Vicinity, Notified Property Owners, Zoning, Land Use
- (9) NCGS 14-306.4
- (10) §152.1466
- (11) March 20, 2013 Letter from District Attorney

Public Notice:

A notice of public hearing was published in the Zebulon Times on May 31, 2018, and June 7, 2018.

Staff Recommendation:

Staff does not make recommendations on Special Permits before all evidence is submitted at the public hearing.

Requested Action:

Refer SU 2018-03 to the Planning Board for recommendation.

Quasi-Judicial requirements must be adhered to for proper issuance of a Special Use Permit.

Quasi-Judicial Requirements:

1. The Board of Commissioners should motion on the approval or denial of SU 2018-03.
2. If approved, the Board need not make findings of fact. If denied the Board must vote on each specific finding and state a reason as to why the finding was denied. Only one finding must be denied to oppose the permit. The findings of fact are as follows:
 - a. The proposed special use will not materially endanger the public health, safety or welfare;
 - b. The proposed special use will not substantially injure the value of adjoining or abutting property;
 - c. The proposed special use will be in harmony with the area in which it is to be located; and
 - d. The proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.
3. If approved, any conditions should be stated in the motion to approve.

Choices:

- ♦ **Zoning denial with specific finding and stated reasoning for such.**
- ♦ **Zoning approval without conditions (acceptance of project as submitted).**
- ♦ **Zoning approval with a selection of conditions provided by staff, Board Members and/or applicant.**
- ♦ **Table for further study.**

**TOWN OF ZEBULON
PLANNING BOARD AGENDA
Zebulon Municipal Complex
June 11, 2018**

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. ADOPTION OF MINUTES

A. May 14, 2018

IV. NEW BUSINESS

A. SU 2018-03 – A request by Joe Wagner to obtain a Special Use Permit for an Internet Café located at 1405 N. Arendell Avenue. The parcel is currently owned by LPN Inc. The zoning is Heavy Business (HB). [NC PIN: 1796 90 9941].

V. STAFF REPORT

VI. ADJOURNMENT

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**Town of Zebulon
Planning Board
Minutes
May 14, 2018**

Present: Julie Spriggs-Planning, Mackenzie Day-Planning, Lisa Markland-Town Clerk, Toby Hampson-Attorney

Planning Board Present: Kenny Waldroup, Larry Ray, Gene Blount, David Covington, Shannon Baxter

Absent: Laura Johnson

Kenny Waldroup called the meeting to order at 7:29pm.

AGENDA

Shannon Baxter made a motion, second by Gene Blount to approve the agenda. There was no discussion and the motion passed unanimously.

MINUTES

Gene Blount made a motion, second by Larry Ray to approve the October 9, 2017 and April 9, 2018 minutes. There was no discussion and the motion passed unanimously.

NEW BUSINESS

RZ 2018-02

Kenny Waldroup asked if staff had any additional comments. Mackenzie Day said staff did not have any comments and asked the Board if there were any questions. There were none.

Larry Ray commented that traffic and parking were an issue with the request and he was not aware the DMV was closing. Shannon Baxter commented that she lived on S. Arendell and had to deal with parking issues in front of her house.

Larry Ray asked who would be taking over the DMV location and Mackenzie Day said she was unsure. There was also talk amongst the board about traffic and parking issues that would increase if another business moved into the DMV location. Toby Hampson said the issue present was on the current overall general use versus the uses allowed under the TR district.

Mackenzie Day shared the consistency statement giving three options to the Board. They could approve the rezoning with the comprehensive plan, deny the request as not consistent with the current comprehensive plan or approve and amend the comprehensive plan with an explanation of the change.

Planning Board
Minutes
May 14, 2018

Shannon Baxter made a motion, second by Larry Ray to deny ZA 2018-02 based on being inconsistent with the Comprehensive Land Use Plan of the Town of Zebulon. There was no discussion and the motion was passed with a vote of 4 to 1 with Shannon Baxter, Larry Ray, Kenny Waldroup and David Covington voting in favor and Gene Blount voting against the motion.

STAFF REPORT

Julie Spriggs informed the Board that a Joint Public Hearing will be held June 11th.

Kenny Waldroup asked if the Board had any questions. There were none.

Toby Hampson introduced attorney Sam Slater from Wyrick Robbins Yates & Ponton LLP, who would be working alongside Town attorneys Eric Vernon and Toby Hampson.

Shannon Baxter made a motion, second by Gene Blount to adjourn the meeting. There was no discussion and the motion passed unanimously.

Date

SEAL

Kenny Waldroup – Vice Chair

Lisa M. Markland, CMC—Town Clerk

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Staff Recommendation:

Staff does not make recommendations on Special Permits before all evidence is submitted at the public hearing.

Requested Action:

Recommend SU 2018-03 to the Board of Commissioners.

Quasi-Judicial requirements must be adhered to for proper issuance of a Special Use Permit.

Quasi-Judicial Requirements:

1. The Board of Commissioners should motion on the approval or denial of SU 2018-03.
2. If approved, the Board need not make findings of fact. If denied the Board must vote on each specific finding and state a reason as to why the finding was denied. Only one finding must be denied to oppose the permit. The findings of fact are as follows:
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Attachment 1

SU 2018-03

Special Use Permit Application

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Town of Zebulon

Planning Department

1003 N. Arendell Avenue, Zebulon, NC 27597
Phone: (919) 823-1810 Fax: (919) 269-6200
www.townofzebulon.org

SPECIAL USE PERMIT

GENERAL INFORMATION

A Special Use Permit is intended to provide flexibility by allowing certain types of uses in areas where additional considerations may need to be addressed to reduce the adverse effects on adjacent or surrounding properties. A Special Use Permit may be authorized for a specific site for an additional land use when such use is determined to not have an adverse effect on surrounding properties and when such use is consistent with the purpose of the zoning district.

INSTRUCTIONS

1. **Application Procedure** – The applicant requesting a Special Use Permit must submit a written application to the Zebulon Planning Department using the forms included in this packet and furnish plans and data concerning the operation, location, function, and characteristics of any use of the land or building being proposed. The non-refundable application fee is **\$800.00 or \$1,800.00 with TIA Review**.
2. **Site Plan** – Twenty four (24) copies of a site plan drawing shall accompany every application for a Special Use Permit. Such site plan shall include all the contents established for site plans as included in this packet.
3. **Public Hearing Procedure** – Upon submittal of a complete application, the Planning Department will schedule the application for a joint public hearing before the Planning Board and the Board of Commissioners. State law requires Special Use Permit hearings to be conducted utilizing quasi-judicial procedures. Please review the section of this packet entitled “QUASI-JUDICIAL HEARINGS,” beginning on page 6, for an explanation of quasi-judicial hearings and the applicant’s responsibility in such hearings. **APPLICANTS ARE STRONGLY ENCOURAGED TO CONTACT PLANNING STAFF AS SOON AS POSSIBLE TO ADDRESS ANY QUESTIONS ABOUT THE PUBLIC HEARING.** Notices of the public hearing will be mailed to all property owners having property located within 150 feet of the property being considered for a Special Use Permit. At the public hearing, the applicant, proponents, and opponents will be given the opportunity to offer evidence in favor of or against the proposal. After completion of the public hearing, the Planning Board will deliberate and forward its recommendation to the Board of Commissioners for final consideration. Deadline dates and Joint Public Hearing dates can be found on the Town of Zebulon’s website or by scanning the QR Code located at the end of this application packet.
4. **Approval and Conditional Approval** – In accordance with §152.039 of the Zebulon Code of Ordinances, each Special Use Permit application and related evidence will be evaluated by the Planning Board and the Board of Commissioners and may be approved or denied based on the evidence presented regarding certain required findings of fact (See the section of this packet entitled “REQUIRED FINDINGS OF FACT”). In the event of a conditional approval, any conditions imposed will be incorporated into the approving ordinance for permanent record.
5. **Building Permit Compliance** – No building permit for any structure will be issued, nor shall a Certificate of Occupancy be issued on any existing structure, until such development plans are consistent with the approved site plan and the conditions established for the Special Use Permit.
6. **Special Use Permit Amendments** – In accordance with §152.047 of the Zebulon Code of Ordinances, changes to a Special Use Permit or its approved site plan shall be processed in the same manner as the original approved request and will require a new application. Insignificant deviations from the permit or within a site plan may be authorized by the Planning Director. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.



APPLICATION FOR Special Use Permit

PART 1. APPLICANT/AGENT INFORMATION

Name of Applicant/Agent: Joe Wagner		
Street Address of Applicant/Agent: 2100 Shepard School Rd		
City: Zebulon	State: NC	Zip Code: 27597
Email of Applicant/Agent: lwagner9@nc.rr.com		Telephone Number of Applicant/Agent: (919)912-0122
Fax Number of Applicant/Agent:		
Are you the owner of the property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Are you the owner's agent? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Note: If you are not the owner of the property, you must attach an "Owner's Consent Form" giving you permission to submit this application.

PART 2. DESCRIPTION OF REQUEST/PROPERTY

Street Address of the Property: 1405 N. Avendell Ave	Current Zoning Classification: HB	Acreage: .46
Parcel Identification Number (NC PIN): 1796909941	Deed Book: 08424	Deed Page(s): 1634
Existing Use of the Property: Real Estate Office	Proposed Use of the Property: Skilled GameRm / sweepstakes	
Describe the nature of the proposed activity and any particular characteristics related to the use of the property: Customers will be seated at terminals playing skilled games or purchase internet access.		

PART 3. PROPERTY OWNER INFORMATION

Name of Property Owner: JNP, Inc		
Street Address of Property Owner: 1405 N Avendell Ave		
City: Zebulon	State: NC	Zip Code: 27597
Email of Property Owner: rpbakerol@hotmail.com	Telephone Number of Property Owner: 919-368-0584	Fax Number of Property Owner: 919-375-4881
I hereby certify that I am, or that I represent, the legal owner of the property described above and do hereby submit this request for a Special Use Permit to the Planning Board and Board of Commissioners for consideration.		
Signature of Owner: 	Print Name: Renee P. Baker	Date: 4-6-18

FOR OFFICE USE ONLY

Application Received By: JULIE SPRIGGS	Application Date: 20180409
File Name: VENDING PLUS	Case #: SU 2018-03
Filing Fees Paid: 20180409	Date Fees Received: 800.00
Date of Public Hearing: JUNE 11, 2018	Date of Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Denied



REQUIRED FINDINGS OF FACT

All recommendations and decisions made by the Planning Board and Board of Commissioners regarding Special Use Permit applications shall be supported by findings of fact. **The applicant will bear the burden of presenting substantial, competent, and material evidence** sufficient to enable the Board of Commissioners to make the findings of fact required in §152.038(B) of the Zebulon Code of Ordinances, as set forth below. Failure to adequately address the findings below may result in denial of the application. Please attach additional pages if necessary.

1. What evidence will you present to clearly show that the proposed special use will not materially endanger the public health, safety or welfare?
Skill Factory has been in business in Louisburg for almost a year with no problems. We maintain a respectful and reputable business for adults to come relax and have fun. We keep everyone's safety and well-being our first priority with security measures, such as: cameras, door buzzers in and out, security guards if needed.
2. What evidence will you present to clearly show that the proposed special use will not substantially injure the value of adjoining or abutting property?
We are located in the middle of many other commercial businesses. People can visit us while they wait for a pet appointment or just passing through. We will obtain an atmosphere in and out of respectful customers that will shop, buy gas, use their services of all surrounding businesses.
3. What evidence will you present to clearly show that the proposed special use will be in harmony with the area in which it is to be located?
Skill factory will be a laid back, non flashy business, that will represent itself as if each of the surrounding businesses is at its own. We are not competing, but trying to help ourselves by helping bring people to the area to shop, eat and or have fun.
4. What evidence will you present to clearly show that the proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners?
We clearly post hours of operations on front doors/windows with age requirements. We also, we also post no drug, alcohol, or guns on premises. We project with the number of people in and out in a days time will not interfere with normal traffic on 96 Hwy, Pearces Rd, nor other operating businesses.
5. What evidence will you present to clearly show that the proposed special use will not cause undue traffic congestion or create a traffic hazard?
We will not have an overwhelming presence of cars entering or leaving the premises all at one time.



6. What evidence will you present to clearly show that the proposed special use is appropriately located with respect to transportation facilities, water and sewer supply, fire and police protection, and similar facilities?

We are located just 1.5 miles from the police station and fire dept.

7. What evidence will you present to clearly show that the proposed special use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas?

We are vibration, dust, odor and gas free, we will maintain a low profile and anyone disrupting with loud or rude behavior will be asked to leave. We allow smoking, but have multiple smoke eaters to remove smoke from building.

8. What evidence will you present to clearly show that the proposed special use will not impede the orderly development and improvement of the surrounding properties?

There is 2 entrances to the premises in front of building with parking. An additional parking area in the back, which will cut down on traffic congestion.

9. What evidence will you present to clearly show that the proposed special use is reasonably necessary for the public health or general welfare? Does the proposed special use enhance the successful operation of the surrounding area in its basic community function or by provide an essential service to the community?

Our establishment will enhance our community. We will provide a safe and fun environment for adults to gather and socialize. We currently operate a similar business in Louisburg NC. We look forward to supporting and collaborating with local businesses. We plan to participate and host local events.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Commissioners of the Town of Zebulon to approve the subject Special Use Permit. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Zebulon, North Carolina, and will not be returned.

Joe V. Wagner
Signature of Applicant

Joe Vaughn Wagner # 4/9/2018
Print Name Date



SITE PLAN REQUIREMENTS

Every applicant requesting a Special Use Permit shall submit **24 copies** and **1 pdf on cd** of a site plan drawing with the application for a Special Use Permit. The site plan shall contain sufficient information to adequately determine the type of development being proposed. The site plan drawing shall include, at a minimum, the following features unless otherwise specified by the Planning Department:

ITEM	CHECK IF SUBMITTED
1. Plot plan showing all existing and planned structures, building setback lines, perimeter boundaries, and easements.	✓
2. Elevation drawings of all buildings indicating the proposed exterior finish materials.	Photo
3. Landscaping plan, lighting, fencing, screening, and walls, indicating all heights and locations.	✓
4. Location of all ingress and egress.	✓
5. Off-street parking and loading facilities, with calculations showing how the quantities were obtained.	✓
6. All pedestrian walks and open areas for use by residents, tenants, or the public.	✓
7. Proposed land uses indicating areas in square feet.	✓
8. The location and types of all signs, including lighting and heights, with elevation drawings.	✓
9. Existing and/or proposed street names.	✓
10. Proposed potable or reuse water, wastewater connections, and storm sewer line; proposed grading and drainage patterns; proposed water and sewer allocations.	✓
11. Such additional items and conditions, including design standards as the Planning Board and Board of Commissioners deems necessary.	→ inside layout of computers
12. Trip generation data.	✓

NOTE: In accordance with §152.042 of the Zebulon Code of Ordinances, the Board of Commissioners may affix conditions to the Special Use Permit. Examples of conditions that might be imposed would be conditions affecting the following:

- a. Setbacks for buildings or structures
- b. Public street access
- c. Drainage
- d. Vehicular traffic, circulation, parking lots or spaces
- e. Hours of operation
- f. Activities and uses permitted
- g. Landscaping
- h. Pedestrian circulation
- i. Signs
- j. Mitigation of noise, fumes, odors, vibrations, or airborne particles
- k. Exterior lighting
- l. Exterior construction materials
- m. Screening or buffer zones
- n. Outside storage and display of merchandise
- o. Refuse and waste storage
- p. Lot sizes and dimensions
- q. Accessory buildings
- r. Other conditions or restrictions as shown on the site plan



OWNER'S CONSENT FORM

Name of Project: _____ Submittal Date: _____

OWNER'S AUTHORIZATION

I hereby give CONSENT to _____ (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in is the subject of this application. I acknowledge and agree that, pursuant to §152.046 of the Zebulon Code of Ordinances, so long as the land or structures (or any portion thereof) covered under an approved Special Use Permit continues to be used for the purposes for which the Permit was granted, then no person (including successors or assigns of the person who obtained the Permit) may make use of the land or structures for the purposes authorized in the Permit except in accordance with all the terms and requirements of the Permit. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Zebulon to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

 Renee P. Baker 4/6/18
Signature of Owner *Print Name* *Date*

CERTIFICATION OF PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Zebulon, North Carolina, and will not be returned.

 Renee P. Baker 4/6/18
Signature of Owner *Print Name* *Date*

***Owner of record as shown by the Wake County Revenue Department (www.wakegov.com). An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this form.**



QUASI-JUDICIAL HEARINGS

Explanation of Quasi-Judicial Hearings

Quasi-judicial decisions arise in a variety of local government settings. In Zebulon, members of the Town's Board of Commissioners and Planning Board jointly hold quasi-judicial hearings for special use permits, as required by state law. Zebulon's Board of Adjustment also holds quasi-judicial hearings for variance requests and appeals of staff decisions. During a quasi-judicial hearing, the Boards must hold an evidentiary hearing based solely on written and oral evidence presented by witnesses testifying under oath and subject to cross-examination. The quasi-judicial hearings do not involve setting new policies, but rather the application of previously adopted policies to the parties involved. Unlike legislative decisions (like rezonings), where the Board's actively seek the public's input and opinion concerning the advisability of the matter before the Boards, state law and constitutional considerations require that a quasi-judicial decision must be based solely on the evidence presented and cannot be based on the Board's or witnesses' unsubstantiated opinions. Put differently, a quasi-judicial decision is one that requires the Board members to find facts and apply the standards set forth in the Town's ordinance to a specific situation.

Evidence Required

There must be "substantial, competent, and material evidence" in the record to support each factual determination; the findings cannot be based on conjecture or assumptions. North Carolina General Statutes (NCGS) §160A-393 prohibits a person from giving opinions about scientific, technical or other specialized subjects unless the person, by knowledge, skill, experience, training or education, is in fact an expert on the subject. NCGS §160A-393 specially prohibits opinions that "the use of property in a particular way would affect the value of other properties" or opinions that "the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety" unless the witness is an expert on the subject.

Burden

The applicant will bear the burden of presenting evidence sufficient to enable the Board of Commissioners to make the findings of fact required the Zebulon Code of Ordinances. Those in opposition to the issuance of the special use permit bear the burden of presenting evidence that a required standard will not be met. The findings of fact required by the Zebulon Code of Ordinances are as follows:

1. The proposed special use will not materially endanger the public health, safety or welfare.
2. The proposed special use will not substantially injure the value of adjoining or abutting property.
3. The proposed special use will be in harmony with the area in which it is to be located.
4. The proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

Ex-Parte Communication

In all quasi-judicial hearings, all rulings must be based only upon the evidence in the record. Any direct or indirect communication (verbal, written, electronic or graphic) between a Board member and a proponent, opponent, or other interested party received outside of the record is considered "ex-parte communication". Board members should not receive evidence or argument on a pending quasi-judicial matter outside of the official public hearing on the matter. Note that this is different from a legislative matter before the Board, in which case Board members are free to discuss legislative matters with citizens at any time. It is inappropriate for the Board member to discuss or read correspondence concerning the quasi-judicial matter outside of the public hearing. Please do not approach or attempt to communicate with a Board member about the pending special use permit outside the public hearing; doing so may provide legal grounds for a court to overturn the Board's decision.

Oaths

Those offering testimony are put under oath. If a witness has religious objections to taking an oath, he or she may affirm rather than swear an oath.



APPLICATION FOR Special Use Permit

Questions about Quasi-Judicial Proceedings

If you have any questions about the applicable procedures, contact one of the Town of Zebulon Planning Department representatives listed below:

Name	Title	Phone Number	Email
Mark Hetrick	Planning Director	(919)823-1808	mhetrick@townofzebulon.org
Julie Spriggs	Senior Planner	(919)823-1809	jspriggs@townofzebulon.org
Mackenzie Day	Planner I	(919)823-1811	mday@townofzebulon.org
Dauida Moore	Permitting & Code Enforcement Officer	(919)823-1810	dmoore@townofzebulon.org





ERA
Parrish Realty
LEGACY GROUP

334-424-9315 OFFICE

SPEED
LIMIT
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ERA
REAL ESTATE
Parrish Realty
LEGACY GROUP

919-464-8975 OFFICE

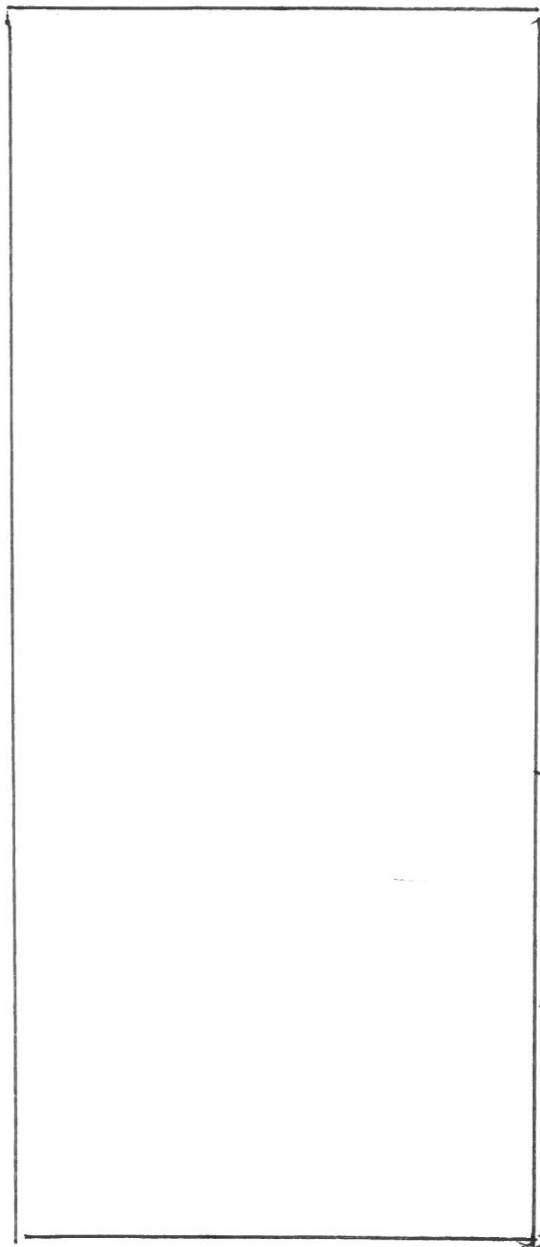
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1405

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Parking



Entrance

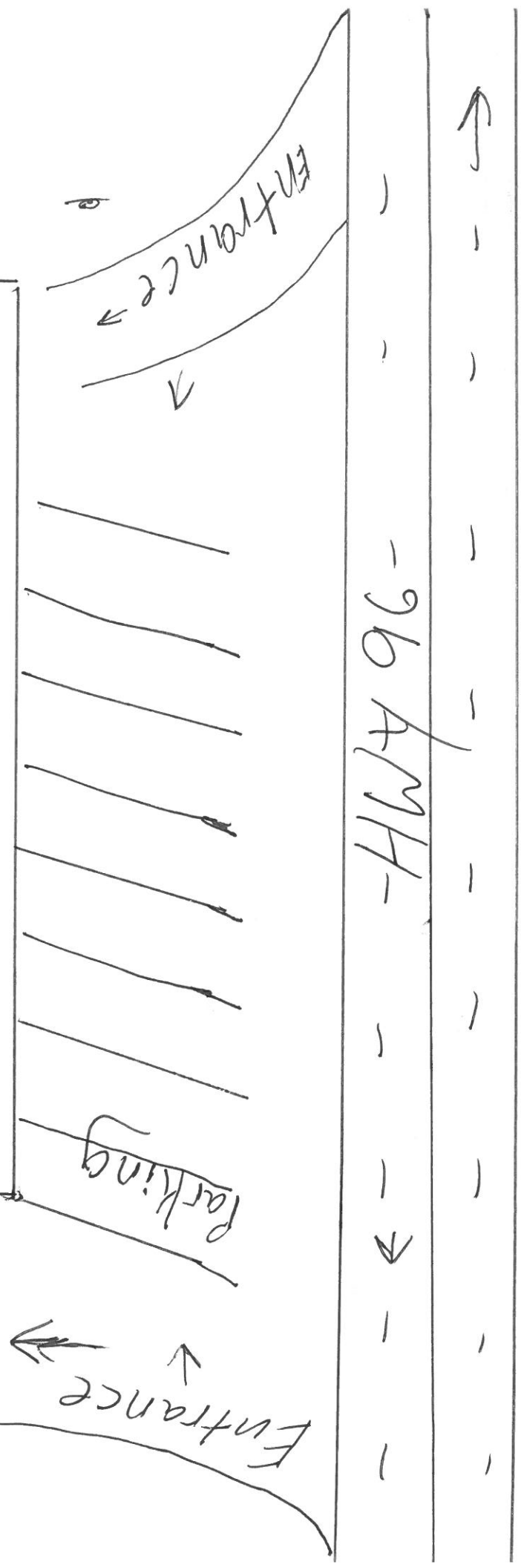


Parking

Entrance

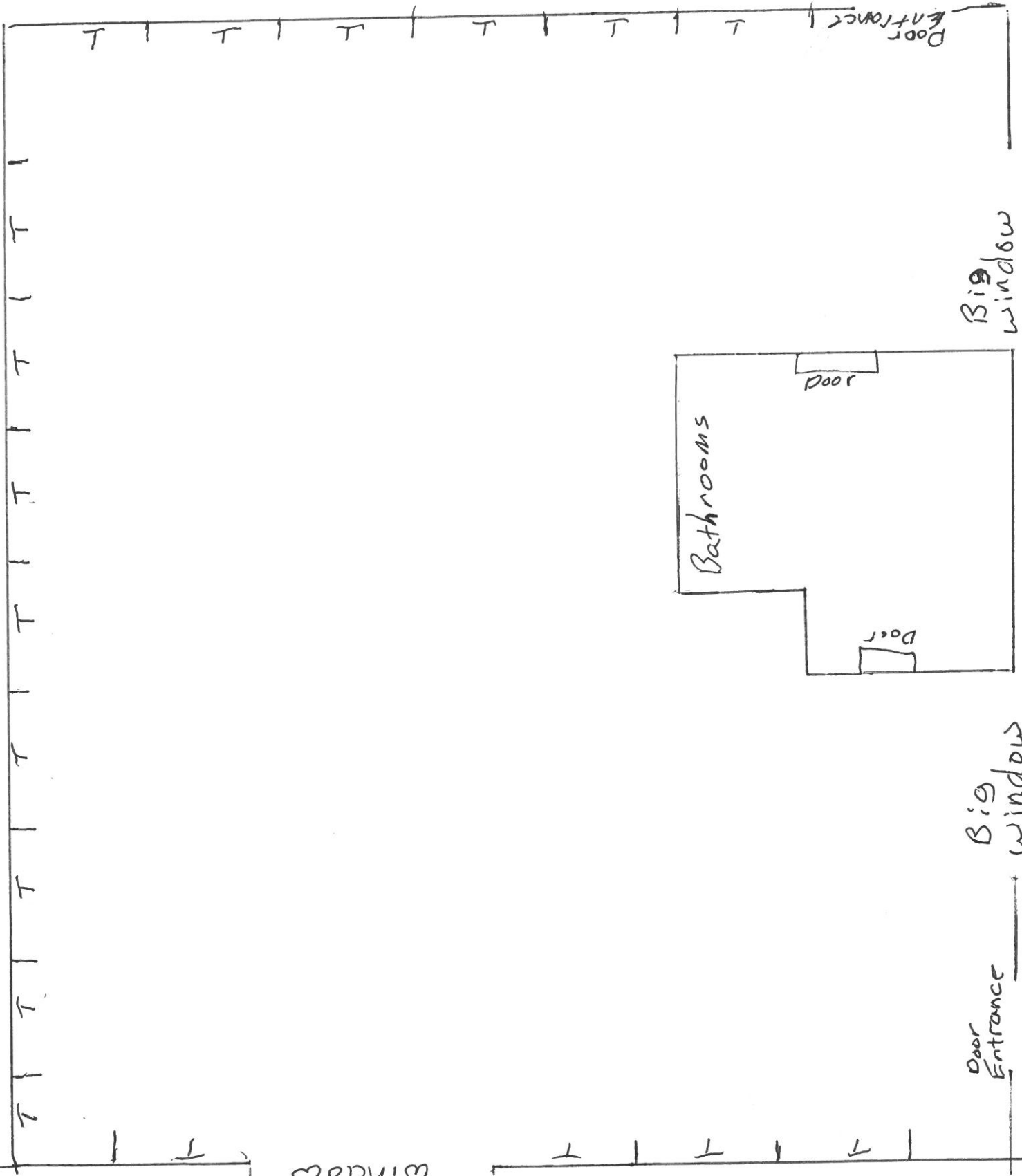


-96 AMH-



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T Stands For The Computer game Terminals



Cashiers window

Door Entrance

Big window

Bathrooms

Door

Door

Door Entrance

Big window

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Attachment 2

SU 2018-03

Wake County Tax Cards

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Wake County Real Estate

[iMaps](#)

[Home](#)

Data

Account Summary

[Tax Bills](#)



Real Estate ID
0113609

PIN # **1796909941**

WAKE COUNTY
NORTH CAROLINA

Location Address Property Description
1405 N ARENDELL AVE **LO5 REV PROP WILLIAM E PARRISH BM1990-528**

Account Search

[Pin/Parcel History](#) [New Search](#)

Account | Buildings | Land | Deeds | Notes | Sales | Photos | Tax Bill | Map

Property Owner LNP INC (Use the Deeds link to view any additional owners)		Owner's Mailing Address 1401 N ARENDELL AVE ZEBULON NC 27597-8735	Property Location Address 1405 N ARENDELL AVE ZEBULON NC 27597-8735
Administrative Data Old Map # 052-00000-0063 Map/Scale 1796 20 VCS EWZB001 City ZEBULON Fire District Township LITTLE RIVER Land Class COMMERCL ETJ ZB Spec Dist(s) Zoning HB History ID 1 History ID 2 Acreage .46 Permit Date Permit #		Transfer Information Deed Date 9/28/1999 Book & Page 08424 1634 Revenue 370.00 Stamps Pkg Sale Date 9/28/1999 Pkg Sale Price \$185,000 Land Sale Date Land Sale Price Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area 7,875	Assessed Value Land Value \$180,342 Assessed Bldg. Value \$172,385 Assessed Tax Relief Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed Total Value \$352,727 Assessed*

*Wake County assessed building and land values reflect the market value as of January 1, 2016, which is the date of the last county-wide revaluation. Any inflation, deflation or other economic changes occurring after this date does not affect the assessed value of the property and cannot be lawfully considered when reviewing the value for adjustment.

The January 1, 2016 values will remain in effect until the next county-wide revaluation. Until that time, any real estate accounts created or new construction built is assessed according to the 2016 Schedule of Values.

For questions regarding the information displayed on this site, please contact the Revenue Department at RevHelp@wakegov.com or call 919-856-5400.

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Attachment 3

SU 2018-03

Deed

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NORTH CAROLINA

SUBSTITUTE TRUSTEE'S DEED

WAKE COUNTY

Drawn By: Tracy T. Hyde
Hold For: Smith Debnam, Box 182

Wake County, NC 700
Laura M Riddick, Register Of Deeds
Presented & Recorded 09/28/1999 16:36:36
State Of NC Real Estate Excise Tax : \$370
Book : 008424 Page : 01634 - 01636

Revenue Stamps: \$370.00
Tax Account # 0113609

This deed, made and entered into this 28th day of September, 1999, by and between W. Thurston Debnam, Jr., acting as Substitute Trustee as hereinafter stated, party of the first part, and LNP, Inc., party of the second part, whose address is 1401 North Arendell Avenue, Zebulon, NC 27597.

WITNESSETH

THAT WHEREAS, William E. Parrish and wife, Magaline H. Parrish executed to First Financial Services Corporation of Raleigh, Trustee upon the lands hereinafter described in a Deed of Trust dated the 25th of August, 1988 and recorded in Book 4334, Page 152, Wake County Registry;

AND WHEREAS, W. Thurston Debnam, Jr. was appointed as Substitute Trustee by instrument recorded in Book 8368, Page 753, Wake County Registry;

AND WHEREAS, the indebtedness thereby secured being overdue and unpaid, and the holder of the said indebtedness having called upon the said Substitute Trustee to foreclose the said Deed of Trust, the said Substitute Trustee, after due advertisement as required by law and the terms of the Deed of Trust, offered said land for sale at the Wake County Courthouse on September 15, 1999, when and where LNP, Inc. became the last and highest bidder at the price of One Hundred Eighty-Five Thousand and No/100 Dollars (\$185,000.00);

AND WHEREAS, within five (5) days of said sale a report thereof was made to the Clerk of the Superior Court;

AND WHEREAS, said bid remained open for more than ten (10) days and no advance bid was offered, and no objection made.

NOW THEREFORE, the said W. Thurston Debnam, Jr., acting as Substitute Trustee as aforesaid, in consideration of the premises and of the said sum of \$185,000.00 to him in hand paid, has bargained and sold and by these presents does bargain, sell, and convey unto the said LNP, Inc., its successors and assigns, the said land sold as aforesaid, the same lying and being in the County of Wake, State of North Carolina, and more particularly described and bounded as follows:

BEGINNING at an iron stake in the western right-of-way line of N.C. Highway 96, said iron stake being located at the northeastern corner of that certain tract of land designated as Tract VI in Deed Book 2801, Page 16, Wake County Registry; runs thence from said point of beginning with the western right-of-way line of N.C. Highway 96 South 33° 05' East 151.00 feet to an iron stake; runs thence South 56° 56' West 134.00 feet to a point; runs thence North 33° 05' West 151.00 feet to a point; runs thence North 56° 56' East 134.00 feet to an iron stake in the western right-of-way line of N.C. Highway 96, the point and place of BEGINNING.

To have and to hold, said land and premises, together with all privileges and appurtenances thereunto belonging to it, the said party of the second part and its successors and assigns, as such, in as full and ample a manner as the said Substitute Trustee has power to convey the same.

This conveyance is made subject to: (1) all prior liens, encumbrances, Easements, rights-of-way, restrictive covenants, or other restrictions of record affecting the property; (2) property taxes and assessments; (3) federal tax liens with respect to which proper notice was not given to the Internal Revenue Service; and (4) federal tax liens with respect to which proper notice was given to the Internal Revenue Service and to which the right of redemption applies.

The property is being conveyed "as is"; the undersigned makes no warranties or representations concerning the condition of the property conveyed, nor does the undersigned make any warranties of title.

In testimony whereof, said W. Thurston Debnam, Jr., acting as Substitute Trustee as hereinabove stated, has hereunto set his hand and seal the day and year first above written.

W. Thurston Debnam, Jr. (SEAL)
W. Thurston Debnam, Jr.
Substitute Trustee

NORTH CAROLINA
WAKE COUNTY
Nash

I, a Notary Public for the County and State aforesaid, certify that W. Thurston Debnam, Jr., Substitute Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.



Witness my hand and official stamp or seal, this the *28th* day of September, 1999.

Wendy B. Kerns
Notary Public

My Commission Expires: ~~12/21/2002~~ *9/30/2000*

Laura M Riddick
Register of Deeds
Wake County, NC



Book : 008424 Page : 01634 - 01636



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate ___ of _____
_____ Wendy B. Kearsley _____

_____ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: _____
Assistant Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
_____ # of Pages

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Attachment 4

SU 2018-03

Notice of Public Hearing

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Town of Zebulon

The Town of Friendly People

Notice of Public Hearing

Notice is hereby given that the Town of Zebulon will hold a Public Hearing on **June 11, 2018, at 7:00 p.m.** in the **Council Chambers (2nd Floor), Zebulon Municipal Complex, 1003 N. Arendell Avenue, Zebulon, NC 27597.** The hearing will be conducted by the Board of Commissioners and the Planning Board sitting jointly for the purpose of considering the following item(s):

SU 2018-03 A request by Joe Wagner to obtain a Special Use Permit for an Internet Café located at 1405 N. Arendell Avenue. The parcel is currently owned by LPN Inc. The zoning is Heavy Business (HB). [NC PIN: 1796 90 9941].

For further information, please contact the Zebulon Planning Department (919) 823-1810 or visit the Town's website at www.townofzebulon.org.

ZT 5/31/18 and 6/7/18

FIRE DEPARTMENT
113 E. Vance Street
Zebulon, NC 27597
(919) 269-6487
Facsimile (919) 269-2618

POLICE DEPARTMENT
1001 N. Arendell Avenue
Zebulon, NC 27597
(919) 269-7455
Facsimile (919) 269-0312

TOWN HALL
1003 N. Arendell Avenue
Zebulon, NC 27597
(919) 269-7455
Facsimile (919) 269-6200

PUBLIC WORKS DEPARTMENT
450 E. Horton Street
Zebulon, NC 27597
(919) 269-5285
Facsimile (919) 269-2617

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Attachment 5

SU 2018-03

Quasi-Judicial Handout

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Making Quasi-Judicial Decisions

Explanation of Quasi-Judicial Hearings

As required by state law, members of the Town of Zebulon Board of Commissioners and Planning Board hold joint quasi-judicial hearings for special use permits. Zebulon's Board of Adjustment also holds quasi-judicial hearings for variance requests and appeals of staff decisions. During a quasi-judicial hearing, the Boards must hold an evidentiary hearing based solely on written and oral evidence presented by witnesses testifying under oath and subject to cross-examination, as they would in a court room. Board members are free to pose questions to anyone presenting evidence, and reasonable policies can be established for cross-examinations. A witness with religious objections may affirm rather than swear an oath.

The quasi-judicial hearings do not involve setting new policies, but rather the application of previously adopted policies to the parties involved. State law and constitutional considerations require that a quasi-judicial decision must be based solely on the evidence presented and cannot be based on the Board's or witnesses' unsubstantiated opinions, nor can additional information be provided at a later time. Put differently, a quasi-judicial decision is one that requires the Board members to find facts and apply the standards set forth in the Town's ordinance to a specific situation.

Burden

The applicant will bear the burden of presenting evidence sufficient to enable the Board of Commissioners to make the findings of fact required by the Zebulon Code of Ordinances. Those in opposition bear the burden of presenting evidence that a required standard will not be met. The findings of fact required by the Zebulon Code of Ordinances are:

1. The proposed special use will not materially endanger the public health, safety or welfare.
2. The proposed special use will not substantially injure the value of adjoining or abutting property.
3. The proposed special use will be in harmony with the area in which it is to be located.
4. The proposed special use will be in general conformity with the ordinances, policies, land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

Hearsay and Evidence

Hearsay evidence is a person at the hearing trying to prove something is true by telling what someone else said about it. Hearsay evidence is not competent evidence unless the witness shows that the evidence appears to be sufficiently trustworthy and the circumstances show relying on the evidence is reasonable. Hearsay evidence describing what an interested party said about a relevant subject is competent evidence. Documentary evidence and exhibits may be used to illustrate the testimony of a witness. Exhibits must be clearly labeled and numbered as evidence, and must be retained by the Board. Documentary evidence usually may not be used as a substitute for a person being present at the hearing to testify to the facts asserted in the document or exhibit. The documentary evidence must be properly authenticated beforehand by explaining who signed or created it.

Persons affected by a decision have the legal right to hear all of the information presented to Board members and to know all of the "facts" being considered by the Board. Therefore, Board members are not allowed to discuss the case or gather evidence outside of the hearing (i.e. ex-parte communication). Only facts presented to the full Board at the public hearing may be considered. It is permissible for Board members to view the site in question before the hearing, but they should not talk about the case with the applicant or neighbors outside of the public hearing. If a Board member has special knowledge about a site or case, the Board member should disclose that at the public hearing.

There must be "substantial, competent, and material evidence" to support each critical factual determination. Key points need to be substantiated by the factual evidence in the hearing record; the findings cannot be based on conjecture or assumptions.

Time Limits

While repetitious or irrelevant testimony can be barred, an arbitrary time limit on the hearing cannot be used. For example, limiting each side in a quasi-judicial proceeding to five minutes to present their case would be inappropriate. Allowing only a single witness representing a group with similar concerns is acceptable.

Precedent

Prior decisions are not legally binding on a Board. Each case must be decided on its own individual merits.

Subtle differences in individual facts and situations can lead to differing results.

Opinions

Opinions are not admissible evidence. North Carolina General Statutes (NCGS) §160A-393 prohibits a person from giving opinions about scientific, technical or other specialized subjects unless the person, by knowledge, skill, experience, training or education, is in fact an expert on the subject, and must state his or her qualifications as such. NCGS §160A-393 specially prohibits opinions that "the use of property in a particular way would affect the value of other properties" or opinions that "the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety" unless the witness is an expert on the subject.

Ex-Parte Communication

In all quasi-judicial hearings, all rulings must be based only upon the evidence in the record. Any direct or indirect communication between a Board member and a proponent, opponent, or other interested party received outside of the record is considered "ex-parte communication." Board members should not receive evidence or argument on a pending quasi-judicial matter outside of the official public hearing on the matter. Please do not approach or attempt to communicate with a Board member about the pending special use permit outside the public hearing; doing so may provide legal grounds for a court to overturn the Board's decision. Note that this is different from a legislative matter before the Board, in which case Board members are free to discuss legislative matters with citizens at any time.

Questions about Quasi-Judicial Precedents

If you have any questions about the applicable procedures, contact one of the Town of Zebulon Planning Department representatives listed below:

Mark Hetrick - Planning Director
(919)823-1808
mhetrick@townofzebulon.org

Julie Spriggs - Senior Planner
(919)823-1809
jspriggs@townofzebulon.org

Mackenzie Day -Planner I
(919)823-1811
mday@townofzebulon.org

David Moore - Permitting &
Code Enforcement Officer
(919)823-1810
dmoore@townofzebulon.org



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Attachment 6

SU 2018-03

Certification of Notice to Property
Owners

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Town of Zebulon

The Town of Friendly People

Certification of Notice to Property Owners

I, Julie Spriggs, Senior Planner do hereby certify to the Board of Commissioners of the Town of Zebulon, that, in accordance with the provisions of § 152.083 of the Zebulon Code of Ordinance, the owners of properties within 150 feet of the lots that are the subject of this zoning classification request were mailed, by first class mail, notice of the hearing.

SU 2018-03 A request by Joe Wagner to obtain a Special Use Permit for an Internet Café located at 1405 N. Arendell Avenue. The parcel is currently owned by LPN Inc. The zoning is Heavy Business (HB). [NC PIN: 1796 90 9941].

Applicant

Joe Wagner
2100 Shepard School Road
Zebulon, NC 27597


Owner

LNP, Inc
1405 N. Arendell Avenue
Zebulon, NC 27597

Notified Property Owners

See attached sheet for list of Notified Property Owners


Julie Spriggs, GISP


Date

FIRE DEPARTMENT
113 E. Vance Street
Zebulon, NC 27597
(919) 269-6487
Facsimile (919) 269-2618

POLICE DEPARTMENT
1001 N. Arendell Avenue
Zebulon, NC 27597
(919) 269-7455
Facsimile (919) 269-0312

TOWN HALL
1003 N. Arendell Avenue
Zebulon, NC 27597
(919) 269-7455
Facsimile (919) 269-6200

PUBLIC WORKS DEPARTMENT
450 E. Horton Street
Zebulon, NC 27597
(919) 269-5285
Facsimile (919) 269-2617

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Attachment 7

SU 2018-03

Notified Property Owners List

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SU 2018-03 Notified Property Owners

Map_ID	OWNER	ADDR1	ADDR2	ADDR3	PIN_NUM
0	LNP INC WAKE COUNTY BOARD	1401 N ARENDELL AVE	ZEBULON NC 27597-8735		1796909941
1	OF ALCOHOLIC CONTROL OLDE HERITAGE	1212 WICKER DR	27604-1428 ZEBULON NC		1796919353
2	PROPERTIES LLC GAY FAMILY	PO BOX 40	27597-0040 ZEBULON NC		2706011220
3	LIMITED PARTNERSHIP, II	PO BOX 10	27597-0010 ZEBULON NC		2706003875
4	LNP INC DVM SERVICES REALTY LLC	PO BOX 1128 4935 RALEIGH ROAD	27597-1128 WILSON NC		2706000607
5	LNP INC PARRISH REALTY CO	PKWY W	27896-9701 ZEBULON NC		2706000800
6	OF ZEBULON INC PARRISH REALTY CO	PO BOX 1128	27597-1128 ZEBULON NC		1796908821
7	OF ZEBULON INC BRANCH BANKING & TRUST	PO BOX 1128 PROPERTY TAX	27597-1128	WINSTON SALEM NC	1796907983
8	CO BRANCH BANKING & TRUST	COMPLIANCE PROPERTY TAX	PO BOX 167	27102-0167 WINSTON SALEM NC	1796917039
9	CO	COMPLIANCE	PO BOX 167	27102-0167	1795993938

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Attachment 8

SU 2018-03

Maps

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Vicinity Map

SU 2018-03

JPH June 11, 2018




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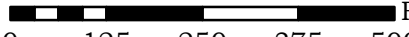


Case: SU 2018-03 Vending Plus
Acreage: 0.46
Current Zoning: HB
Parcel Address: 1405 N. Arendell Avenue
Property Owner: LNP INC
PIN: 1796 90 9941

Legend

 Request Area

1 inch = 250 feet

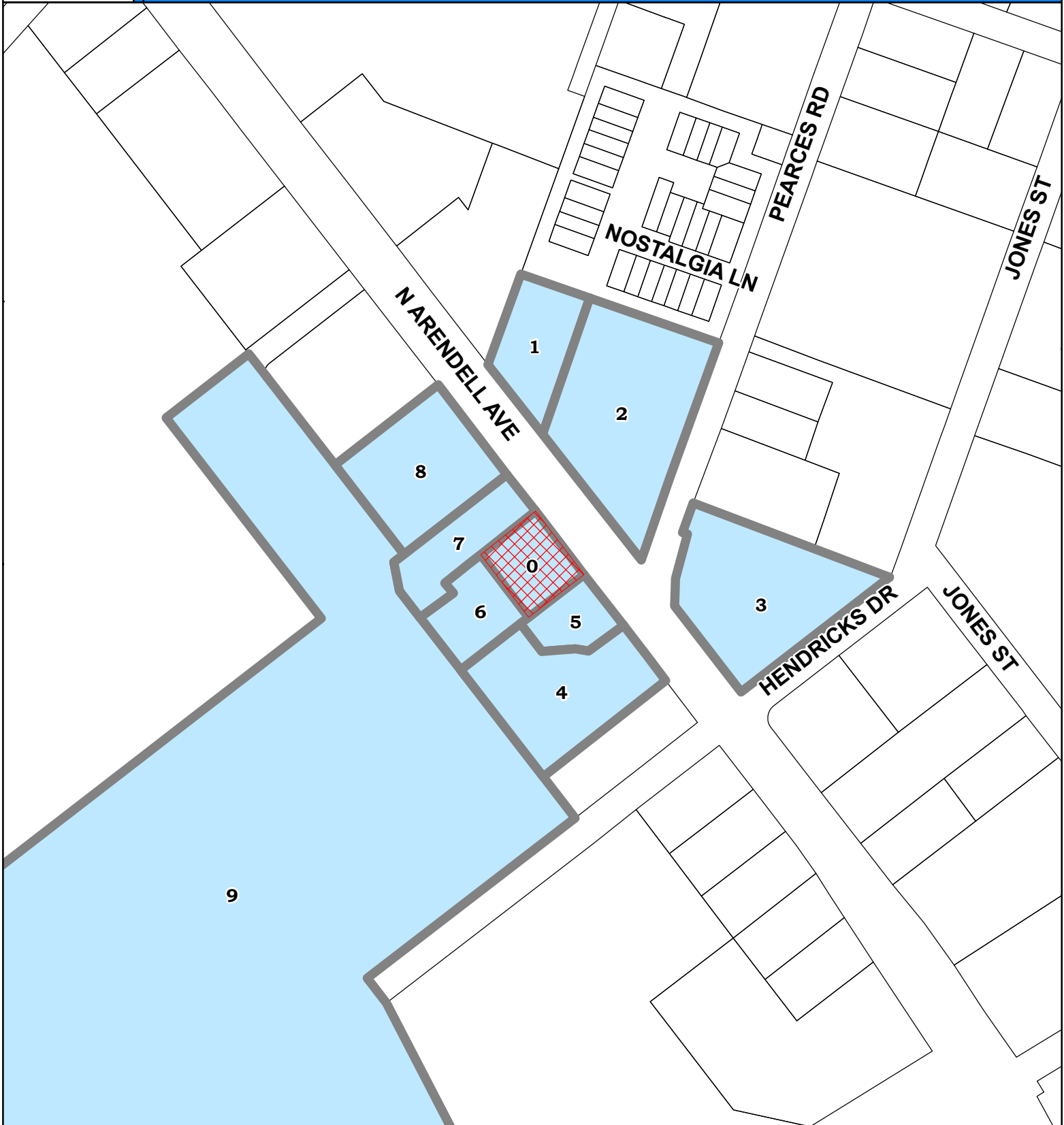
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Notified Property Owners Map

SU 2018-03

JPH June 11, 2018



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Case: SU 2018-03 Vending Plus
Acreage: 0.46
Current Zoning: HB
Parcel Address: 1405 N. Arendell Avenue
Property Owner: LNP INC
PIN: 1796 90 9941

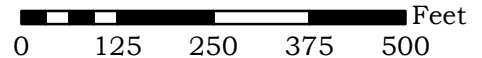
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Request Area

Notified Property Owners

1 inch = 250 feet

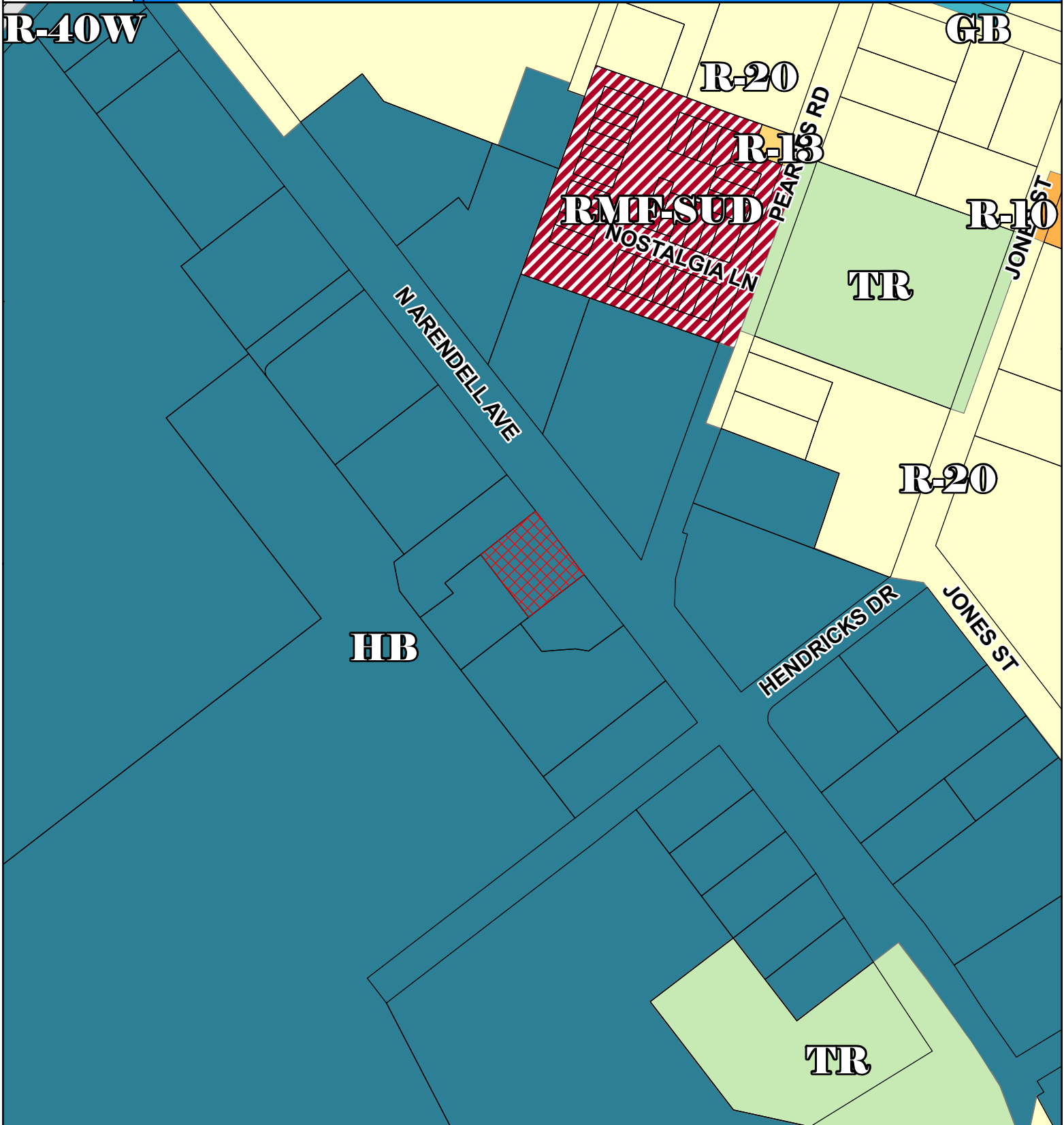


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Zoning Map


SU 2018-03

JPH June 11, 2018



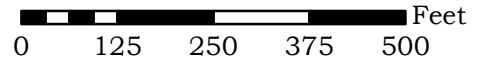
Case: SU 2018-03 Vending Plus
Acreage: 0.46
Current Zoning: HB
Parcel Address: 1405 N. Arendell Avenue
Property Owner: LNP INC
PIN: 1796 90 9941

Legend

 Request Area

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1 inch = 250 feet

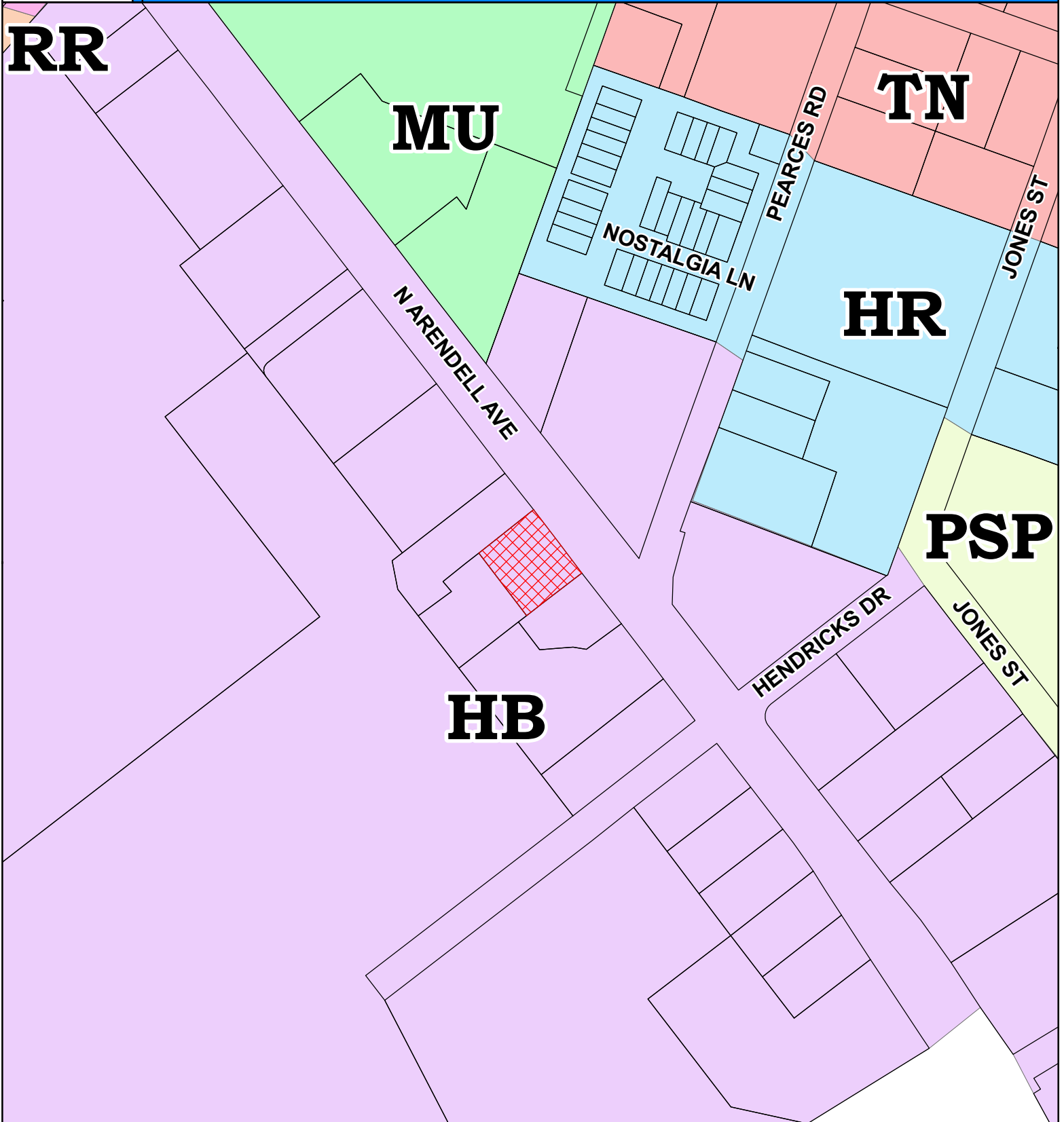


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Land Use Map


SU 2018-03

JPH June 11, 2018



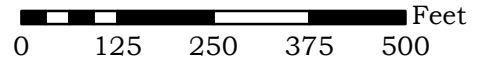
Case: SU 2018-03 Vending Plus
Acreage: 0.46
Current Zoning: HB
Parcel Address: 1405 N. Arendell Avenue
Property Owner: LNP INC
PIN: 1796 90 9941

Legend

 Request Area

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1 inch = 250 feet



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Attachment 9

SU 2018-03

NCGS 14-306.4

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§ 14-306.4. Electronic machines and devices for sweepstakes prohibited.

(a) Definitions. – For the purposes of this section, the following definitions apply:

- (1) "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device, that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This section is applicable to an electronic machine or device whether or not:
 - a. It is server-based.
 - b. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - c. It utilizes software such that the simulated game influences or determines the winning or value of the prize.
 - d. It selects prizes from a predetermined finite pool of entries.
 - e. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - f. It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - g. It utilizes software to create a game result.
 - h. It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
 - i. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.
 - j. It requires purchase of a related product.
 - k. The related product, if any, has legitimate value.
 - l. It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.
 - m. It determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
 - n. It is a slot machine or other form of electrical, mechanical, or computer game.
- (2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.
- (3) "Entertaining display" means visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play, such as, by way of illustration and not exclusion:
 - a. A video poker game or any other kind of video playing card game.
 - b. A video bingo game.
 - c. A video craps game.
 - d. A video keno game.
 - e. A video lotto game.
 - f. Eight liner.
 - g. Pot-of-gold.
 - h. A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

- i. Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.
- (4) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- (5) "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.
- (b) Notwithstanding any other provision of this Part, it shall be unlawful for any person to operate, or place into operation, an electronic machine or device to do either of the following:
 - (1) Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.
 - (2) Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.
- (c) It is the intent of this section to prohibit any mechanism that seeks to avoid application of this section through the use of any subterfuge or pretense whatsoever.
- (d) Nothing in this section shall be construed to make illegal any activity which is lawfully conducted on Indian lands pursuant to, and in accordance with, an approved Tribal-State Gaming Compact applicable to that Tribe as provided in G.S. 147-12(14) and G.S. 71A-8.
- (e) Each violation of this section shall be considered a separate offense.
- (f) Any person who violates this section is guilty of a Class 1 misdemeanor for the first offense and is guilty of a Class H felony for a second offense and a Class G felony for a third or subsequent offense. (2010-103, s. 1.)

Attachment 10

SU 2018-03

§152.1466

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§ 152.1466 INTERNET CAFES.

(A) Hours of operation.

(1) Monday through Thursday: 7:00 a.m. to 11:00 p.m.

(2) Friday through Saturday: 7:00 a.m. to 12:00 midnight.

(3) Sunday: 1:00 p.m. to 8:00 p.m.

(B) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of the room, so that a clear view of the interior may be had from the street.

(C) There must be an adult, 18 years of age or older, managing the business on the premises at all times during the hours of operation.

(D) The maximum number of machines, terminals, or computers for any operation's business is 20.

(E) No alcoholic beverages shall be served or consumed on the premises of the operation.

(F) There shall not be more than one internet café on the same property or in the same building, structure or portion thereof.

(G) No internet café shall locate within 1,000 feet of the front door of any other internet café, school, adult establishments or any sexually oriented business.

(H) No one under the age of 18 can enter the premises.

(Ord. 2010-43, passed 5-3-2010)

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Attachment 11

SU 2018-03

March 20, 2013
Letter from District Attorney

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State of North Carolina
General Court of Justice
Tenth Prosecutorial District

P. O. BOX 31
RALEIGH, N.C. 27602-0031

TELEPHONE:
(919) 792-5000

COLON WILLOUGHBY
DISTRICT ATTORNEY

March 20, 2013

Chief Brandon Zuidema
Garner Police Department
700 Seventh Avenue
Garner, NC 27529

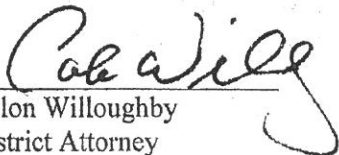
Dear Chief Zuidema:

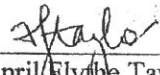
Following the recent North Carolina Supreme Court decision in the Hest Technologies v. State that became final in January 2013, we met with the Wake County Sheriff Donnie Harrison to talk about the impact of that case. The case dealt with the use of internet and video devices to facilitate transactions that the Court ruled were illegal in North Carolina. At our request, the Sheriff had deputies observe some of the activities that are being conducted as "sweepstakes." Based on our conversations after those observations, we have reason to believe that these activities are illegal and in violation of North Carolina law.

Beginning April 1, 2013, if we are aware of these activities being conducted in Wake County, we may be asking you, and other agencies with appropriate jurisdiction, to conduct investigations into these questionable activities. If the results of these investigations reveal violations of the law, we intend to enforce the law and prosecute the businesses and individuals engaged in this activity.

We are aware that some of these "sweepstakes" operators may be relying on the opinions of their lawyers who have been retained by the operators and the parent companies in their desire to continue in this business. Those opinions do not control the North Carolina Supreme Court or the enforcement of the law. Nevertheless, some of these operators have told you that they do not wish to engage in a business that is in violation of the law. With that in mind, we encourage you to inform those persons in your jurisdictions who are engaged in these activities of our intentions to begin enforcement of the law in this area beginning April 1, 2013. If those persons chose to remain in this business after April 1, 2013 they are subject to being prosecuted if they are in violation of North Carolina law.

With kind regards,


Colon Willoughby
District Attorney


April Flynn Taylor
Assistant District Attorney